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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

RIN 0503–AA58

Revision of Delegations of Authority

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: The Secretary of Agriculture is authorized to delegate functions, powers, and duties as the Secretary deems appropriate. This document amends the existing delegations of authority by adding and modifying certain delegations, as explained in the Supplementary Information section below.

DATES: Effective September 29, 2015.

FOR FURTHER INFORMATION CONTACT: Adam J. Hermann, Office of the General Counsel, USDA, 3311–South Bldg., 1400 Independence Avenue SW., Washington, DC 20250, (202) 720–9425, *adam.hermann@ogc.usda.gov*.

SUPPLEMENTARY INFORMATION: This rule makes several changes to the United States Department of Agriculture's (USDA) delegations of authority in 7 CFR part 2 by adding new delegations and modifying existing delegations.

This rule adds a new delegation of authority from the Secretary to the Chief Financial Officer (CFO) to provide guidance on implementation of prize competition authority in section 24 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719), as added by the America COMPETES Reauthorization Act of 2010 (Pub. L. 111–358). This includes delegated authority to develop guidelines to ensure that judges appointed for prize competitions are fairly balanced and operate in a transparent manner. Delegations of authority are also added to the following General Officers to carry out prize competition authorities in 15 U.S.C. 3719 in their respective areas: Under Secretary for Farm and Foreign Agricultural Services (FFAS); Under Secretary for Rural Development; Under Secretary for Food Safety; Under Secretary for Food, Nutrition, and Consumer Services; Under Secretary for Natural Resources and Environment; Under Secretary for Research, Education, and Economics; Under Secretary for Marketing and Regulatory Programs; Assistant Secretary for Administration; Assistant Secretary for Civil Rights; and the Chief Economist. The authority to approve prize competitions that may result in the award of more than $1,000,000 in cash prizes is reserved to the Secretary. *See* Secretary's Memorandum 1076–008 (September 26, 2014), *available at http://www.ocio.usda.gov/document/secretarys-memorandum-1076-008*.

This rule also adds a new delegation of authority from the Secretary to the Assistant Secretary for Civil Rights to award grants and enter into cooperative agreements, as appropriate, under the following authorities for the purpose of conducting outreach efforts in connection with functions delegated to the Assistant Secretary: Grants and cooperative agreements under section 2501(a)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(a)(3)); cooperative agreements under section 1472(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA) (7 U.S.C. 3318(b)); grants and cooperative agreements under section 1472(c) of NARETPA (7 U.S.C. 3318(c)); cooperative agreements under section 607(b)(4) of the Rural Development Act of 1972 (7 U.S.C. 2204b(b)(4)); and cooperative agreements under section 714 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (7 U.S.C. 6962a). *See* Secretary's Memorandum 1076–009 (November 5, 2014), *available at http://www.ocio.usda.gov/document/secretarys-memorandum-1076-009*.

This rule also revises the existing delegations from the Secretary to the Under Secretary for FFAS, and from the Under Secretary for FFAS to the Administrator of the Farm Service Agency (FSA), to expand the purposes for which cooperative agreements under section 607(b)(4) of the Rural Development Act of 1972 (7 U.S.C. 2204b(b)(4)) may be awarded. That authority authorizes the Secretary to enter into cooperative agreements with other Federal agencies, State and local governments, and any other organization or individual ''to improve the coordination and effectiveness of Federal programs, services, and actions affecting rural areas'' if the objectives of the agreement ''will serve the mutual interest of the parties in rural development activities.'' Currently, within the FFAS mission area, this authority is delegated to the Under Secretary for FFAS and the Administrator of FSA only with respect to conservation programs. This rule expands that delegation by providing authority to enter into cooperative agreements of less than $100,000 with nongovernmental organizations or educational institutions, where the agreement is related to outreach and technical assistance for FSA programs. If the cooperative agreement focuses on outreach activities involving beginning, underserved, or veteran producers, coordination with USDA's Office of Advocacy and Outreach is required. *See* Secretary's Memorandum 1076–010 (January 13, 2015), *available at http://www.ocio.usda.gov/document/secretarys-memorandum-1076-010*.

This rule also amends the existing delegations from the Secretary to the Under Secretary for FFAS, and from the Under Secretary for FFAS to the Administrator of FSA, to clarify the authority of FSA to implement an Agriculture Priorities and Allocations System, similar to the Department of Commerce's Defense Priorities and Allocations System (15 CFR part 700), to establish procedures for the placement, acceptance, and performance of priority rated contracts and orders and for the allocation of materials, services, and facilities, by adding a specific delegation. Final approval of any allocations orders is reserved to the Secretary. *See* FSA, Proposed Rule, ''Agriculture Priorities and Allocations System,'' 76 FR 29084 (May 19, 2011). Minor changes are also being made to the delegations to FSA, the Assistant Secretary for Administration, and the Director of the Office of Homeland Security and Emergency Coordination regarding the Defense Production Act of 1950 (50 U.S.C. App. 2061, *et seq.*) to

make a correction and update the list of Executive Orders.

This rule also amends the delegation of authority from the Under Secretary for Food Safety to the Deputy Under Secretary for Food Safety in 7 CFR 2.51, which gives the Deputy Under Secretary, during the absence or unavailability of the Under Secretary, the authority to perform all the duties and exercise all the powers delegated to the Under Secretary. The delegation is amended to establish the order in which a Deputy Under Secretary may exercise that delegation when the Food Safety mission area has more than one Deputy Under Secretary. The authority will be exercised first by a career Deputy Under Secretary in the order in which he or she has taken that office, and second by a non-career Deputy Under Secretary in the order in which he or she has taken that office.

This rule also adds a specific delegation from the Secretary to the Under Secretary for Research, Education, and Economics to consult with the Foundation for Food and Agriculture Research pursuant to section 7601(d)(1)(B) of the Agricultural Act of 2014 (7 U.S.C. 5939(d)(1)(B)).

This rule includes a technical fix to remove an obsolete delegation from the Secretary to the Assistant Secretary for Congressional Relations in 7 CFR 2.23. That amendment was included in the final rule published at 79 FR 44101, 44109 (July 30, 2014), but that amendment could not be incorporated due to an inaccurate amendatory instruction. This rule includes the correct amendatory instruction.

Finally, this rule corrects a reference to the Chief of the Natural Resources Conservation Service with respect to carrying out certain functions under the Farm Security and Rural Investment Act of 2002 and deletes an obsolete reporting delegation from that Act.

Classification

This rule relates to internal agency management. Accordingly, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. This rule also is exempt from the provisions of Executive Order 12866. This action is not a rule as defined by the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601 *et seq.,* or the Congressional Review Act, 5 U.S.C. 801 *et seq.,* and thus is exempt from the provisions of those acts. This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

Accordingly, 7 CFR part 2 is amended as follows:

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 7 U.S.C. 6912(a)(1); 5 U.S.C. 301; Reorganization Plan No. 2 of 1953, 3 CFR 1949–1953 Comp., p. 1024.

Subpart C—Delegations of Authority to the Deputy Secretary, Under Secretaries, and Assistant Secretaries

■ 2. Amend § 2.16 as follows:

■ a. Remove paragraph (a)(1)(xxvi)(C);

■ b. Revise paragraphs (a)(1)(xxviii) and (a)(6);

■ c. Add paragraphs (a)(10), (b)(1)(iii), and (b)(4).

The revisions and additions read as follows:

§ 2.16 Under Secretary for Farm and Foreign Agricultural Services.

(a) * * *

(1) * * *

(xxviii) Administer cooperative agreements authorized under 7 U.S.C. 2204b(b)(4) as follows:

(A) Administer cooperative agreements with respect to conservation programs;

(B) Administer cooperative agreements, of less than $100,000, with nongovernmental organizations or educational institutions related to outreach and technical assistance for programs carried out by the Farm Service Agency, and, where such cooperative agreements focus on outreach activities to beginning, underserved, or veteran producers, coordinate with the Assistant Secretary for Administration to reduce potential duplication.

* * * * *

(6) *Related to defense and emergency preparedness.* (i) Administer responsibilities and functions assigned under the Defense Production Act of 1950 (50 U.S.C. App. 2061 *et seq.*), and title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 *et seq.*), concerning agricultural production; food processing, storage, and distribution; distribution of farm equipment and fertilizer; rehabilitation and use of food, agricultural, and related agribusiness facilities; CCC resources; farm credit and financial assistance; and foreign agricultural intelligence and other foreign agricultural matters.

(ii) Administer functions delegated by the President to the Secretary under Executive Order 13603, ''National Defense Resources Preparedness'' (3 CFR, 2012 Comp., p. 225), and Executive Order 12742, ''National Security Industrial Responsiveness'' (3 CFR, 1991 Comp., p. 309), including administration of an Agriculture Priorities and Allocations System.

* * * * *

(10) Carry out prize competition authorities in section 24 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719) related to functions otherwise delegated to the Under Secretary for Farm and Foreign Agricultural Services, except for authorities delegated to the Chief Financial Officer in § 2.28(a)(29) and authorities reserved to the Secretary in paragraph (b)(4) of this section.

(b) * * *

(1) * * *

(iii) Final approval of allocations orders issued by the Department pursuant to authorities delegated by the President to the Secretary under Executive Order 13603, ''National Defense Resources Preparedness'' (3 CFR, 2012 Comp., p. 225).

* * * * *

(4) Approval of prize competitions that may result in the award of more than $1,000,000 in cash prizes under section 24(m)(4)(B) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719(m)(4)(B)).

■ 3. Amend § 2.17 by adding paragraphs (a)(31) and (b)(2) to read as follows:

§ 2.17 Under Secretary for Rural Development.

(a) * * *

(31) Carry out prize competition authorities in section 24 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719) related to functions otherwise delegated to the Under Secretary for Rural Development, except for authorities delegated to the Chief Financial Officer in § 2.28(a)(29) and authorities reserved to the Secretary in paragraph (b)(2) of this section.

(b) * * *

(2) Approval of prize competitions that may result in the award of more than $1,000,000 in cash prizes under section 24(m)(4)(B) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719(m)(4)(B)).

■ 4. Amend § 2.18 by adding paragraphs (a)(8) and (b) to read as follows:

§ 2.18 Under Secretary for Food Safety.

(a) * * *

(8) Carry out prize competition authorities in section 24 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719) related to functions otherwise delegated to the Under Secretary for Food Safety, except for authorities delegated to the Chief Financial Officer in § 2.28(a)(29) and authorities reserved to the Secretary in paragraph (b)(1) of this section.

(b) The following authorities are reserved to the Secretary of Agriculture:

(1) Approval of prize competitions that may result in the award of more than $1,000,000 in cash prizes under section 24(m)(4)(B) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719(m)(4)(B)).

(2) [Reserved]

■ 5. Amend § 2.19 by adding paragraphs (a)(6) and (b)(2) to read as follows:

§ 2.19 Under Secretary for Food, Nutrition, and Consumer Services.

(a) * * *

(6) Carry out prize competition authorities in section 24 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719) related to functions otherwise delegated to the Under Secretary for Food, Nutrition, and Consumer Services, except for authorities delegated to the Chief Financial Officer in § 2.28(a)(29) and authorities reserved to the Secretary in paragraph (b)(2) of this section.

(b) * * *

(2) Approval of prize competitions that may result in the award of more than $1,000,000 in cash prizes under section 24(m)(4)(B) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719(m)(4)(B)).

■ 6. Amend § 2.20 as follows:

■ a. Remove paragraph (a)(3)(xvi)(C); and

■ b. Add paragraphs (a)(10) and (b)(2).

The additions read as follows:

§ 2.20 Under Secretary for Natural Resources and Environment.

(a) * * *

(10) Carry out prize competition authorities in section 24 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719) related to functions otherwise delegated to the Under Secretary for Natural Resources and Environment, except for authorities delegated to the Chief Financial Officer in § 2.28(a)(29) and authorities reserved to the Secretary in paragraph (b)(2) of this section.

(b) * * *

(2) Approval of prize competitions that may result in the award of more than $1,000,000 in cash prizes under section 24(m)(4)(B) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719(m)(4)(B)).

■ 7. Amend § 2.21 by adding paragraphs (a)(1)(ccxiii), (a)(13), and (b)(3) to read as follows:

§ 2.21 Under Secretary for Research, Education, and Economics.

(a) * * *

(1) * * *

(ccxiii) Consult with the Foundation for Food and Agriculture Research regarding the identification of existing and proposed Federal intramural and extramural research and development programs relating to the purposes of the Foundation and the coordination of Foundation activities with those programs for the purpose of minimizing duplication of existing efforts and avoiding conflicts (7 U.S.C. 5939(d)(1)(B)).

* * * * *

(13) Carry out prize competition authorities in section 24 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719) related to functions otherwise delegated to the Under Secretary for Research, Education, and Economics, except for authorities delegated to the Chief Financial Officer in § 2.28(a)(29) and authorities reserved to the Secretary in paragraph (b)(3) of this section.

(b) * * *

(3) Approval of prize competitions that may result in the award of more than $1,000,000 in cash prizes under section 24(m)(4)(B) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719(m)(4)(B)).

■ 8. Amend § 2.22 by adding paragraphs (a)(11) and (b)(3) to read as follows:

§ 2.22 Under Secretary for Marketing and Regulatory Programs.

(a) * * *

(11) Carry out prize competition authorities in section 24 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719) related to functions otherwise delegated to the Under Secretary for Marketing and Regulatory Programs, except for authorities delegated to the Chief Financial Officer in § 2.28(a)(29) and authorities reserved to the Secretary in paragraph (b)(3) of this section.

(b) * * *

(3) Approval of prize competitions that may result in the award of more than $1,000,000 in cash prizes under section 24(m)(4)(B) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719(m)(4)(B)).

§ 2.23 [Amended]

■ 9. Amend § 2.23 by removing paragraph (a)(2)(v).

■ 10. Amend § 2.24 as follows:

■ a. Revise paragraph (a)(8)(ii)(A); and

■ b. Add paragraphs (a)(13) and (b)(3).

The revision and additions read as follows:

§ 2.24 Assistant Secretary for Administration.

(a) * * *

(8) * * *

(ii) * * *

(A) Coordinate the delegations and assignments made to the Department under the Defense Production Act of 1950, 50 U.S.C. App. 2061, *et seq.;* the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, *et seq.;* and by Executive Orders 12148, ''Federal Emergency Management'' (3 CFR, 1979 Comp., p. 412), 12656, ''Assignment of Emergency Preparedness Responsibilities'' (3 CFR, 1988 Comp., p. 585), and 13603, ''National Defense Resources Preparedness'' (3 CFR, 2012 Comp., p. 225), or any successor to these Executive Orders, to ensure that the Department has sufficient capabilities to respond to any occurrence, including natural disaster, military attack, technological emergency, or any all hazards incident.

* * * * *

(13) *Other general.* (i) Carry out prize competition authorities in section 24 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719) related to functions otherwise delegated to the Assistant Secretary for Administration, except for authorities delegated to the Chief Financial Officer in § 2.28(a)(29) and authorities reserved to the Secretary in paragraph (b)(3) of this section.

(ii) [Reserved]

(b) * * *

(3) *Other general.* (i) Approval of prize competitions that may result in the award of more than $1,000,000 in cash prizes under section 24(m)(4)(B) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719(m)(4)(B)).

(ii) [Reserved]

■ 11. Amend § 2.25 as follows:

■ a. Revise paragraph (a)(23); and

■ b. Add paragraphs (a)(24), (a)(25), and (b).

The revision and additions read as follows:

§ 2.25 Assistant Secretary for Civil Rights.

(a) * * *

(23) Redelegate, as appropriate, any authority delegated under paragraphs

(a)(1) through (22) of this section to general officers of the Department and heads of Departmental agencies.

(24) Award grants and enter into cooperative agreements, as appropriate, under the following authorities only for the purpose of conducting outreach efforts in connection with the duties and powers delegated to the Assistant Secretary for Civil Rights under this section:

(i) Grants and cooperative agreements under section 2501(a)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(a)(3));

(ii) Cooperative agreements under section 1472(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3318(b));

(iii) Grants and cooperative agreements under section 1472(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3318(c));

(iv) Cooperative agreements under section 607(b)(4) of the Rural Development Act of 1972 (7 U.S.C. 2204b(b)(4)); and

(v) Cooperative agreements under section 714 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (7 U.S.C. 6962a).

(25) Carry out prize competition authorities in section 24 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719) related to functions otherwise delegated to the Assistant Secretary for Civil Rights, except for authorities delegated to the Chief Financial Officer in § 2.28(a)(29) and authorities reserved to the Secretary in paragraph (b)(1) of this section.

(b) The following authorities are reserved to the Secretary of Agriculture:

(1) Approval of prize competitions that may result in the award of more than $1,000,000 in cash prizes under section 24(m)(4)(B) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719(m)(4)(B)).

(2) [Reserved]

Subpart D—Delegations of Authority to Other General Officers and Agency Heads

■ 12. Amend § 2.28 as follows:

■ a. Revise paragraph (a)(28); and

■ b. Add paragraphs (a)(29) and (b).

The revision and additions read as follows:

§ 2.28 Chief Financial Officer.

(a) * * *

(28) Redelegate, as appropriate, any authority delegated under paragraphs (a)(1) through (27) of this section to general officers of the Department and heads of Departmental agencies.

(29) Provide Departmentwide guidance on implementation of prize competition authority in section 24 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719); develop guidelines to ensure that judges appointed for prize competitions under that authority are fairly balanced and operate in a transparent manner (15 U.S.C. 3719(k)(3)).

(b) The following authorities are reserved to the Secretary of Agriculture:

(1) Approval of prize competitions that may result in the award of more than $1,000,000 in cash prizes under section 24(m)(4)(B) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719(m)(4)(B)).

(2) [Reserved]

■ 13. Amend § 2.29 by adding paragraphs (a)(15) and (b) to read as follows:

§ 2.29 Chief Economist.

(a) * * *

(15) Carry out prize competition authorities in section 24 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719) related to functions otherwise delegated to the Chief Economist, except for authorities delegated to the Chief Financial Officer in § 2.28(a)(29) and authorities reserved to the Secretary in paragraph (b)(1) of this section.

(b) The following authorities are reserved to the Secretary of Agriculture:

(1) Approval of prize competitions that may result in the award of more than $1,000,000 in cash prizes under section 24(m)(4)(B) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719(m)(4)(B)).

(2) [Reserved]

Subpart F—Delegations of Authority by the Under Secretary for Farm and Foreign Agricultural Services

■ 14. Amend § 2.42 as follows:

■ a. Revise paragraph (a)(5);

■ b. Remove paragraph (a)(46)(iii); and

■ c. Revise paragraph (a)(50).

The revisions read as follows:

§ 2.42 Administrator, Farm Service Agency.

(a) * * *

(5) *Related to defense and emergency preparedness.* (i) Administer responsibilities and functions assigned under the Defense Production Act of 1950 (50 U.S.C. App. 2061 *et seq.*), and title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 *et seq.*), concerning agricultural production; food processing, storage, and distribution; distribution of farm equipment and fertilizer; rehabilitation and use of food, agricultural, and related agribusiness facilities; CCC resources; and farm credit and financial assistance.

(ii) Administer functions delegated by the President to the Secretary under Executive Order 13603, ''National Defense Resources Preparedness'' (3 CFR, 2012 Comp., p. 225), and Executive Order 12742, ''National Security Industrial Responsiveness'' (3 CFR, 1991 Comp., p. 309), including administration of an Agriculture Priorities and Allocations System.

* * * * *

(50) Administer cooperative agreements authorized under 7 U.S.C. 2204b(b)(4) as follows:

(i) Administer cooperative agreements with respect to conservation programs;

(ii) Administer cooperative agreements, of less than $100,000, with nongovernmental organizations or educational institutions related to outreach and technical assistance for programs carried out by the Farm Service Agency, and, where such cooperative agreements focus on outreach activities to beginning, underserved, or veteran producers, coordinate with the Director, Office of Advocacy and Outreach to reduce potential duplication.

* * * * *

Subpart H—Delegations of Authority by the Under Secretary for Food Safety

■ 15. Revise § 2.51 to read as follows:

§ 2.51 Deputy Under Secretary for Food Safety.

Pursuant to § 2.18, and subject to policy guidance and direction by the Under Secretary, the following delegation of authority is made by the Under Secretary for Food Safety to the Deputy Under Secretary for Food Safety, to be exercised only during the absence or unavailability of the Under Secretary: Perform all the duties and exercise all the powers which are now or which may hereafter be delegated to the Under Secretary for Food Safety: Provided, that this authority shall be exercised first by a career Deputy Under Secretary in the order in which he or she has taken office as Deputy Under Secretary, and second by a non-career Deputy Under Secretary in the order in which he or she has taken office as Deputy Under Secretary.

Subpart J—Delegations of Authority by the Under Secretary for Natural Resources and Environment

■ 16. Amend § 2.61 as follows:

■ a. Revise the introductory text of paragraph (a)(25);

■ b. Add ''and'' after the semicolon in paragraph (a)(25)(i);

■ c. Remove ''; and'' and add a period in its place in paragraph (a)(25)(ii); and

■ d. Remove paragraph (a)(25)(iii).

The revision reads as follows:

§ 2.61 Chief, Natural Resources Conservation Service.

(a) * * *

(25) Administer the following provisions of the Farm Security and Rural Investment Act of 2002 with respect to functions otherwise delegated to the Chief, Natural Resources Conservation Service:

* * * * *

Subpart P—Delegations of Authority by the Assistant Secretary for Administration

■ 17. Amend § 2.95(b)(1)(i) to read as follows:

§ 2.95 Director, Office of Homeland Security and Emergency Coordination.

* * * * *

(b) * * *

(1) * * *

(i) Coordinate the delegations and assignments made to the Department under the Defense Production Act of 1950, 50 U.S.C. App. 2061, *et seq.;* the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, *et seq.;* and by Executive Orders 12148, ''Federal Emergency Management'' (3 CFR, 1979 Comp., p. 412), 12656, ''Assignment of Emergency Preparedness Responsibilities'' (3 CFR, 1988 Comp., p. 585), and 13603, ''National Defense Resources Preparedness'' (3 CFR, 2012 Comp., p. 225), or any successor to these Executive Orders, to ensure that the Department has sufficient capabilities to respond to any occurrence, including natural disaster, military attack, technological emergency, or any all hazards incident.

* * * * *

Dated: September 18, 2015.

Thomas J. Vilsack,

Secretary of Agriculture.

[FR Doc. 2015–24361 Filed 9–28–15; 8:45 am]

BILLING CODE 3410–90–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0218; Directorate Identifier 92–ANE–56–AD; Amendment 39–18269; AD 2015–19–07]

RIN 2120–AA64

Airworthiness Directives; Lycoming Engines Fuel Injected Reciprocating Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding airworthiness directive (AD) 2011–26–04 for certain fuel injected reciprocating engines manufactured by Lycoming Engines. AD 2011–26–04 required inspection, replacement if necessary, and proper clamping of externally mounted fuel injector fuel lines. This new AD retains the requirements of AD 2011–26–04, and expands the list of affected engine models. This AD was prompted by revised service information that added engine models to the applicability. We are issuing this AD to prevent failure of the fuel injector fuel lines, which could lead to uncontrolled engine fire, engine damage, and damage to the airplane.

DATES: This AD is effective November 3, 2015.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 3, 2015.

ADDRESSES: For service information identified in this AD, contact Lycoming Engines, 652 Oliver Street, Williamsport, PA 17701; phone: 800–258–3279; fax: 570–327–7101; Internet: *www.lycoming.com/Lycoming/SUPPORT/TechnicalPublications/ServiceBulletins.aspx.* You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call (781) 238–7125. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2007–0218.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2007–0218; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Norm Perenson, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine & Propeller Directorate, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7337; fax: 516–794–5531; email: *norman.perenson@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2011–26–04, Amendment 39–16894 (76 FR 79051, December 21, 2011), (''AD 2011–26–04''). AD 2011–26–04 applied to certain fuel injected reciprocating engines manufactured by Lycoming Engines. The NPRM published in the **Federal Register** on November 25, 2013 (78 FR 70240). The NPRM was prompted by revised service information that added engine models to the applicability. The NPRM proposed to expand the scope by adding the IO–540–C1C5 and IO–540–D4B5 engine models and requiring inspection, replacement if necessary, and proper clamping of externally mounted fuel injector fuel lines. We are issuing this AD to prevent failure of the fuel injector fuel lines, which could lead to uncontrolled engine fire, engine damage, and damage to the airplane.

Related Service Information Under 1 CFR Part 51

We reviewed Lycoming Engines Mandatory Service Bulletin (MSB) No. 342G, dated July 16, 2013; Supplement No. 1 to MSB No. 342G, dated August 29, 2013; and Supplement No. 2 to MSB No. 342G, dated January 23, 2014. The service information describes procedures for fuel line and support clamp inspection and installation. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments

received on the proposal and the FAA's response to each comment.

Request To Add an Engine Model

Aerotech Publications and an individual commenter requested that the Lycoming LIO–360–M1A be added to the AD. The justification given was that the type certificate data sheet, 1E10, shows the LIO–360–M1A to be identical to the IO–360–M1A except with counter rotation. Additionally, unless specific engine models are listed in the AD, exempting those engines with maintenance manuals would prevent the maintenance technician from knowing which engines are exempt.

We disagree. The engine certification basis determines if an engine model's mandatory maintenance will be managed by a dedicated engine maintenance manual (EMM) with an airworthiness limitations section (ALS) or by manufacturer's service bulletins (SBs). Engines certified to 14 CFR 33, as was LIO–360–M1A, have a dedicated EMM with an ALS that includes the fuel tube inspection in Section 05–00–00. We did not change this AD.

Request To Add Service Information

Lycoming Engines requested that Lycoming SB 342G, Supplement No. 2, dated January 23, 2014 be added to this AD. Lycoming said that SB 342G, Supplement No. 2 removes the eight inch spacing dimension between clamps and corrects Diagram No. 30 for the IO–540–M1C5 engine model.

We agree. We changed this AD to include Lycoming SB 342G, Supplement No. 2.

Request To Allow Previously Approved Alternative Methods of Compliance (AMOCs)

Central Airlines requested that AMOCs previously approved in AD 2008–14–07 and AD 2011–26–04 be allowed for use in this AD.

We agree. We changed the AMOC paragraph in this AD by adding: ''AMOCs previously approved for AD 2008–14–07, Amendment 39–15602 (73 FR 39574, July 10, 2008) (''AD 2008–14–07'') and AD 2011–26–04, Amendment 39–16894 (76 FR 79051, December 21, 2011) (''AD 2011–26–04'') are approved as AMOCs to the corresponding requirements in paragraph (e) of this AD.''

Request To Change Applicability

An anonymous commenter requested that Continental and Jacobs R–755 engines, be added to the applicability of this AD. There was no justification provided for the request to add Continental engine(s). The commenter said that the Jacobs R–755 engine uses the same fuel units and Lycoming fuel injector tubes.

We disagree. We have received no data to indicate that any other engines, including Continental engines, have the same problem as the Lycoming engines. We also do not agree with adding the Jacbos R–755 engine to the applicability because the unsafe condition for this AD concerns missing or improperly clamped fuel injector fuel lines. We have received no reports of problems with fuel injector fuel lines for the R–755; therefore, the R–755 engine does not need to be included in this AD. We did not change this AD.

Correction to Applicability

Since we issued the NPRM (78 FR 70240, November 25, 2013) (''the NPRM''), we determined that a discussion of a change to the engine model applicability was omitted from the NPRM. Engine model LIO–360–M1A was removed from the Applicability paragraph in this AD because the fuel tube inspections are documented in the ALS for this engine model.

We also determined that the NPRM incorrectly stated that the proposed AD action would add three engine models to the applicability list of the affected engines. The NPRM added two engine models, the IO–540–C1C5 and IO–540–D4B5, to applicability list of affected engines.

Correction to the Costs of Compliance

Since we issued the NPRM, we determined that the Costs of Compliance paragraph was incorrect. We changed the Costs of Compliance paragraph in this AD to correct that error.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

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

Costs of Compliance

We estimate that this AD will affect about 37,270 engines installed on airplanes of U.S. registry. We also estimate that it will require 1 hour to inspect 19,081 four cylinder engines, 1.5 hours to inspect 18,000 six cylinder engines, and 2 hours to inspect 189 eight cylinder engines. The average labor rate is $85 per hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $3,949,015.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator,

the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing airworthiness directive (AD) 2011–26–04 (76 FR 79051, December 21, 2011) (''AD 2011–26–04''); and

■ b. Adding the following new AD:

2015–19–07 Lycoming Engines (Type Certificate previously held by Textron Lycoming Division, AVCO Corporation) Fuel Injected Reciprocating Engines: Amendment 39–18269; Docket No. FAA–2007–0218; Directorate Identifier 92–ANE–56–AD.

(a) Effective Date

This AD is effective November 3, 2015.

(b) Affected ADs

This AD supersedes AD 2011–26–04, Amendment 39–16894 (76 FR 79051, December 21, 2011).

(c) Applicability

This AD applies to Lycoming Engines fuel injected reciprocating engine models identified in Table 1 to paragraph (c) of this AD, with externally mounted fuel injector fuel lines (stainless steel tube assembly), installed.

TABLE 1 TO PARAGRAPH (C)—ENGINE MODELS AFFECTED

Engine	Model
AEIO–320	–D1B, –D2B, –E1B, –E2B.
AIO–320	–A1B, –BIB, –C1B.
IO–320	–B1A, –B1C, –C1A, –D1A, –D1B, –E1A, –E1B, –E2A, –E2B.
LIO–320	–B1A, –C1A.
AEIO–360	–A1A, –A1B, –A1B6, –A1D, –A1E, –A1E6, –B1F, –B2F, –B1G6, –B1H, –B4A, –H1A, –H1B.
AIO–360	–A1A, –A1B, –B1B.
HIO–360	–A1A, –A1B, –B1A, –C1A, –C1B, –D1A, –E1AD, –E1BD, –F1AD, –G1A.
IO–360	–A1A, –A1B, –A1B6, –A1B6D, –A1C, –A1D, –A1D6, –A2A, –A2B, –A3B6, –A3B6D, –B1B, –B1D, –B1E, –B1F, –B1G6, –B2F, –B2F6, –B4A, –C1A, –C1B, –C1C, –C1C6, –C1D6, –C1E6, –C1F, –C1G6, –F1A, –J1A6D, –M1B, –L2A, –M1A.
IVO–360	–A1A.
LIO–360	–C1E6.
TIO–360	–A1B, –C1A6D.
IGO–480	–A1B6.
AEIO–540	–D4A5, –D4B5, –D4D5, –L1B5, –L1B5D, –L1D5.
IGO–540	–B1A, –B1C.
IO–540	–A1A5, –AA1A5, –AA1B5, –AB1A5, –AC1A5, –AE1A5, –B1A5, –B1C5, –C1B5, –C1C5, –C4B5, –C4D5D, –D4A5, –D4B5, –E1A5, –E1B5, –G1A5, –G1B5, –G1C5, –G1D5, –G1E5, –G1F5, –J4A5, –V4A5D, –K1A5, –K1A5D, –K1B5, –K1C5, –K1D5, –K1E5, –K1E5D, –K1F5, –K1H5, –K1J5, –K1F5D, –K1G5, –K1G5D, –K1H5, –K1J5D, –K1K5, –K1E5, –K1E5D, –K1F5, –K1J5, –L1C5, –M1A5, –M1B5D, –M1C5, –N1A5, –P1A5, –R1A5, –S1A5, –T4A5D, –T4B5, –T4B5D, –T4C5D, –V4A5, –V4A5D, –W1A5, –W1A5D, –W3A5D.
IVO–540	–A1A.
LTIO–540	–F2BD, –J2B, –J2BD, –N2BD, –R2AD, –U2A, –V2AD, –W2A.
TIO–540	–A1A, –A1B, –A2A, –A2B, –A2C, –AE2A, –AH1A, –AA1AD, –AF1A, –AF1B, –AG1A, –AB1AD, –AB1BD, –AH1A, –AJ1A, –AK1A, –C1A, –E1A, –G1A, –F2BD, –J2B, –J2BD, –N2BD, –R2AD, –S1AD, –U2A, –V2AD, –W2A.
TIVO–540	–A2A.
IO–720	–A1A, –A1B, –D1B, –D1BD, –D1C, –D1CD, –B1B, –B1BD, –C1B.

Engine models IO–540–AG1A5, LIO–360–M1A, IO–390–A Series, AEIO–390–A Series, IO–540–AF1A5, IO–580–B1A, and AEIO–580–B1A, are not listed in Table 1. These engine models are accounted for in the Maintenance and Overhaul Manual with an Airworthiness Limitations Section. As Lycoming has more engine models certified they will add them to this list of engines with a Maintenance and Overhaul Manual. To determine if your engine has a Maintenance and Overhaul Manual you can either contact Lycoming, or you can refer to Lycoming's list of maintenance publications for engines that have a Maintenance and Overhaul Manual.

(d) Unsafe Condition

This AD was prompted by revised service information that added engine models to the applicability. This service information adds engine models requiring inspection and technical updates. We are issuing this AD to prevent failure of the fuel injector fuel lines, which could lead to uncontrolled engine fire, engine damage, and damage to the airplane.

(e) Compliance

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

(1) Initial Inspections

(i) Within 10 hours time-in-service (TIS) after the effective date of this AD, inspect the fuel injector fuel lines and clamps between the fuel manifold and the fuel injector nozzles. Use Lycoming Engines Mandatory Service Bulletin (MSB) No. 342G, dated July 16, 2013; Supplement No. 1 to MSB No. 342G, dated August 29, 2013; and Supplement No. 2 to MSB No. 342G, dated January 23, 2014 to perform the inspection. Replace any fuel injector fuel line or clamp that fails the inspection required by the Fuel Line Inspection and Installation Checklist in MSB No. 342G.

(ii) Thereafter, re-inspect after any maintenance is done on the engine where any clamp on a fuel injector fuel line was disconnected, moved, or loosened, and within every 110 hours TIS and after each engine overhaul. Use Lycoming Engines MSB No. 342G, dated July 16, 2013; Supplement No. 1 to MSB No. 342G, dated August 29, 2013; and Supplement No. 2 to MSB No. 342G, dated January 23, 2014 to perform the inspection and the Fuel Line Inspection and Installation Checklist in MSB No. 342G to perform the re-inspection.

(f) Credit for Previous Actions

If you inspected your fuel injector fuel lines and clamps using Lycoming Engines MSB No. 342F, dated June 4, 2010, or earlier versions, you met the initial inspection requirements of this AD. However, you must still comply with the repetitive inspection requirements of paragraph (e)(1)(ii) of this AD.

(g) Alternative Methods of Compliance (AMOCs)

The Manager, New York Aircraft Certification Office, FAA, may approve AMOCs to this AD. Use the procedures found in 14 CFR 39.19 to make your request. AMOCs previously approved for AD 2008–14–07, Amendment 39–15602 (73 FR 39574, July 10, 2008) (''AD 2008–14–07'') and AD 2011–26–04, Amendment 39–16894 (76 FR 79051, December 21, 2011) (''AD 2011–26–04'') are approved as AMOCs to the corresponding requirements in paragraph (e) of this AD.

(h) Related Information

(1) For more information about this AD, contact Norm Perenson, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine & Propeller Directorate, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7337; fax: 516–794–5531; email: *norman.perenson@faa.gov.*

(2) FAA Special Airworthiness Information Bulletin NE–07–49R1 contains additional information on this subject.

(i) Material Incorporated by Reference

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

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

(i) Lycoming Engines Mandatory Service Bulletin (MSB) No. 342G, dated July 16, 2013.

(ii) Lycoming Engines MSB No. 342G, Supplement No. 1, dated August 29, 2013.

(iii) Lycoming Engines MSB No. 342G, Supplement No. 2, dated January 23, 2014.

(3) For Lycoming Engines service information identified in this AD, contact Lycoming Engines, 652 Oliver Street, Williamsport, PA 17701; phone: 800–258–3279; fax: 570–327–7101; Internet: *http://www.lycoming.com/Lycoming/SUPPORT/TechnicalPublications/ServiceBulletins.aspx.*

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

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

Issued in Burlington, Massachusetts, on September 11, 2015.

Thomas A. Boudreau,

Acting Directorate Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2015–23617 Filed 9–28–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–2775; Directorate Identifier 2015–CE–021–AD; Amendment 39–18277; AD 2015–19–15]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for PILATUS AIRCRAFT LTD. Models PC–12, PC–12/45, and PC–12/47E airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a malfunction of the universal joint. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective November 3, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of November 3, 2015.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–2775; or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact PILATUS AIRCRAFT LTD, Customer Support Manager, CH–6371 STANS, Switzerland; phone: +41 (0)41 619 33 33; fax: +41 (0)41 619 73 11; email: *SupportPC12@pilatus-aircraft.com;* Internet: *http://www.pilatus-aircraft.com.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the Internet at *http://www.regulations.gov* by searching for Docket No. FAA–2015–2775.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to adding an AD that would apply to PILATUS AIRCRAFT LTD. Model PC–12, PC–12/45, and PC–12/47E airplanes. The NPRM was published in the **Federal Register** on July 14, 2015 (80 FR 40949). The NPRM proposed to correct an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. The MCAI states:

> A case of malfunctioning was reported of a universal joint installed between the control tube assembly and the control column on a PC–12/47E aeroplane.
>
> Investigation determined that the malfunction was caused by an incorrectly manufactured universal joint. Universal joints from the same manufacturing batch were provided to operators between 01 March 2014 and 28 February 2015, and are thus potentially affected.
>
> This condition, if not corrected, could lead to other cases of malfunctioning of a universal joint, possibly resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, Pilatus Aircraft Ltd. issued Service Bulletin (SB) No. 27–022 to provide instructions for replacement of the universal joints in the flight controls.

For the reason described above, this AD requires removal from service of the potentially incorrectly manufactured universal joints. The MCAI can be found in the AD docket on the Internet at: *http://www.regulations.gov/#!documentDetail;D=FAA-2015-2775-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (80 FR 40949, July 14, 2015) or on the determination of the cost to the public.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (80 FR 40949, July 14, 2015) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already

proposed in the NPRM (80 FR 40949, July 14, 2015).

Related Service Information Under 1 CFR Part 51

We reviewed PILATUS AIRCRAFT LTD. PILATUS PC–12 Service Bulletin No: 27–022, dated March 17, 2015. The service information describes procedures for replacement of the universal joint on the aileron control system. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of the AD.

Costs of Compliance

We estimate that this AD will affect 55 products of U.S. registry. We also estimate that it would take about 3 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts would cost about $1,000 per product.

Based on these figures, we estimate the cost of the AD on U.S. operators to be $69,025 or $1,255 per product.

According to the manufacturer, all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–2775; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2015–19–15 Pilatus Aircraft Ltd.: Amendment 39–18277; Docket No. FAA–2015–2775; Directorate Identifier 2015–CE–021–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective November 3, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to PILATUS AIRCRAFT LTD. Models PC–12, PC–12/45, and PC–12/47E airplanes, manufacturer serial numbers 244, 307, 409, 646, 1447 through 1450, 1461, 1462, 1466 through 1514, 1516 through 1520, and 1523, certificated in any category.

(d) Subject

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

(e) Reason

This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a malfunction of the universal joint. We are issuing this AD to replace defective aileron control system universal joints.

(f) Actions and Compliance

Unless already done, do the following actions in paragraphs (f)(1) and (f)(2) of this AD, to include all subparagraphs.

(1) For airplanes equipped with aileron control system universal joints part number (P/N) 944.61.73.012 or P/N 527.10.12.195, purchased between March 1, 2014, and February 28, 2015; or universal joints installed in service through an aileron control system inspection kit P/N 500.50.12.314, purchased between March 1, 2014, and February 28, 2015, do one of the following actions as applicable:

(i) *For airplanes with less than 200 flight cycles since first flight of the airplane or less than 200 flight cycles since installation of an affected universal joint or inspection kit, whichever applies:* Within 10 flight cycles after November 3, 2015 (the effective date of this AD) or 3 months after November 3, 2015 (the effective date of this AD), whichever occurs first, replace with a new universal joint P/N 527.10.12.195 purchased after March 1, 2015, and marked with a placard ''RT iO'' following the Accomplishment Instructions in PILATUS PC–12 Service Bulletin No: 27–022, dated March 17, 2015.

(ii) *For airplanes with 200 flight cycles or more since first flight of the airplane or 200 flight cycles or more since installation of an affected universal joint or inspection kit, whichever applies:* Within 12 months after November 3, 2015 (the effective date of this AD), replace with a new universal joint P/N 527.10.12.195 purchased after March 1, 2015, and marked with a placard ''RT iO'' following the Accomplishment Instructions in PILATUS PC–12 Service Bulletin No: 27–022, dated March 17, 2015.

(iii) *For all airplanes where total flight cycles are not tracked:* The conversion formula is one flight cycle equals one flight hour.

(2) *For all airplanes:* After November 3, 2015 (the effective date of this AD), do not install the following parts on any airplane after the modification of the airplane as required in paragraphs (f)(1)(i) and (f)(1)(ii) of this AD or any airplane that does not have an affected part installed:

(i) A universal joint P/N 944.61.73.012 or P/N 527.10.12.195 (except for a P/N

527.10.12.195 marked with a placard ''RT iO'').

(ii) Inspection kit P/N 500.50.12.314 purchased between March 1, 2014, and February 28, 2015.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2015–0111, dated June 16, 2015, for related information. The MCAI can be found in the AD docket on the Internet at: *http://www.regulations.gov/#!documentDetail;D=FAA-2015-2775-0002.*

(i) Material Incorporated by Reference

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

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

(i) PILATUS PC–12 Service Bulletin No: 27–022, dated March 17, 2015.

(ii) Reserved.

(3) For PILATUS AIRCRAFT LTD. service information identified in this AD, contact: PILATUS AIRCRAFT LTD, Customer Support Manager, CH–6371 STANS, Switzerland; phone: +41 (0)41 619 33 33; fax: +41 (0)41 619 73 11; email: *SupportPC12@pilatus-aircraft.com;* Internet: *http://www.pilatus-aircraft.*

(4) You may view this service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. In addition, you can access this service information on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–2775.

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

Issued in Kansas City, Missouri, on September 18, 2015.

Melvin Johnson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–24464 Filed 9–28–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–0494; Directorate Identifier 2014–NM–160–AD; Amendment 39–18275; AD 2015–19–13]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc. Model DHC–8–400 series airplanes. This AD was prompted by reports of inadvertent deployment of a single outboard spoiler during flight. This AD requires replacement of the power control units (PCUs) for the outboard spoilers with upgraded PCUs. We are issuing this AD to prevent leakage of the piston head seal and piston rod seals of the outboard spoiler PCUs, which could result in inadvertent spoiler deployment and reduced controllability of the airplane.

DATES: This AD becomes effective November 3, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 3, 2015.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2015-0494;* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Bombardier, Inc. Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com; Internet http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0494.

FOR FURTHER INFORMATION CONTACT: Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7318; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc. Model DHC–8–400 series airplanes. The NPRM published in the **Federal Register** on March 24, 2015 (80 FR 15521).

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2014–22, dated July 16, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc. Model DHC–8–400 series airplanes. The MCAI states:

Although [Canadian] AD CF–2009–26 [dated May 21, 2009 (*http://wwwapps3.tc.gc.ca/Saf-Sec-Sur/2/CAWIS-SWIMN/attachment.asp?aiid=CF-2009-26&revid=0&cntr=CF&file=CFCF-2009-26.pdf&type=PDE*), which corresponds to FAA AD 2009–25–05, Amendment 39–16124

(74 FR 63574, December 4, 2009)] was issued to mandate the upgrade of the spoiler lift/dump valve, it did not reduce the rate of inadvertent single spoiler deployment occurrences. Further investigation revealed that the outboard spoiler PCUs may also be subject to pressure reversals at the PCU main control valve seal, resulting in leakage at the piston head seal and piston rod seals. If not corrected, this condition may result in [inadvertent spoiler deployment and] reduced controllability of the aeroplane.

This [Canadian] AD mandates the replacement of the existing outboard spoiler PCUs with the upgraded PCUs with re-designed seals for better leakage protection.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2015-0494-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comment received on the NPRM (80 FR 15521, March 24, 2015) and the FAA's response to that comment.

Request To Revise Applicability

Horizon Air requested that the applicability of the NPRM (80 FR 15521, March 24, 2015) be revised to specify that the NPRM would only be applicable to airplanes with outboard spoiler PCU part number (P/N) 390700–1007 installed. The commenter noted that the illustrated parts catalog for the Bombardier, Inc. Model DHC–8–400 series airplanes indicates that outboard spoiler PCU P/N 390700–1009 is a direct replacement for P/N 390700–1007, and that these two part numbers are one way interchangeable. The commenter stated that operators who replaced outboard spoiler PCU P/N 390700–1007 with P/N 390700–1009 prior to the effective date of the NPRM might not have recorded the incorporation of Bombardier Service Bulletin 84–27–63, dated October 17, 2013, into their maintenance records and it would be an unnecessary regulatory burden for those operators to go back and record this service information. The Accomplishment Instructions of Bombardier Service Bulletin 84–27–63, dated October 17, 2013, state that the PCU should be replaced using the guidance in the Bombardier, Inc. Model DHC–8–400 Aircraft Maintenance Manual; therefore the actions that would be mandated by the NPRM would have been accomplished.

We agree with the commenter's request based on the information provided by the commenter. We have revised paragraph (c), ''Applicability,'' of this final rule to specify that only airplanes having certain serial numbers and an outboard spoiler PCU having P/N 390700–1007 installed are affected by the requirements of this final rule.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (80 FR 15521, March 24, 2015) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (80 FR 15521, March 24, 2015).

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

Related Service Information Under 1 CFR Part 51

Bombardier, Inc. has issued Service Bulletin 84–27–63, dated October 17, 2013. The service information describes procedures for replacement of the existing outboard spoiler PCUs with upgraded PCUs. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

Costs of Compliance

We estimate that this AD affects 82 airplanes of U.S. registry.

We also estimate that it will take about 4 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $0 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $27,880, or $340 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska; and

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2015-0494;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2015–19–13 Bombardier, Inc.: Amendment 39–18275. Docket No. FAA–2015–0494; Directorate Identifier 2014–NM–160–AD.

(a) Effective Date

This AD becomes effective November 3, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model DHC–8–400, –401, and –402 airplanes, certificated in any category, serial numbers 4001 and 4003 through 4453 inclusive with an outboard spoiler power control unit (PCU) having part number 390700–1007 installed in the outboard position.

(d) Subject

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

(e) Reason

This AD was prompted by reports of inadvertent deployment of a single outboard spoiler during flight. We are issuing this AD to prevent leakage of the piston head seal and piston rod seals of the outboard spoiler PCUs, which could result in inadvertent spoiler deployment and reduced controllability of the airplane.

(f) Compliance

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

(g) Replacement of PCUs for the Outboard Spoilers

Within 6,000 flight hours or 36 months after the effective date of this AD, whichever occurs first: Replace the outboard spoiler PCUs with upgraded PCUs having re-designed seals, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–27–63, dated October 17, 2013.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) Contacting the Manufacturer: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(i) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2014–22, dated July 16, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2015-0494-0002.*

(j) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 84–27–63, dated October 17, 2013.

(ii) Reserved.

(3) For service information identified in this AD, contact Bombardier, Inc., Q Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.*

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

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

Issued in Renton, Washington, on September 16, 2015.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–24252 Filed 9–28–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0929; Directorate Identifier 2014–NM–118–AD; Amendment 39–18274; AD 2015–19–12]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 767 airplanes. This AD was prompted by reports that six fasteners may not have been installed in the left and right stringer 37 (S–37) between body stations (BS) 428 and 431 lap splices on certain airplanes. This AD requires a general visual inspection of S–37 lap splices for missing fasteners, and all applicable related investigative and corrective actions. We are issuing this AD to detect and correct missing fasteners, which could result in cracks in the fuselage skin that could adversely affect the structural integrity of the airplane.

DATES: This AD is effective November 3, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 3, 2015.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0929.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0929; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket

contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6447; fax: 425–917–6590; email: *Wayne.Lockett@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 767 airplanes. The NPRM published in the **Federal Register** on December 29, 2014 (79 FR 77970). The NPRM was prompted by reports that six fasteners may not have been installed in the left and right S–37 between BS 428 and 431 lap splices on certain airplanes. The NPRM proposed to require a general visual inspection of S–37 lap splices for missing fasteners, and all applicable related investigative and corrective actions. We are issuing this AD to detect and correct missing fasteners, which could result in cracks in the fuselage skin that could adversely affect the structural integrity of the airplane.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM (79 FR 77970, December 29, 2014) and the FAA's response to each comment.

Support for the NPRM (79 FR 77970, December 29, 2014)

Boeing and Debra Abdou supported the NPRM (79 FR 77970, December 29, 2014). FedEx Express explained that the NPRM will not impact them. United Airlines stated that it has no comment on the NPRM.

Request for Credit for Previous Actions

United Parcel Service (UPS) requested that we revise the NPRM (79 FR 77970, December 29, 2014), to clarify that no further actions are required for airplanes that have previously accomplished inspections and corrective actions as specified in Boeing Message TBC–UPS–13–0004–01B (Service Request 1–2412169241), dated February 1, 2013.

UPS explained that, prior to the release of Boeing Alert Service Bulletin 767–53A0251, dated August 7, 2013, Boeing had released Boeing Fleet Team Digest article 767–FTD–53–12003, dated September 21, 2012; and Boeing Message TBC–UPS–13–0004–01B (Service Request 1–2412169241), dated February 1, 2013; to address the discrepant condition and provide applicable corrective actions. UPS stated that it has previously accomplished inspections and corrective actions on all affected UPS Model 767–300F series airplanes in accordance with Boeing Fleet Team Digest article 767–FTD–53–12003 dated September 21, 2012, and Boeing Message TBC–UPS–13–0004–01B (Service Request 1–2412169241), dated February 1, 2013. Per Boeing Message TBC–UPS–13–0004–01B (Service Request 1–2412169241), dated February 1, 2013, the following corrective actions are to be accomplished prior to further flight if the affected fasteners are found missing:

- Remove the center row and adjacent fasteners around the missing fastener locations.
- Perform open-hole high frequency eddy current (HFEC) inspection for damages.
- If no damage is found, install BACR15FV6KE* rivets per the Boeing installation drawing.
- If damage is found, repair per the service repair manual section defined in the future service bulletin.

UPS reasoned that, as indicated in Boeing Message TBC–UPS–13–0004–01B (Service Request 1–2412169241), dated February 1, 2013, the additional detailed inspection shown in Figure 2, Step 1, of Boeing Alert Service Bulletin 767–53A0251, dated August 7, 2013, is not required to detect damages resulting from the discrepant condition. UPS expressed that, as supported by Boeing Message TBC–UPS–13–0004–01B (Service Request 1–2412169241), dated February 1, 2013, the open-hole HFEC inspection is sufficient for detecting and eliminating damage resulting from the identified unsafe condition. UPS pointed out that standard maintenance procedures ensure that the external and internal areas accessed and disturbed during accomplishment of the repair are restored to normal configuration. Furthermore, UPS explained that supplemental internal and external inspections of the affected area are accomplished per UPS maintenance program as specified in Boeing Maintenance Planning Document Items 53–460–00, 53–648–00, 53–800–00, and 53–820–00.

We disagree to provide credit for certain actions required by this AD if those actions were performed before the effective date of this AD using Boeing Message TBC–UPS–13–0004–01B (Service Request 1–2412169241) dated February 1, 2013. It is possible that individual instructions provided to the specific operator via Boeing Message TBC–UPS–13–0004–01B (Service Request 1–2412169241), dated February 1, 2013, may have different instructions than those specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 767–53A0251, dated August 7, 2013. However, under the provisions of paragraph (i) of this AD, we will consider requests for approval of credit for certain actions if sufficient data are submitted to substantiate that the change would provide an acceptable level of safety. We have made no changes to this AD in this regard.

Effect of Winglets on AD

Aviation Partners Boeing stated that accomplishing the supplemental type certificate (STC) ST01920SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/59027f43b9a7486e86257b1d006591ee/$FILE/ST01920SE.pdf*) does not affect the actions specified in the NPRM (79 FR 77970, December 29, 2014). We concur with the commenter. We have redesignated paragraph (c) of the proposed AD as paragraph (c)(1) and added new paragraph (c)(2) to this AD to state that installation of STC ST01920SE does not affect the ability to accomplish the actions required by this final rule. Therefore, for airplanes on which STC ST01920SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

Related Service Information Under 1 CFR Part 51

Boeing has issued Boeing Alert Service Bulletin 767–53A0251, dated August 7, 2013. The service information describes procedures for an external general visual inspection of the S–37 lap splice for missing fasteners, detailed and open-hole inspections of the skin for any crack, corrosion, or other discrepancy; determining if the crack, corrosion, or other discrepancy is within the repair limits, and repairing. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means

identified in the **ADDRESSES** section of this AD.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (79 FR 77970, December 29, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 77970, December 29, 2014).

Costs of Compliance

We estimate that this AD affects 23 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
General visual inspection	1 work-hour × $85 per hour = $85	$0	$85	$1,955

We estimate the following costs to do any necessary inspections/installations that would be required based on the results of the required inspection. We have no way of determining the number of aircraft that might need these inspections/installations:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Detailed and HFEC inspections and fastener installation.	13 work-hours × $85 per hour = $1,105	*	$1,105

* All parts that are required are supplied by the operator. This cost is minimal, and we have no way to determine what the operators would pay for these parts.

We have received no definitive data that would enable us to provide cost estimates for the repairs specified in this AD.

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2015–19–12 The Boeing Company: Amendment 39–18274; Docket No. FAA–2014–0929; Directorate Identifier 2014–NM–118–AD.

(a) Effective Date

This AD is effective November 3, 2015.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to The Boeing Company Model 767–200, –300, –300F, and –400ER series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 767–53A0251, dated August 7, 2013.

(2) Installation of Supplemental Type Certificate (STC) [ST01920SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/59027f43b9a7486e86257b1d00659v1ee/$FILE/ST01920SE.pdf*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01920SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval

request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by reports that six fasteners may not have been installed in the left and right stringer 37 (S–37) between body stations (BS) 428 and 431 lap splices on certain airplanes. We are issuing this AD to detect and correct missing fasteners, which could result in cracks in the fuselage skin that could adversely affect the structural integrity of the airplane.

(f) Compliance

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

(g) Inspections, Related Investigative Actions, and Corrective Actions

Except as provided by paragraph (h)(2) of this AD, at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 767–53A0251, dated August 7, 2013: Do an external general visual inspection of the S–37 lap splice for missing fasteners, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767–53A0251, dated August 7, 2013, except as provided by paragraph (h)(1) of this AD. Do all applicable related investigative and corrective actions before further flight.

(h) Exceptions to Service Information Specifications

(1) Although Boeing Alert Service Bulletin 767–53A0251, dated August 7, 2013, specifies to contact Boeing for repair instructions, and specifies that action as ''RC'' (Required for Compliance), this AD requires repair before further flight using a method approved in accordance with the procedures specified in paragraph (i)(1) of this AD.

(2) Where Paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 767–53A0251, dated August 7, 2013, specifies a compliance time ''after the original issue date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane and the approval must specifically refer to this AD.

(4) Except as required by paragraph (h)(1) of this AD: For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (i)(4)(i) and (i)(4)(ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(j) Related Information

For more information about this AD, contact Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6447; fax: 425–917–6590; email: *Wayne.Lockett@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 767–53A0251, dated August 7, 2013.

(ii) Reserved.

(3) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

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

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

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

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–24146 Filed 9–28–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–2466; Directorate Identifier 2015–CE–018–AD; Amendment 39–18273; AD 2015–19–11]

RIN 2120–AA64

Airworthiness Directives; Piaggio Aero Industries S.p.A. Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Piaggio Aero Industries S.p.A. Model P–180 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as the need to restore the safe fatigue life of the bulkhead structure. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective November 3, 2015.

The Director of the Federal Register approved the incorporation by reference of certain publication listed in the AD as of November 3, 2015.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–2466; or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact PIAGGIO AERO INDUSTRIES S.p.A, Airworthiness Office, Viale Generale Disegna, 1 - 17038 Villanova d'Albenga, Savona, Italy; telephone: +39 010 6481800; fax: +39 010 6481374; email: *technicalsupport@piaggioaerospace.it;* Internet: *www.piaggioaerospace.it/en/customer-support#care.* You may view this referenced service information at

the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the Internet at *http://www.regulations.gov* by searching for Docket No. FAA–2015–2466.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to add an AD that would apply to certain Piaggio Aero Industries S.p.A. Model P–180 airplanes. The NPRM was published in the **Federal Register** on July 6, 2015 (80 FR 38406). The NPRM proposed to correct an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. The MCAI states:

In 1997, Piaggio Aero Industries S.p.A (PAI) developed a modification of the forward pressurized bulkhead, published through PAI Service Bulletin (SB) 80–0081, aiming to restore the safe fatigue life of the bulkhead structure.

Consequently, ENAC Italy (formerly RAI) issued Prescrizione di Aeronavigabilita (PA) 97–148 to require compliance with this SB.

After RAI PA 97–148 was issued, PAI issued SB 80–0081 Revision 2 to provide improved instructions for specific serial numbers. Prompted by this development, EASA issued AD 2010–0146 superseding PA 97–148 and requiring accomplishment of instruction of PAI issued SB 80–0081 Revision 2.

After that AD was issued, PAI issued SB 80–0081 Revision 3 to make the instructions for inspection (and, depending on findings, rework/reinforcement) applicable to all aeroplanes.

For the reasons described above, this AD retains the requirements of EASA AD 2010–0146, which is superseded, requires inspection and, depending on findings, reinforcement of the pressurized bulkhead structure on extended population of aeroplanes. This AD also specifies that certain aeroplanes modified in accordance with SB 80–0081 up to Revision 2 need to be inspected and, depending on findings, reinforced as required by this AD.

The MCAI can be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2015-2466-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (80 FR 38406, July 6, 2015) or on the determination of the cost to the public.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (80 FR 38406, July 6, 2015) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (80 FR 38406, July 6, 2015).

Related Service Information Under 1 CFR Part 51

We reviewed PIAGGIO AERO INDUSTRIES S.p.A. Service Bulletin 80–0081, Revision No. 3, dated: January 20, 2015. The service information describes procedures for inspection and, depending on findings, rework/reinforcement of the bulkhead. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of the AD.

Costs of Compliance

We estimate that this AD will affect 28 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $2,380, or $85 per product.

In addition, we estimate that any necessary follow-on actions will take about 88 work-hours and require parts costing $30,000, for a cost of $37,480 per product. We have no way of determining the number of products that may need these actions.

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–2466; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2015–19–11 PIAGGIO AERO INDUSTRIES S.p.A: Amendment 39–18273; Docket No. FAA–2015–2466; Directorate Identifier 2015–CE–018–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective November 3, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to PIAGGIO AERO INDUSTRIES S.p.A P–180 Model P–180 airplanes, serial numbers (S/N) 1004 through 1033, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 53: Fuselage.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as the need to restore the safe fatigue life of the bulkhead structure. We are issuing this AD to correct the safe fatigue life of the airplane.

(f) Actions and Compliance

(1) Unless already done, do the actions in paragraphs (f)(2) through (f)(4) of this AD at whichever of the following compliance times occurs later:

(i) Within 1,500 hours time-in-service (TIS) after November 3, 2015 (the effective date of this AD), but not to exceed 6,000 hours total hours TIS on the airplane; or

(ii) Within 200 hours TIS after November 3, 2015 (the effective date of this AD) or 6 months after November 3, 2015 (the effective date of this AD), whichever occurs first.

(2) Inspect (visually or using a standard endoscope) the forward pressurized bulkhead to verify presence of bulkhead reinforcement following Part A1 of the Accomplishment Instructions of PIAGGIO AERO INDUSTRIES S.p.A. Service Bulletin 80–0081, Revision No. 3, dated: January 20, 2015.

(i) If the inspection results indicate that the reinforcements are properly installed, ascertain (visually or by means of standard endoscope equipment) that there are no cracks or defects. If cracks or defects are identified, before further flight, contact Piaggio Aero Industries at the address specified in paragraph (i)(3) of this AD for an FAA-approved repair scheme, approved specifically for this AD, and incorporate that repair.

(ii) If the inspection results indicate that the reinforcements are not installed, reinforce the forward pressurized bulkhead following Part A2 of the Accomplishment Instructions of PIAGGIO AERO INDUSTRIES S.p.A. Service Bulletin 80–0081, Revision No. 3, dated: January 20, 2015.

(3) Modify the forward pressurized bulkhead following Part C of the Accomplishment Instructions of PIAGGIO AERO INDUSTRIES S.p.A. Service Bulletin 80–0081, Revision No. 3, dated: January 20, 2015.

(4) This AD allows credit for the actions required in paragraphs (f)(2)(ii) and (f)(3) of this AD if done before November 3, 2015 (the effective date of this AD) following the instructions of PIAGGIO AERO INDUSTRIES S.p.A. Service Bulletin 80–0081, Original Issue, dated: April 28, 1997; PIAGGIO AERO INDUSTRIES S.p.A. Service Bulletin 80–0081, Revision No. 1, dated: May 11, 2010; or PIAGGIO AERO INDUSTRIES S.p.A. Service Bulletin 80–0081, Revision No. 2, dated: July 19, 2010.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2015–0071, dated April 30, 2015; PIAGGIO AERO INDUSTRIES S.p.A. Service Bulletin 80–0081, Original Issue, dated: April 28, 1997; PIAGGIO AERO INDUSTRIES S.p.A. Service Bulletin 80–0081, Revision No. 1, dated: May 11, 2010; and PIAGGIO AERO INDUSTRIES S.p.A. Service Bulletin 80–0081, Revision No. 2, dated: July 19, 2010, for related information. The MCAI can be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2015-2466-0002.*

(i) Material Incorporated by Reference

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

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

(i) PIAGGIO AERO INDUSTRIES S.p.A. Service Bulletin 80–0081, Revision No. 3, dated: January 20, 2015.

(ii) Reserved.

(3) For PIAGGIO AEROSPACE service information identified in this AD, contact PIAGGIO AERO INDUSTRIES S.p.A, Airworthiness Office, Viale Generale Disegna, 1—17038 Villanova d'Albenga, Savona, Italy; telephone: +39 010 6481800; fax: +39 010 6481374; email: *technicalsupport@piaggioaerospace.it;* Internet: *www.piaggioaerospace.it/en/customer-support#care.*

(4) You may view this service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. In addition, you can access this service information on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–2466.

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

Issued in Kansas City, Missouri, on September 17, 2015.

Melvin Johnson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–24257 Filed 9–28–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0503; Directorate Identifier 2011–SW–032–AD Amendment 39–18276; AD 2015–19–14]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH (formerly Eurocopter Deutschland GmbH) (Airbus Helicopters) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Airbus Helicopters Model BO–105A, BO–105C,

and BO–105S helicopters. This AD requires inspections to detect oil contamination in the main gearbox (MGB). This AD was prompted by initial findings from an accident investigation of a Model BO–105 helicopter, which indicated deterioration of the MGB caused by a contaminated oil supply. The actions of this AD are intended to detect oil contamination in the MGB, which could result in MGB deterioration, MGB failure, and subsequent loss of control of the helicopter.

DATES: This AD is effective November 3, 2015.

ADDRESSES: For service information identified in this AD, contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.*

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2012–0503; or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the European Aviation Safety Agency (EASA) AD, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this proposed AD, contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.*

You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, Texas 76177.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the EASA AD, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations Office, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy., Fort Worth, Texas 76177; telephone (817) 222–5110; email *matthew.fuller@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On May 11, 2012, at 77 FR 27659, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 to add an AD that would apply to Eurocopter Deutschland GmbH (now Airbus Helicopters) Model BO–105A, BO–105C, and BO–105S helicopters. The NPRM proposed to require inspecting the MGB oil filter and MGB magnetic plug and, if the MGB oil filter or magnetic plug contained metallic fuzz, cleaning the magnetic plug, flushing the main transmission, changing the oil, and performing a ground run. If there was a chip in the MGB oil filter or MGB magnetic plug, the NPRM proposed replacing the main transmission with an airworthy main transmission and cleaning the oil cooler and oil lines. The NPRM proposed repeating the MGB magnetic plug inspection every 10 hours time-in-service (TIS) and repeating the MGB oil filter inspection every 100 hours TIS.

The NPRM was prompted by AD No. 2011–0091, dated May 18, 2011, issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Model BO105 A, BO105 C, BO105 D, and BO105S helicopters. EASA AD No. 2011–0091 requires an inspection of the MGB magnetic plug every 10 flight hours and an inspection of the Mann oil filter every 100 flight hours.

Actions Since NPRM Was Issued

Since we issued the NPRM, EASA superseded AD No. 2011–0091 and issued AD No. 2014–0230, dated October 21, 2014, to provide different inspection intervals if an improved Purolator oil filter is installed. After reviewing the EASA AD, we have determined that the actions should address installation of a Purolator oil filter and that the AD should only apply if a certain part-numbered Mann or Purolator oil filter is installed. The AD also increases the inspection interval if a Purolator oil filter is installed.

Comments

We gave the public the opportunity to comment on the NPRM. The following presents the one comment received on the NPRM and the FAA's response to the comment.

Request

The commenter, Timberland Logging, requested that the wording be clarified so that the AD would require an inspection of the magnetic plug only and not the chip detector. The commenter noted that the term ''magnetic plug/chip detector'' in the NPRM implies that the 10-hour inspection applies to both the magnetic plug and the chip detector. The commenter stated that the chip detector will activate a warning light on the pilot's caution panel with any accumulation of fuzz or chips.

We agree that the wording ''magnetic plug/chip detector'' is confusing; therefore, we have revised the wording to remove ''chip detector'' and only refer to the ''magnetic plug.''

FAA's Determination

These helicopters have been approved by the aviation authority of Germany and are approved for operation in the United States. Pursuant to our bilateral agreement with Germany, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed except for the changes previously described. These changes are consistent with the intent of the proposals in the NPRM, and will not increase the economic burden on any operator nor increase the scope of this AD.

Differences Between This AD and the EASA AD

The EASA AD applies to Model BO105D helicopters; this AD does not because this model is not type

certificated in the U.S. The EASA AD allows for a grace period between checking the magnetic plug by +10 hours TIS. This AD does not allow the grace period.

Related Service Information

Airbus Helicopters issued Alert Service Bulletin (ASB) No. ASB B0105–10–125, Revision 3, dated May 27, 2014 (ASB BO105–10–125), to specify repetitive inspections of the magnetic plug and oil filter with different inspection intervals based upon what type of oil filter is installed. Eurocopter (now Airbus Helicopters) Service Bulletin B0105–10–126, Revision 1, dated August 6, 2013 (ASB B0105–10–126), introduces an improved oil filter, Purolator part number (P/N) 1740001–13. Eurocopter states that Mann oil filter P/N 6140063321 will not be available in the future and will be replaced by a new oil filter provided by Purolator. Installation of the Purolator oil filter increases the inspection interval of the magnetic plug from 10 flight hours to 50 flight hours and increases the inspection interval of the oil filter from 100 flight hours to 600 flight hours.

Costs of Compliance

We estimate that this AD will affect 68 helicopters of U.S. Registry.

We estimate that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at $85 per work hour. We estimate 2 work hours to inspect the oil filter and chip detector at an estimated $170 per helicopter and $11,560 for the fleet per inspection cycle. We estimate 40 hours to replace a transmission with a required parts cost of $225,000 for a total cost of $228,400.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

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

We prepared an economic evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2015–19–14 Airbus Helicopters Deutschland GmbH (AHD) (formerly Eurocopter Deutschland GmbH) Helicopters: Amendment 39–18276; Docket No. FAA–2012–0503; Directorate Identifier 2011–SW–032–AD.

(a) Applicability

This AD applies to Model BO–105A, BO–105C, and BO–105S helicopters with a Mann oil filter part number (P/N) 6140063321 or a Purolator oil filter P/N 1740001–13, installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as deterioration of the main gearbox (MGB) caused by oil contamination. This condition could result in MGB failure and subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective November 3, 2015.

(d) Compliance

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

(e) Required Actions

(1) Within 100 hours time-in-service (TIS) or at the next MGB magnetic plug or chip detector inspection, whichever occurs first, and thereafter at intervals not to exceed 100 hours TIS if a Mann oil filter is installed or 600 hours TIS if a Purolator oil filter is installed, clean and inspect the MGB oil filter for chips and the MGB magnetic plug for fine particles (metallic fuzz) or chips. A ''chip'' is a solid piece of metal but not metallic fuzz.

(i) If there are no chips on the MGB oil filter or on the magnetic plug, and the metallic fuzz covers less than 25% of the magnetic plug, clean the magnetic plug.

(ii) If there are no chips on the MBG oil filter or on the magnetic plug, but the metallic fuzz covers 25% or more of the magnetic plug, flush the main transmission, change the oil, perform a ground run for 15 minutes at the flight-idle power setting, and then re-inspect the MGB oil filter and magnetic plug for a chip and the quantity of metallic fuzz on the metallic plug.

(iii) If there is a chip on the MGB oil filter or on the magnetic plug, or, after complying with paragraph (e)(1)(ii) of this AD, metallic fuzz covers 25% or more of the magnetic plug, replace the main transmission with an airworthy main transmission and clean the oil cooler and oil lines.

(2) At intervals not to exceed 10 hours TIS if a Mann oil filter is installed and 50 hours TIS if a Purolator oil filter, inspect the magnetic plug for a chip or metallic fuzz in accordance with the requirements of paragraph (e)(1) of this AD.

(3) If a Purolator oil filter has been installed on a helicopter, do not install a Mann oil filter on that helicopter.

(f) Special Flight Permit

A special flight permit will be permitted for up to 10 hours TIS for the purpose of operating the aircraft to a maintenance facility only.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy., Fort Worth, Texas 76177; telephone (817) 222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under

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

(h) Additional Information

(1) Airbus Helicopters Alert Service Bulletin No. ASB BO105–10–125, Revision 3, dated May 27, 2014, and Eurocopter Service Bulletin B0105–10–126, Revision 1, dated August 6, 2013, which are not incorporated by reference, contain additional information about the subject of this AD. For service information identified in this AD, contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.You* may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, Texas 76177.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD 2014–0230, dated October 21, 2014. You may view the EASA AD on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2012–0503.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 6320 Main Gear Box.

Issued in Fort Worth, Texas, on September 17, 2015.

James A. Grigg,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2015–24256 Filed 9–28–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–2207; Directorate Identifier 2015–CE–003–AD; Amendment 39–18272; AD 2015–19–10]

RIN 2120–AA64

Airworthiness Directives; M7 Aerospace LLC Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 97–02–02 for certain Models SA26–AT, SA26–T, SA226–AT, SA226–T, SA226–T(B), SA226–TC, SA227–AC (C–26A), SA227–AT, SA227–BC (C–26A), SA227–CC, SA227–DC (C–26B), and SA227–TT airplanes. AD 97–02–02 required applying torque to the control column pitch bearing attaching nuts, inspecting the bearing assembly, inspecting the elevator control rod end bearing retainer/dust seals, and replacing or installing new parts as necessary. This new AD requires inspecting for movement and correct torque of the elevator control pivot bearing, inspecting the elevator control rod for damage and correct configuration, and replacing parts as necessary. This AD also requires a 10,000-hour time-in-service (TIS) repetitive replacement of the control column pivot bearing and elevator control rod bolt and requires replacement of the control column pivot bearing with the improved design by 35,000 hours TIS. This AD was prompted by loss of elevator control due to failure of the bolt attaching the elevator control rod to the elevator walking beam under the cockpit floor. We are issuing this AD to correct the unsafe condition on these products.

DATES: This AD is effective November 3, 2015.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 3, 2015.

ADDRESSES: For service information identified in this AD, contact M7 Aerospace LLC, 10823 NE Entrance Road, San Antonio, Texas 78216; phone: (210) 824–9421; fax: (210) 804–7766; Internet: *http://www.elbitsystems-us.com;* email: *MetroTech@M7Aerospace.com.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call 816–329–4148. It is also available on the Internet at *http://www.regulations.gov* by searching for Docket No. FAA–2015–2207.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*by searching for and locating Docket No. FAA–2015–2207; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Andrew McAnaul, Aerospace Engineer, FAA, ASW–143 (c/o San Antonio MIDO), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; phone: (210) 308–3365; fax: (210) 308–3370; email: *andrew.mcanaul@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 97–02–02, Amendment 39–9886 (62 FR 2552, January 17, 1997), (''AD 97–02–02''). AD 97–02–02 applied to certain M7 Aerospace LLC Models SA26–AT, SA26–T, SA226–AT, SA226–T, SA226–T(B), SA226–TC, SA227–AC (C–26A), SA227–AT, SA227–BC (C–26A), SA227–CC, SA227–DC (C–26B), and SA227–TT airplanes. The NPRM published in the **Federal Register** on June 16, 2015 (80 FR 34326). The NPRM was prompted by an operator experiencing complete loss of elevator control due to failure of the bolt attaching the elevator control rod to the elevator walking beam under the cockpit floor. A follow-on inspection of the operator's fleet revealed a variety of hardware installed. Some hardware matched the illustrated parts catalog (IPC), some matched the AD 97–02–02 configuration, and some matched neither of those configurations.

When AD 97–02–02 was issued, the IPC was never revised to match the hardware configuration called out in AD 97–02–02 or in the service information associated with that AD. Because of the conflict between the AD and the IPC configurations, an airplane that was in compliance with the requirements of AD 97–02–02 could have had an incorrect hardware configuration installed during routine maintenance after complying with the AD. The IPC has been updated and corrected by M7 Aerospace, LLC.

Also, since we issued AD 97–02–02, the manufacturer developed an improved design for the control column pivot bearing and support structure that terminates the repetitive torque check and replacement of control column pivot bearings.

The manufacturer also issued new service information that adds the 10,000-hour TIS repetitive replacement of the control column pivot bearing that is in the airworthiness limitations section (ALS) of the airplane maintenance manual (AMM) and (if this revision is mandated) requires the replacement of the pivot bearing with the improved design by 35,000 hours TIS that is in the supplemental inspections document (SID). Issuance of

the new service information, the revised IPC, and this AD will eliminate the conflicts between AD 97–02–02, the service information, the IPC, the ALS, and the SID.

The NPRM (80 FR 34326, June 16, 2015) proposed to require inspecting for movement and correct torque of the elevator control pivot bearing, inspecting the elevator control rod for damage and correct configuration, and replacing parts as necessary. The NPRM also proposed to require a 10,000-hour TIS repetitive replacement of the control column pivot bearing and elevator control rod bolt and require replacement of the control column pivot bearing with the improved design by 35,000 hours TIS. Replacing the original control column pivot bearing with the improved design terminates the requirement to repetitively replace the original control column pivot bearing every 10,000 hours. We are issuing this AD to correct the unsafe condition on these products.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (80 FR 34326, June 16, 2015) or on the determination of the cost to the public.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (80 FR 34326, June 16, 2015) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (80 FR 34326, June 16, 2015).

Relevant Service Information Under 1 CFR 51

We reviewed M7 Aerospace SA26 Series Service Bulletin No. 26–27–30–046 R2, dated December 5, 2014; Fairchild Aircraft SA26 Series Service Bulletin No. 26–27–30–047, dated June 16, 1997; M7 Aerospace SA226 Series Service Bulletin No. 226–27–060 R2, dated December 5, 2014; Fairchild Aerospace SA226 Series Service Bulletin No. 226–27–061, dated June 16, 1997; M7 Aerospace SA227 Series Service Bulletin, No. 227–27–041 R2, dated December 5, 2014; Fairchild Aircraft SA227 Series Service Bulletin No. 227–27–042, dated June 16, 1997; M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin No. CC7–27–010 R2, dated December 5, 2014; and Fairchild Aircraft SA227 Series Commuter Category Service Bulletin No. CC7–27–011, dated June 16, 1997. The service information describes procedures for inspecting for movement and correct torque of the elevator control pivot bearing, inspecting the elevator control rod for damage, and replacing parts as necessary. The service information also adds a repetitive replacement of the control column pivot bearings at 10,000 hours TIS and requires replacement of the control column pivot bearing with the improved design within 35,000 hours TIS. This information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

Costs of Compliance

We estimate that this AD affects 360 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection of torque on the control column pivot bearing.	2 work-hours × $85 per hour = $170	Not applicable	$170	$61,200
Control column pivot bearing replacement	8 work-hours × $85 per hour = $680	$300	980	352,800
New designed control column pivot bearing replacement.	20 work-hours × $85 per hour = $1,700	$2,450	4,150	1,494,000
Elevator rod end bolt replacement	4 work-hours × $85 per hour = $340	$10	350	126,000

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 97–02–02, Amendment 39–9886 (62 FR 2552, January 17, 1997), and adding the following new AD:

2015–19–10 M7 Aerospace: Amendment 39–18272; Docket No. FAA–2015–2207; Directorate Identifier 2015–CE–003–AD.

(a) Effective Date

This AD is effective November 3, 2015.

(b) Affected ADs

This AD supersedes AD 97–02–02, Amendment 39–9886 (62 FR 2552, January 17, 1997).

(c) Applicability

This AD applies to M7 Aerospace LLC Models SA26–AT, SA26–T, SA226–AT, SA226–T, SA226–T(B), SA226–TC, SA227–AC (C–26A), SA227–AT, SA227–BC (C–26A), SA227–CC, SA227–DC (C–26B), SA227–TT, all serial numbers, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Unsafe Condition

AD 97–02–02 (62 FR 2552, January 17, 1997) (''AD 97–02–02'') resulted from reports of Fairchild SA227 series airplanes losing pitch control in-flight. This supersedure was prompted by an operator experiencing complete loss of elevator control because of failure of the bolt attaching the elevator control rod to the elevator walking beam under the cockpit floor. We are issuing this AD to prevent loss of pitch control, which if not corrected, could result in loss of airplane control.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done. Models SA227–CC and SA227–DC, serial numbers 892, 893, and 895 and up, have the revised (modified) configuration. Since those airplanes are already in compliance, they do not have to do the actions in paragraphs (h) or (i) of this AD, including all subparagraphs. Those airplanes must still do the actions required in paragraph (j) of this AD, including all subparagraphs.

(g) Credit for Actions Accomplished in Accordance With Previous Service Information

This AD allows credit for the control column pivot bearing torque check and initial replacement required in paragraph (i)(2) of this AD and the elevator rod bolt inspection and initial replacement required in paragraphs (j)(1) and (j)(3)(i) of this AD, if done before November 3, 2015 (the effective date of this AD), following the procedures specified in the Accomplishment Instructions of the applicable service information listed in paragraphs (g)(1) through (g)(4) of this AD:

(1) M7 Aerospace SA227 Commuter Category Service Bulletin No. CC7–27–010, original issue or revision 1.

(2) M7 Aerospace SA227 Series Service Bulletin No. 227–27–041, original issue or revision 1.

(3) M7 Aerospace SA226 Series Service Bulletin No. 226–27–060, original issue or revision 1.

(4) M7 Aerospace SA26 Series Service Bulletin No. 26–27–30–046, original issue or revision 1.

(h) Control Column Pivot Bearing Revised (Modified) Configuration

(1) On or before the airplane accumulates a total of 35,000 hours time-in-service (TIS) or within the next 1,000 hours TIS after November 3, 2015 (the effective date of this AD), whichever occurs later, you must revise (modify) the control column pivot bearing configuration with the improved design. Use the applicable service information listed in paragraphs (h)(1)(i) through (h)(1)(iv) of this AD. Revising (modifying) the configuration of the control column pivot bearing with the improved design terminates the actions for paragraph (i) of this AD, including all subparagraphs, but you must still complete the required actions in paragraph (j) of this AD, including all subparagraphs.

(i) Fairchild Aircraft SA26 Series Service Bulletin No. 26–27–30–047, dated June 16, 1997;

(ii) Fairchild Aircraft SA226 Series Service Bulletin No. 226–27–061, dated June 16, 1997;

(iii) Fairchild Aircraft SA227 Series Service Bulletin No. 227–27–042, dated June 16, 1997; or

(iv) Fairchild Aircraft SA227 Series Commuter Category No. CC7–27–011, dated June 16, 1997.

(2) You may at any time before 35,000 hours TIS revise (modify) the control column pivot bearing configuration with the improved design to terminate the repetitive replacement of the original control column pivot bearing using the applicable service information listed in paragraphs (h)(1)(i) through (h)(1)(iv) of this AD. This action terminates the requirements of paragraph (i) of this AD, including all subparagraphs, but you must still complete the required actions in paragraph (j) of this AD, including all subparagraphs.

(i) Torque Check or Replacement of the Control Column Pivot Bearing

(1) Use the service information, as applicable, listed in paragraphs (i)(1)(i) through (i)(1)(iv) of this AD to do a control column pivot bearing torque check or replacement at the applicable compliance times in paragraph (i)(2) or (i)(3) of this AD, including all subparagraphs:

(i) M7 Aerospace LLC SA26 Series Service Bulletin No. 26–27–30–046 R2, dated December 5, 2014;

(ii) M7 Aerospace LLC SA226 Series Service Bulletin No. 226–27–060 R2, dated December 5, 2014;

(iii) M7 Aerospace LLC SA227 Series Service Bulletin No. 227–27–041 R2, dated December 5, 2014; or

(iv) M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin No. CC7–27–010 R2, December 5, 2014.

(2) For airplanes where the control column pivot bearing has been torque checked or replaced within the last 10,000 hours TIS before November 3, 2015 (the effective date of this AD) using the applicable service information listed in paragraph (g)(1) through (g)(4) or (i)(1)(i) through (i)(1)(iv) of this AD, do one of the following actions:

(i) Within the next 10,000 hours TIS after the last control column pivot bearing replacement or within the next 1,000 hours TIS after November 3, 2015 (the effective date of this AD), whichever occurs later, and repetitively thereafter every 10,000 hours TIS, replace the control column pivot bearing following paragraph 2.B. of the Accomplishment Instructions of the applicable service information listed in paragraphs (i)(1)(i) through (i)(1)(iv) of this AD; or

(ii) Within the next 10,000 hours TIS after the last control column pivot bearing replacement or within the next 1,000 hours TIS after November 3, 2015 (the effective date of this AD), whichever occurs later, revise (modify) the control column pivot bearing configuration with the improved design using the applicable service information listed in paragraphs (h)(1)(i) through (h)(1)(iv) of this AD. Revising (modifying) the configuration of the control column pivot bearing with the improved design terminates the repetitive replacement of the original control column pivot bearing. No other actions are required for paragraph (i) of this AD, including all subparagraphs, but you must still complete the actions in paragraph (j) of this AD, including all subparagraphs.

(3) For airplanes where the control column pivot bearing has not been torque checked or replaced within the last 10,000 hours TIS before November 3, 2015 (the effective date of this AD) using the applicable service information listed in paragraphs (g)(1) through (g)(4) or (i)(1)(i) through (i)(1)(iv) of this AD, within the next 200 hours TIS after November 3, 2015 (the effective date of this AD), torque check the control column pivot bearing following paragraph 2.A. of the service information listed in paragraphs (i)(1)(i) through (i)(1)(iv) of this AD.

(4) If nut movement occurs during the torque check required in paragraph (i)(3) of this AD, do one of the following actions:

(i) Before further flight and repetitively thereafter at intervals not to exceed every 10,000 hours TIS, replace the control column pivot bearing following paragraph 2.B. of the Accomplishment Instructions of the applicable service information listed in paragraphs (i)(1)(i) through (i)(1)(iv) of this AD; or

(ii) Before further flight, revise (modify) the control column pivot bearing configuration with the improved design using the applicable service information listed in paragraphs (h)(1)(i) through (h)(1)(iv) of this AD. Revising (modifying) the configuration of the control column pivot bearing with the improved design terminates the repetitive replacement of the original control column pivot bearing. No other actions are required for paragraph (i) of this AD, including all

subparagraphs, but you must still complete the actions in paragraph (j) of this AD, including all subparagraphs.

(5) If no nut movement occurs during the torque check required in paragraph (i)(3) of this AD, do one of the following actions:

(i) Within the next 1,000 hours TIS after November 3, 2015 (the effective date of this AD), replace the control column pivot bearing following paragraph 2.B. of the Accomplishment Instructions of the applicable service information listed in paragraphs (i)(1)(i) through (i)(1)(iv) of this AD; or

(ii) Within the next 1,000 hours TIS after November 3, 2015 (the effective date of this AD), revise (modify) the control column pivot bearing configuration with the improved design using the applicable service information listed in paragraphs (h)(1)(i) through (h)(1)(iv) of this AD. Revising (modifying) the configuration of the control column pivot bearing with the improved design terminates the repetitive replacement of the original control column pivot bearing.

(j) Inspect the Elevator Control Rod Ends and Hardware

(1) Within the next 200 hours TIS after November 3, 2015 (the effective date of this AD), inspect the elevator control rod ends and hardware for wear, creasing, or other damage and verify the elevator rod bolt and attachment hardware for correct configuration following paragraph 2.D. of the Accomplishment Instructions of the applicable service information listed in paragraphs (i)(1)(i) through (i)(1)(iv) of this AD.

(2) If any damage is found during the inspection required in paragraph (j)(1) of this AD or the elevator rod bolt and attachment hardware does not match the correct configuration, before further flight, replace the elevator rod bolt, rod ends, and associated hardware following paragraph 2.D. of the Accomplishment Instructions of the applicable service information listed in paragraphs (i)(1)(i) through (i)(1)(iv) of this AD.

(3) Replace the elevator rod end bolt and associated hardware following paragraph 2.D. of the Accomplishment Instructions of the applicable service information listed in paragraphs (i)(1)(i) through (i)(1)(iv) of this AD at whichever of the following compliance times applies and repetitively thereafter at intervals not to exceed 10,000 hours TIS:

(i) *For airplanes where the elevator rod bolt has been replaced:* Within the next 10,000 hours TIS after the last elevator rod bolt replacement or within the next 1,000 hours TIS after November 3, 2015 (the effective date of this AD), whichever occurs later; or

(ii) *For airplanes where the elevator rod bolt has never been replaced:* Within the next 200 hours TIS after November 3, 2015 (the effective date of this AD).

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Fort Worth Airplane Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (l)(1) of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(l) Related Information

(1) For more information about this AD, contact Andrew McAnaul, Aerospace Engineer, FAA, ASW–143 (c/o San Antonio MIDO), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; phone: (210) 308–3365; fax: (210) 308–3370; email: *andrew.mcanaul@faa.gov.*

(m) Material Incorporated by Reference

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

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

(i) M7 Aerospace LLC SA26 Series Service Bulletin No. 26–27–30–046 R2, dated December 5, 2014.

(ii) M7 Aerospace LLC SA226 Series Service Bulletin No. 226–27–060 R2, dated December 5, 2014.

(iii) M7 Aerospace LLC SA227 Series Service Bulletin No. 227–27–041 R2, dated December 5, 2014.

(iv) M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin No. CC7–27–010 R2, December 5, 2014.

(v) Fairchild Aircraft SA26 Series Service Bulletin No. 26–27–30–047, dated June 16, 1997.

(vi) Fairchild Aircraft SA226 Series Service Bulletin No. 226–27–061, dated June 16, 1997.

(vii) Fairchild Aircraft SA227 Series Service Bulletin No. 227–27–042, dated June 16, 1997.

(viii) Fairchild Aircraft SA227 Series Commuter Category No. CC7–27–011, dated June 16, 1997.

(3) For service information identified in this AD, contact M7 Aerospace LLC, 10823 NE Entrance Road, San Antonio, Texas 78216; phone: (210) 824–9421; fax: (210) 804–7766; Internet: *http://www.elbitsystems-us.com;* email: *MetroTech@M7Aerospace.com.*

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

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

Issued in Kansas City, Missouri, on September 17, 2015.

Melvin Johnson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–24249 Filed 9–28–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0773; Directorate Identifier 2014–NM–068–AD; Amendment 39–18271; AD 2015–19–09]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 787–8 airplanes. This AD was prompted by reports of a potential latent failure of the fuel shutoff valve actuator circuitry, which was not identified during actuator development. This AD requires replacing certain engine and auxiliary power unit (APU) fuel shutoff valve actuators with new actuators, and also requires revising the maintenance or inspection program to include a new airworthiness limitation into the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness (ICA). We are issuing this AD to detect and correct latent failures of the fuel shutoff valve to the engine and auxiliary power unit (APU), which could result in the inability to shut off fuel to the engine and APU and, in case of certain fires, an uncontrollable fire that could lead to structural failure.

DATES: This AD is effective November 3, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 3, 2015.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the

availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0773.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0773; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Rebel Nichols, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6509; fax: 425–917–6590; email: *Rebel.Nichols@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 787–8 airplanes. The NPRM published in the **Federal Register** on November 17, 2014 (79 FR 68384). The NPRM was prompted by reports of a potential latent failure of the fuel shutoff valve actuator circuitry, which was not identified during actuator development. The NPRM proposed to require replacing certain engine and APU fuel shutoff valve actuators with new actuators, and also proposed revising the maintenance or inspection program to include a new airworthiness limitation into the ALS of the ICA. We are issuing this AD to detect and correct latent failures of the fuel shutoff valve to the engine and APU, which could result in the inability to shut off fuel to the engine and APU and, in case of certain fires, an uncontrollable fire that could lead to structural failure.

Record of Ex Parte Communication

In preparation of AD actions such as NPRMs and immediately adopted rules, it is the practice of the FAA to obtain technical information and information on operational and economic impacts from design approval holders and aircraft operators. We discussed certain comments addressed in this final rule in a teleconference with Airlines for America (A4A) and other members of the aviation industry. All of the comments discussed during this teleconference that are relevant to this final rule are addressed in this final rule in response to comments submitted by other commenters. A discussion of this contact can be found in the rulemaking docket at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0773.

Clarification of Certain Terminology

Throughout the preamble of this final rule, commenters may have used the terms ''fuel shutoff valve'' and ''fuel spar valve'' interchangeably. Both terms refer to the same part. In our responses to comments, we have used the term ''fuel shutoff valve.'' The term ''fuel spar valve'' is more commonly used in airplane maintenance documentation and, therefore, we have used that term in figure 1 to paragraph (g) of this AD.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM (79 FR 68384, November 17, 2014) and the FAA's response to each comment.

Request To Withdraw the NPRM (79 FR 68384, November 17, 2014)

All Nippon Airways (ANA) stated that the NPRM (79 FR 68384, November 17, 2014) proposed a revision of the maintenance program or inspection program that added an inspection every 10 days. ANA explained that it believes this action is not necessary. ANA stated that it has used fuel shutoff valve actuators having part number (P/N) 53–0037 on its airplanes since their delivery, and that these fuel shutoff valve actuators have accumulated 1,607,870 flight hours. ANA stated that it has removed a total of 9 fuel shutoff valve actuators; however, it has never experienced a stuck micro-switch issue, and has experienced only a motor issue. ANA also stated that it has performed a one-time operational check on 10 airplanes with no findings.

We infer that the commenter requests that we withdraw the NPRM (79 FR 68384, November 17, 2014). We disagree with the commenter's request. We have determined that an unsafe condition exists that warrants an interim action until the modified actuator that will address the identified unsafe condition is installed. Boeing did not formally comment on whether it considers this issue to be an unsafe condition. We have determined that, without the required interim action, a significant number of flights with a fuel shutoff valve actuator that is failed latently in the open valve position will occur during the affected fleet life. With a failed fuel shutoff valve, if certain fire conditions were to occur, or if extreme engine or APU damage were to occur, or if an engine separation event were to occur during flight, the crew procedures for such an event would not stop the fuel flow to the engine strut and nacelle or APU. The continued flow of fuel could cause an uncontrolled fire or lead to a fuel exhaustion event.

The FAA regulations require all transport airplanes to be fail safe with respect to engine fire events, and the risk due to severe engine damage events be minimized. Therefore, we require, for each flight, sufficiently operative fire safety systems so that fires can be detected and contained, and fuel to the engine strut and nacelle or APU can be shut off in the event of an engine or APU fire or severe damage.

The FAA airworthiness standards require remotely controlled powerplant valves to provide indications that the valves are in the commanded position. These indications allow the prompt detection and correction of valve failures. We do not allow dispatch with a known inoperative fuel shutoff valve. Therefore, we are proceeding with the final rule, not because of the higher-than-typical failure rate of the particular valve actuator involved, but instead because the fuel shutoff valve actuator can fail in a manner that also defeats the required valve position indication feature. That failure can lead to a large number of flights occurring on an airplane with a fuel shutoff valve actuator failed in the open position without the operator being aware of the failure. Airworthiness limitations containing required inspections are intended to limit the number of flights following latent failure of the fuel shutoff valve. Issuance of an AD is the appropriate method to correct the unsafe condition. We have not changed this final rule in this regard.

Request To Extend the Test Interval for the Engine and APU Fuel Shutoff Valve Actuators

ANA requested that we extend the test interval for the engine and APU fuel shutoff valve actuators from 10 days to 400 flight cycles. ANA stated it does not understand the reason why we proposed a test interval of 10 days, which ANA thinks is too short. ANA stated that, according to its removal data, the

earliest actuator removal is at 467 flight hours and 442 flight cycles. ANA explained that the fuel shutoff valve operates only once (open-close) per one cycle; therefore, ANA proposed a test interval of 400 flight cycles, which would be below 442 flight cycles.

We disagree with the commenter's request to extend the test interval. An increase in the test interval from 10 days to 400 flight cycles would result in at least ten times as many flights at risk of an uncontrollable engine fire. Requiring the test at a 10-day interval has been deemed practical and is similar to inspections on other models that require maintenance action to test the actuator function. We have not changed this AD in this regard.

Request To Revise Parts Installation Prohibition Paragraph

ANA requested that we remove the restriction on installing a motor-operated valve actuator having P/N 53–0037 on crossfeed valve and defuel/isolation valve positions. ANA stated that actuator failure in these two positions does not lead to a structural failure or uncontrollable fire condition that is referenced in the unsafe condition.

We agree with the commenter's request. The vulnerability of the crossfeed system is not as significant as that of the engine/APU fuel feed system. We have revised paragraph (j) of this AD to limit the prohibition on installing a motor-operated valve actuator having P/N 53–0037 to the engine fuel shutoff valve and APU fuel shutoff valve.

Request To Revise Service Information Identification

Boeing requested that we correct a reference to unrelated service information specified in figure 1 to paragraph (g) of this AD.

We disagree with the commenter's request because the NPRM (79 FR 68384, November 17, 2014) identified the correct service information, *i.e.,* Boeing Service Bulletin B787–81205–SB280015–00, Issue 002, dated June 19, 2014. We have not changed this AD in this regard.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (79 FR 68384, November 17, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 68384, November 17, 2014).

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Service Bulletin B787–81205–SB280015–00, Issue 002, dated June 19, 2014. The service information describes procedures for replacing the engine and APU fuel shutoff valve actuators. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

Costs of Compliance

We estimate that this AD affects 6 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Maintenance program revision	1 work-hour × $85 per hour = $85	$0	$85	$510
Engine and APU fuel shutoff valve actuator replacement.	10 work-hours × $85 per hour = $850	0	850	5,100

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all available costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2015–19–09 The Boeing Company: Amendment 39–18271; Docket No. FAA–2014–0773; Directorate Identifier 2014–NM–068–AD.

(a) Effective Date

This AD is effective November 3, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 787–8 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Unsafe Condition

This AD was prompted by reports of a potential latent failure of the fuel shutoff valve actuator circuitry, which was not identified during actuator development. We are issuing this AD to detect and correct latent failures of the fuel shutoff valve to the engine and auxiliary power unit (APU), which could result in the inability to shut off fuel to the engine and APU and, in case of certain fires, an uncontrollable fire that could lead to structural failure.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

Within 30 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to add Airworthiness Limitation (AWL) Number 28–AWL–ACT, ''Engine and APU Fuel Shutoff Valve (Fuel Spar Valve) Actuator Test,'' by incorporating the information specified in figure 1 to paragraph (g) of this AD into the Airworthiness Limitations Section of the Instructions for Continued Airworthiness. This may be accomplished by inserting a copy of Airworthiness Limitation Number 28–AWL–ACT, ''Engine and APU Fuel Shutoff Valve (Fuel Spar Valve) Actuator Test,'' into the maintenance or inspection program, as applicable. For the airplanes identified in the applicability note of Airworthiness Limitation Number 28–AWL–ACT, ''Engine and APU Fuel Shutoff Valve (Fuel Spar Valve) Actuator Test,'' the initial compliance time for accomplishing the actions specified in figure 1 to paragraph (g) of this AD is within 10 days after accomplishment of the maintenance or inspection program revision, as applicable, required by this paragraph. When the engine and APU fuel shutoff valve actuators have been replaced as required by paragraph (i) of this AD, the Airworthiness Limitation Number 28–AWL–ACT, ''Engine and APU Fuel Shutoff Valve (Fuel Spar Valve) Actuator Test,'' required by this paragraph may be removed from the maintenance or inspection program, as applicable.

FIGURE 1 TO PARAGRAPH (g) OF THIS AD: ENGINE AND APU FUEL SHUTOFF VALVE (FUEL SPAR VALVE) ACTUATOR TEST

AWL No.	Task	Interval	Applicability	Description
28–AWL–ACT ...	ALI	10 DAYS ..... INTERVAL NOTE: Not required on days when the airplane is not operated. The test must be done before further flight if it has been 10 or more calendar days since the last inspection.	ALL ..... APPLICABILITY NOTE: This AWL applies to airplanes with Eaton Aerospace Ltd. fuel spar valve actuators having part number 53–0037 installed at the engine or APU fuel shutoff valve location.	Engine and APU Fuel Shutoff Valve (Fuel Spar Valve) Actuator Test Concern: The fuel spar valve actuator design can result in airplanes operating with a failed fuel spar valve actuator that is not reported. A latently failed fuel spar valve actuator would prevent fuel shutoff to an engine or APU. In the event of certain engine or APU fires, the potential exists for an engine or APU fire to be uncontrollable. Perform the following tests in accordance with Boeing Service Bulletin B787–81205–SB280015–00, Issue 002, dated June 19, 2014. 1. Do PART 1: ENGINE FUEL SPAR VALVE ACTUATOR TEST as described in Boeing Service Bulletin B787–81205–SB280015–00, Issue 002, dated June 19, 2014. a. If the left engine fuel spar valve actuator has part number 53–0037, perform the left engine fuel spar valve actuator test. b. If the right engine fuel spar valve actuator has part number 53–0037, perform the right engine fuel spar valve actuator test. c. If either test fails, repair faults as required (refer to Boeing Airplane Maintenance Manual 28–22–02). 2. Do PART 2: APU FUEL SPAR VALVE ACTUATOR TEST as described in Boeing Service Bulletin B787–81205–SB280015–00, Issue 002, dated June 19, 2014. a. If the APU fuel spar valve actuator has part number 53–0037, perform the APU fuel spar valve actuator test. b. If the test fails, before further flight requiring APU availability, repair faults as required (refer to Boeing Airplane Maintenance Manual 28–25–03). NOTE: Dispatch may be permitted per MMEL 28–25–03 if the APU is not required for flight.

(h) No Alternative Actions and Intervals

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

(i) Replacement

Within 36 months after the effective date of this AD, replace the engine and APU fuel shutoff valve actuators having part number (P/N) 53–0037 with P/N 53–0049, in accordance with Part 5 or Part 6, as applicable, of the Accomplishment Instructions of Boeing Service Bulletin B787–81205–SB280015–00, Issue 002, dated June 19, 2014. When all the engine and APU fuel shutoff valve actuators have been replaced as required by this paragraph, Airworthiness Limitation Number 28–AWL–ACT, ''Engine and APU Spar Valve Actuator Test,'' required by paragraph (g) of this AD may be removed from the maintenance or inspection program, as applicable.

(j) Parts Installation Prohibition

As of the effective date of this AD, no person may install on any airplane a motor-operated valve actuator having P/N 53–0037 in the engine or APU fuel shutoff valve location.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (l) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (k)(3)(i) and (k)(3)(ii) apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(l) Related Information

For more information about this AD, contact Rebel Nichols, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6509; fax: 425–917–6590; email: *Rebel.Nichols@faa.gov.*

(m) Material Incorporated by Reference

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

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

(i) Boeing Service Bulletin B787–81205–SB280015–00, Issue 002, dated June 19, 2014.

(ii) Reserved.

(3) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

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

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

Issued in Renton, Washington, on September 15, 2015.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–24145 Filed 9–28–15; 8:45 am]

BILLING CODE 4910–13–P

Proposed Rules

Federal Register
Vol. 80, No. 188
Tuesday, September 29, 2015

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–3637; Directorate Identifier 2014–NM–219–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model MD–11 and MD–11F airplanes. This proposed AD was prompted by a report of fuel odor in the cabin. Fuel was found leaking from a cracked fuel line shroud in the left cargo compartment equipment tunnel. This proposed AD would require a check for the presence of fuel at the fuel shroud drain; a high frequency eddy current (HFEC) inspection for cracked fuel line shrouds; a pressure test of the drain system of the tail tank fuel shroud and a pressure test of the drain system of the aft fuselage fuel shroud to determine cracking; and corrective actions, if necessary. We are proposing this AD to detect and correct fuel leaking from a cracked fuel line shroud, which could result in fuel accumulation below the cargo compartment floor and consequent increased risk of fire.

DATES: We must receive comments on this proposed AD by November 13, 2015.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, CA 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; Internet *https://www.myboeingfleet.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3637.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3637; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Philip Kush, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; telephone: 562–627–5263; fax: 562–627–5210; email: *Philip.Kush@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–3637; Directorate Identifier 2014–NM–219–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We have received a report of fuel odor in the cabin. Fuel was found leaking from a cracked fuel line shroud in the left cargo compartment equipment tunnel. This condition, if not corrected, could result in fuel accumulation below the cargo compartment floor and consequent increased risk of fire.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin MD11–28A148, dated August 29, 2014. The service information describes procedures for checking for the presence of fuel at the fuel shroud drain; a HFEC inspection for cracked fuel line shrouds; a pressure test of the drain system of the tail tank fuel shroud and a pressure test of the drain system of the aft fuselage fuel shroud to determine cracking; and corrective actions. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this NPRM.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD affects 90 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Check for presence of fuel at the fuel shroud drain.	2 work-hours × $85 per hour = $170, per inspection cycle.	$0	$170, per inspection cycle	$15,300, per inspection cycle.
HFEC Inspection (optional)	5 work-hours × $85 per hour = $425, per inspection cycle.	0	$425, per inspection cycle	$38,250, per inspection cycle.
Pressure Test	3 work-hours × $85 per hour = $255, per inspection cycle.	0	$255, per inspection cycle	$22,950, per inspection cycle.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2015–3637; Directorate Identifier 2014–NM–219–AD.

(a) Comments Due Date

We must receive comments by November 13, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model MD–11 and MD–11F airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin MD11–28A148, dated August 29, 2014.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel System.

(e) Unsafe Condition

This AD was prompted by a report of fuel odor in the cabin. Fuel was found leaking from a cracked fuel line shroud in the left cargo compartment equipment tunnel. We are issuing this AD to detect and correct fuel leaking from a cracked fuel line shroud, which could result in fuel accumulation below the cargo compartment floor and consequent increased risk of fire.

(f) Compliance

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

(g) Check, Inspection, Test, and Corrective Actions

Do the actions in paragraphs (g)(1) or (g)(2) of this AD, as applicable.

(1) Except as specified in paragraph (h) of this AD: At the applicable time in Table 1 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin MD11–28A148, dated August 29, 2014, do the actions in paragraphs (g)(1)(i), (g)(1)(ii), and (g)(1)(iii) of this AD. Before further flight do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin MD11–28A148, dated August 29, 2014. Repeat the actions thereafter at the applicable time in Table 1 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin MD11–28A148, dated August 29, 2014.

(i) Check for the presence of fuel at the fuel shroud drain.

(ii) Do a high frequency eddy current (HFEC) inspection for cracked fuel line shrouds.

(iii) Do a pressure test of the drain system of the tail tank fuel shroud and a pressure test of the drain system of the aft fuselage fuel shroud to determine if there is cracking.

(2) Except as specified in paragraph (h) of this AD: At the applicable time in Table 2 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin MD11–28A148, dated August 29, 2014, do the actions in paragraphs (g)(2)(i) and (g)(2)(ii) of this AD. Before further flight do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin MD11–28A148, dated August 29, 2014. Repeat the actions thereafter at the applicable time in Table 2 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin MD11–28A148, dated August 29, 2014.

(i) Check for the presence of fuel at the fuel shroud drain.

(ii) Do a pressure test of the drain system of the tail tank fuel shroud and a pressure

test of the drain system of the aft fuselage fuel shroud to determine if there is cracking.

(h) Exception to the Service Information

Where Boeing Alert Service Bulletin MD11–28A148, dated August 29, 2014, specifies a compliance time of ''after the original issue date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (j)(1) of this AD. Information may be emailed to: *9-ANM-LAACO-AMOC-REQUESTS@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Related Information

(1) For more information about this AD, contact Philip Kush, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; telephone: 562–627–5263; fax: 562–627–5210; email: *Philip.Kush@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, CA 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on September 17, 2015.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–24565 Filed 9–28–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–3321; Airspace Docket No. 15–ANM–17]

Proposed Establishment of Class E Airspace, Neah Bay, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at U.S. Coast Guard Station Neah Bay Heliport, Neah Bay, WA, to accommodate new Standard Instrument Approach Procedures for developed at the heliport. Controlled airspace is necessary for the safety and management of Instrument Flight Rules (IFR) operations at the heliport.

DATES: Comments must be received on or before November 13, 2015.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2015–3321; Airspace Docket No. 15–ANM–17, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy and ATC Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 29591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace at U. S. Coast Guard Station Neah Bay Heliport, Neah Bay, WA.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2015–3321; Airspace Docket No. 15–ANM–17.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_*

traffic/publications/airspace_amendments/.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this proposed rule. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E airspace extending upward from 700 feet above the surface at U.S. Coast Guard Station Neah Bay Heliport, Neah Bay, WA. Establishment of a GPS approach has made this action necessary for the safety and management of IFR operations at the heliport. Class E airspace would be established within a 1-mile radius of the U.S. Coast Guard Station Neah Bay Heliport, with a segment extending from the 1-mile radius to 2.5 miles northeast of the heliport.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth

* * * * *

ANM WA E5 U.S. Coast Guard Station Neah Bay Heliport, Neah Bay, WA [New]

U.S. Coast Guard Station Neah Bay Heliport, Neah Bay, WA
(lat. 48°22′14″ N., long. 124°35′53″ W.)

That airspace extending upward from 700 feet above the surface within a 1-mile radius of the U.S. Coast Guard Station Neah Bay Heliport, and within 1 mile each side of the 055° bearing from the heliport extending from the 1-mile radius to 2.5 miles northeast of the heliport.

Issued in Seattle, Washington, on September 21, 2015.

Christopher Ramirez,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2015–24431 Filed 9–28–15; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 150

RIN 3038–AD82

Aggregation of Positions

AGENCY: Commodity Futures Trading Commission.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: On November 15, 2013, the Commodity Futures Trading Commission (''Commission'' or ''CFTC'') published in the **Federal Register** a notice of proposed modifications to part 150 of the Commission's regulations. The modifications addressed the policy for aggregation under the Commission's position limits regime for futures and option contracts on nine agricultural commodities set forth in part 150. The Commission also noted that if the Commission's proposed position limits regime for 28 exempt and agricultural commodity futures and options contracts and the physical commodity swaps that are economically equivalent to such contracts are finalized, the proposed modifications would also apply to the position limits regime for those contracts and swaps. The Commission is now proposing a revision to its proposed modification to the aggregation provisions of part 150, which addresses when aggregation is required on the basis of ownership of a greater than 50 percent interest in another entity.

DATES: Comments must be received on or before November 13, 2015.

ADDRESSES: You may submit comments, identified by RIN 3038–AD82, by any of the following methods:

- *CFTC Web site: http://comments.cftc.gov.* Follow the instructions for submitting comments through the Comments Online process on the Web site.
- *Mail:* Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures

Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

- *Hand Delivery/Courier:* Same as Mail, above.
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow instructions for submitting comments.

Please submit your comments using only one of these methods.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *www.cftc.gov*. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that may be exempt from disclosure under the Freedom of Information Act (''FOIA''), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations, 17 CFR 145.9.

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT: Stephen Sherrod, Senior Economist, Division of Market Oversight, (202) 418–5452, *ssherrod@cftc.gov*; Riva Spear Adriance, Senior Special Counsel, Division of Market Oversight, (202) 418–5494, *radriance@cftc.gov*; or Mark Fajfar, Assistant General Counsel, Office of General Counsel, (202) 418–6636, *mfajfar@cftc.gov*; Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

A. Introduction

The Commission has long established and enforced speculative position limits for futures and options contracts on various agricultural commodities as authorized by the Commodity Exchange Act (''CEA'').[1] The part 150 position limits regime [2] generally includes three components: (1) The level of the limits, which set a threshold that restricts the number of speculative positions that a person may hold in the spot-month, individual month, and all months combined,[3] (2) exemptions for positions that constitute bona fide hedging transactions and certain other types of transactions,[4] and (3) rules to determine which accounts and positions a person must aggregate for the purpose of determining compliance with the position limit levels.[5]

The Commission's existing aggregation policy under regulation 150.4 generally requires that unless a particular exemption applies, a person must aggregate all positions for which that person controls the trading decisions with all positions for which that person has a 10 percent or greater ownership interest in an account or position, as well as the positions of two or more persons acting pursuant to an express or implied agreement or understanding.[6] The scope of exemptions from aggregation include the ownership interests of limited partners in pooled accounts,[7] discretionary accounts and customer trading programs of futures commission merchants (''FCM''),[8] and eligible entities with independent account controllers that manage customer positions (''IAC'' or ''IAC exemption'').[9] Market participants claiming one of the exemptions from aggregation are subject to a call by the Commission for information demonstrating compliance with the conditions applicable to the claimed exemption.[10]

B. Proposed Modifications to the Policy for Aggregation Under Part 150 of the Commission's Regulations

On November 15, 2013, the Commission proposed to amend regulation 150.4, and certain related regulations, to include rules to determine which accounts and positions a person must aggregate (the ''2013 Aggregation Proposal'').[11] Among other elements, the 2013 Aggregation Proposal included a notice filing procedure, effective upon submission, to permit a person in specified circumstances to disaggregate the positions of a separately organized entity (''owned entity''), if such person has between a 10 percent and 50 percent ownership or equity interest in the owned entity.[12] The notice filing would need to demonstrate compliance with certain conditions set forth in the proposed rule. Under the 2013 Aggregation Proposal, persons with a greater than 50 percent ownership or equity interest in the owned entity would have to apply on a case-by-case basis to the Commission for permission to disaggregate, and await the Commission's decision as to whether certain conditions specified in the proposed rule had been satisfied and therefore disaggregation would be permitted.[13]

The 2013 Aggregation Proposal reflected the Commission's long-standing incremental approach to exemptions from the aggregation requirement for persons owning a financial interest in an entity. In the 2013 Aggregation Proposal, the Commission reaffirmed its belief that ownership of an entity is an appropriate criterion for aggregation of that entity's positions, noting that section 4a(a)(1) of the CEA provides that ''[i]n determining whether any person has exceeded such limits, the positions held and trading done by any persons directly or indirectly controlled by such person shall be included with the positions held and trading done by such person.'' [14] The Commission explained that as early as 1957, the Commission's predecessor (the Commodity Exchange Authority) issued determinations requiring that accounts in which a

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[1] 7 U.S.C. 1 *et seq*.

[2] *See* 17 CFR part 150. Part 150 of the Commission's regulations establishes federal position limits on certain enumerated agricultural contracts; the listed commodities are referred to as enumerated agricultural commodities. The Commission has proposed to amend its position limits regime so that it would extend to 28 exempt and agricultural commodity futures and options contracts and the physical commodity swaps that are economically equivalent to such contracts. *See* Position Limits for Derivatives, 78 FR 75680 (Dec. 12, 2013).

[3] *See* 17 CFR 150.2.

[4] *See* 17 CFR 150.3.

[5] *See* 17 CFR 150.4.

[6] *See* 17 CFR 150.4(a) and (b).

[7] *See* 17 CFR 150.4(c).

[8] *See* 17 CFR 150.4(d).

[9] *See* 17 CFR 150.3(a)(4).

[10] *See* 17 CFR 150.3(b) and 150.4(e).

[11] *See* Aggregation, Position Limits for Futures and Swaps, 78 FR 68946 (Nov. 15, 2013). The 2013 Aggregation Proposal was substantially similar to aggregation rules that had been adopted in part 151 of the Commission's regulations in 2011, *see* Position Limits for Futures and Swaps, 76 FR 71626 (Nov. 18, 2011) as proposed to be amended in May 2012, *see* Aggregation, Position Limits for Futures and Swaps, 77 FR 31767 (May 30, 2012).

In an Order dated September 28, 2012, the District Court for the District of Columbia vacated part 151 of the Commission's regulations, including those aggregation rules. *See International Swaps and Derivatives Association* v. *United States Commodity Futures Trading Commission,* 887 F. Supp. 2d 259 (D.D.C. 2012). The revised position limit levels in amended section 150.2 were not vacated.

[12] *See* 2013 Aggregation Proposal, 78 FR at 68958–59.

[13] *See id*. at 68959–61.

[14] *See id*. at 68956, citing 7 U.S.C. 6a(a)(1).

person has a financial interest be included in aggregation.[15]

Regarding the threshold level at which an exemption from aggregation on the basis of ownership would be available, the Commission noted in the 2013 Aggregation Proposal that it has generally found that an ownership or equity interest of less than 10 percent in an account or position that is controlled by another person who makes discretionary trading decisions does not present a concern that such ownership interest results in control over trading or can be used indirectly to create a large speculative position through ownership interests in multiple accounts. As such, the Commission has exempted an ownership interest below 10 percent from the aggregation requirement.[16]

The Commission noted that while other of its rulemakings prior to the 2013 Aggregation Proposal generally restricted exemptions from aggregation based on ownership to FCMs, limited partner investors in commodity pools, and independent account controllers managing customer funds for an eligible entity, a broader passive investment exemption has previously been considered but not enacted by the Commission.[17] Further, the Commission reiterated its belief in incremental development of aggregation exemptions over time.[18] Consistent with that incremental approach, in the 2013 Aggregation Proposal the Commission considered the additional information provided and the concerns raised by commenters on the May 2012 aggregation proposal and proposed two new tiers of relief from the ownership criteria of aggregation—relief on the basis of a notice filing, effective upon submission, by persons holding an interest of between 10 percent and 50 percent in an owned entity, and relief on the basis of an application by persons holding an interest of more than 50 percent in an owned entity.[19] Each of these procedures for relief in the 2013 Aggregation Proposal is described briefly below.

1. Disaggregation Relief for Ownership or Equity Interests of 50 Percent or Less

Proposed rule § 150.4(b)(2), as set out in the 2013 Aggregation Proposal, would continue the Commission's longstanding rule that persons with either an ownership or an equity interest in an account or position of less than 10 percent need not aggregate such positions solely on the basis of the ownership criteria, and persons with a 10 percent or greater ownership interest would still generally be required to aggregate the account or positions.[20] However, proposed rule § 150.4(b)(2), as set out in the 2013 Aggregation Proposal, would establish a notice filing procedure, effective upon submission, to permit a person with either an ownership or an equity interest in an owned entity of 50 percent or less to disaggregate the positions of an owned entity in specified circumstances, even if such person has a 10 percent or greater interest in the owned entity.[21] The notice filing would have to demonstrate compliance with certain conditions set forth in proposed rule § 150.4(b)(2). Similar to other exemptions from aggregation, the notice filing would be effective upon submission to the Commission, but the Commission would be able to subsequently call for additional information, and to amend, terminate or otherwise modify the person's aggregation exemption for failure to comply with the provisions of rule § 150.4(b)(2). Further, the person would be obligated to amend the notice filing in the event of a material change to the circumstances described in the filing.

The Commission preliminarily based the 2013 Aggregation Proposal's limit of 50 percent on the ownership interest in another entity on a belief that the limit would be a reasonable, ''bright line'' standard for determining when aggregation of positions is required, even where the ownership interest is passive.[22] The 2013 Aggregation Proposal explained that majority ownership (*i.e.,* over 50 percent) is indicative of control, and this standard would address the Commission's concerns about circumvention of

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[15] *See* 2013 Aggregation Proposal, 78 FR at 68956, citing Administrative Determination 163 (Aug. 7, 1957) (''[I]n the application of speculative limits, accounts in which the firm has a financial interest must be combined with any trading of the firm itself or any other accounts in which it in fact exercises control.''). The Commission's predecessor, and later the Commission, provided the aggregation standards for purposes of position limits in its regulation 18.01 (within the large trader reporting rules). *See* Supersedure of Certain Regulations, 26 FR 2968 (Apr. 7, 1961).

In its Statement of Policy on Aggregation of Accounts and Adoption of Related Reporting Rules, 44 FR 33839 (June 13, 1979) (''1979 Aggregation Policy''), the Commission discussed regulation 18.01, stating:

Financial Interest in Accounts. Consistent with the underlying rationale of aggregation, existing reporting Rule 18.10(a) a (sic) basically provides that if a trader holds or has a financial interest in more than one account, all accounts are considered as a single account for reporting purposes. Several inquiries have been received regarding whether a nomial (sic) financial interest in an account requires the trader to aggregate. Traditionally, the Commission's predecessor and its staff have expressed the view that except for the financial interest of a limited partner or shareholder (other than the commodity pool operator) in a commodity pool, a financial interest of 10 percent or more requires aggregation. The Commission has determined to codify this interpretation at this time and has amended Rule 18.01 to provide in part that, ''For purposes of this Part, except for the interest of a limited partner or shareholder (other than the commodity pool operator) in a commodity pool, the term 'financial interest' shall mean an interest of 10 percent or more in ownership or equity of an account.''

Thus, a financial interest at or above this level will constitute the trader as an account owner for aggregation purposes.

1979 Aggregation Policy, 44 FR at 33843.

The provisions concerning aggregation for position limits generally remained part of the Commission's large trader reporting regime until 1999 when the Commission incorporated the aggregation provisions into rule 150.4 with the existing position limit provisions in part 150. *See* Revision of Federal Speculative Position Limits, 64 FR 24038 (May 5, 1999) (''1999 Amendments''). The Commission's part 151 rulemaking also incorporated the aggregation provisions in rule 151.7 along with the remaining position limit provisions in part 151. *See* Position Limits for Futures and Swaps, 76 FR 71626 (Nov. 18, 2011).

[16] *See* 2013 Aggregation Proposal, 78 FR at 68958.

[17] *See id.* at 68951, citing Exemptions from Speculative Position Limits for Positions which have a Common Owner but which are Independently Controlled and for Certain Spread Positions; Proposed Rule, 53 FR 13290, 13292 (Apr. 22, 1988).

[18] *See* 2013 Aggregation Proposal, 78 FR at 68951, citing Aggregation, Position Limits for Futures and Swaps, 77 FR 31767, 31773 (May 30, 2012). This incremental approach to account aggregation standards reflects the Commission's historical practice. *See, e.g.,* Exemptions from Speculative Position Limits for Positions Which Have a Common Owner But Which are Independently Controlled and for Certain Spread Positions; Final Rule 53 FR 41563, 41567 (Oct. 24, 1988) (the definition of eligible entity for purposes of the IAC exemption originally only included CPOs, or exempt CPOs or pools, but the Commission indicated a willingness to expand the exemption after a ''reasonable opportunity'' to review the exemption.); Exemption From Speculative Position Limits for Positions Which Have a Common Owner, But Which Are Independently Controlled, 56 FR 14308, 14312 (Apr. 9, 1991) (the Commission expanded eligible entities to include commodity trading advisors, but did not include additional entities requested by commenters until the Commission had the opportunity to assess the current expansion and further evaluate the additional entities); and the 1999 Amendments (the Commission expanded the list of eligible entities to include many of the entities commenters requested in the 1991 rulemaking).

[19] *See* 2013 Aggregation Proposal, 78 FR at 68958–61.

[20] For purposes of aggregation, the Commission continues to believe that contingent ownership rights, such as an equity call option, would not constitute an ownership or equity interest.

[21] Under the 2013 Aggregation Proposal, and in a manner similar to current regulation, if a person qualifies for disaggregation relief, the person would nonetheless have to aggregate those same accounts or positions covered by the relief if they are held in accounts with substantially identical trading strategies. *See* proposed rule § 150.4(a)(2). The exemptions in proposed rule § 150.4 are set forth as alternatives, so that, for example, the applicability of the exemption in paragraph (b)(2) would not affect the applicability of a separate exemption from aggregation (*e.g.,* the independent account controller exemption in paragraph (b)(5)). The revisions proposed here would not change these aspects of the 2013 Aggregation Proposal.

[22] *See* 2013 Aggregation Proposal, 78 FR at 68959.

position limits by coordinated trading or direct or indirect influence between entities. For these reasons, the Commission preliminarily believed that aggregation based upon an ownership or equity interest of greater than 50 percent would be appropriate to address the heightened risk of direct or indirect influence over the owned entity.[23]

Referring to commenters who said that if an owned entity's positions are aggregated with the owner's position, the aggregation should be pro rata to the ownership interest, the Commission stated its belief that a pro rata approach could be administratively burdensome for both owners and the Commission.[24] For example, the Commission explained, the level of ownership interest in a particular owned entity may change over time for a number of reasons, including stock repurchases, stock rights offerings, or mergers and acquisitions, any of which may dilute or concentrate an ownership interest. Thus, it may be burdensome to determine and monitor the appropriate pro rata allocation on a daily basis. Moreover, the Commission also noted that it has historically interpreted the statute to require aggregation of all the relevant positions of owned entities, absent an exemption. This is consistent with the view that a holder of a significant ownership interest in another entity may have the ability to influence all the trading decisions of the entity in which such ownership interest is held.

2. Disaggregation Relief for Ownership or Equity Interests of Greater Than 50 Percent

The 2013 Aggregation Proposal also included a provision for disaggregation relief for ownership or equity interests of greater than 50 percent, which was consistent with the Commission's preliminary view that relief from the aggregation requirement should not be available merely upon a notice filing by a person who has a greater than 50 percent ownership or equity interest in the owned entity. The Commission explained that, in its view, a person with a greater than 50 percent ownership interest in multiple accounts would have the ability to hold and control a significant and potentially unduly large overall position in a particular commodity, which position limits are intended to prevent. Also, as noted above, the Commission believed that in general this ''bright line'' approach would provide administrative certainty.[25]

Nonetheless, the Commission considered points raised by commenters in this regard, and concluded that in some situations disaggregation relief may be appropriate even for a person holding a majority ownership interest, on the conditions that the owned entity is not required to be, and is not, consolidated on the financial statement of the person, the person can demonstrate that the person does not control the trading of the owned entity, based on the criteria in proposed rule § 150.4(b)(2)(i), and both the person and the owned entity have procedures in place that are reasonably effective to prevent coordinated trading.[26]

The Commission acknowledged that to provide such relief in order to address issues raised by commenters would represent a break by the Commission from past practice, but it explained that it has authority to provide such relief pursuant to section 4a(a)(7) of the CEA, which authorizes the Commission to provide relief from the requirements of the position limits regime.[27]

Consequently, the 2013 Aggregation Proposal included a provision (proposed rule § 150.4(b)(3)) that would permit a person with a greater than 50 percent ownership of an owned entity to apply to the Commission for relief from aggregation on a case-by-case basis. The person would be required to demonstrate to the Commission that:

i. The owned entity is not required to be, and is not, consolidated on the financial statement of the person,

ii. the person does not control the trading of the owned entity (based on criteria in rule § 150.4(b)(2)(i)), with the person showing that it and the owned entity have procedures in place that are reasonably effective to prevent coordinated trading in spite of majority ownership,[28]

iii. each representative of the person (if any) on the owned entity's board of directors attests that he or she does not control trading of the owned entity, and

iv. the person certifies that either (a) all of the owned entity's positions qualify as bona fide hedging transactions or (b) the owned entity's positions that do not so qualify do not exceed 20 percent of any position limit currently in effect, and the person agrees in either case that:

- If this certification becomes untrue for the owned entity, the person will aggregate the owned entity for three complete calendar months and if all of the owned entity's positions qualify as bona fide hedging transactions for that entire time the person would have the opportunity to make the certification again and stop aggregating,
- upon any call by the Commission, the owned entity(ies) will make a filing responsive to the call, reflecting the owned entity's positions and transactions only, at any time (such as when the Commission believes the owned entities in the aggregate may exceed a visibility level), and
- the person will provide additional information to the Commission if any owned entity engages in coordinated activity, short of common control (understanding that if there were common control, the positions of the owned entity(ies) would be aggregated).

The Commission clarified that the proposed relief would not be automatic, but rather would be available only if the Commission finds, in its discretion, that the four conditions above are met. The proposed rule would not impose any time limits on the Commission's process for making the determination of whether relief is appropriately granted, and relief would be available only if and when the Commission acts on a particular request for relief.[29]

The Commission also explained that, under the 2013 Aggregation Proposal, it would interpret factors such as the owned entity being a newly acquired standalone business or a joint venture subject to special restrictions on control, or two different owned entities conducting operations at different levels of commerce (such as retail and wholesale), to be favorable to granting relief from the aggregation requirement.[30] The Commission also noted that if a person with greater than 50 percent ownership of an owned entity could not meet the conditions in proposed rule § 150.4(b)(3), the person could apply to the Commission for relief from aggregation under CEA section 4a(a)(7).[31] The Commission noted that CEA section 4a(a)(7) does not impose any time limits on the Commission's process for determining whether relief under that section is appropriate, nor does it prescribe or limit the factors that

[23] *See id.*

[24] *See id.*

[25] *See id.*

[26] *See id.*

[27] *See id.*

[28] The Commission pointed out that since this criterion requires a person to certify that the person does not control trading of its owned entity, the criterion could not be met by a natural person or any entity, such as a partnership, where it is not possible to separate knowledge and control of the person from that of the owned entity.

[29] *See* 2013 Aggregation Proposal, 78 FR at 68960.

[30] *See id.*

[31] *See id.* Section 4a(a)(7) of the CEA provides authority to the Commission to grant relief from the position limits regime.

the Commission may consider to be relevant in determining whether to grant relief.[32]

II. Proposed Rules

A. Proposed Revision To Allow for Relief to Owners of More Than 50 Percent of an Owned Entity Based on Notice Filing

In light of the language in section 4a of the CEA, its legislative history, subsequent regulatory developments, and the Commission's historical practices in this regard, the Commission continues to believe that section 4a requires aggregation on the basis of either ownership or control of an entity. The Commission also believes that aggregation of positions across accounts based upon ownership is a necessary part of the Commission's position limit regime.[33] However, the Commission is also mindful that, as discussed by commenters on the 2013 Aggregation Proposal, aggregation of positions held by owned entities may in some cases be impractical, burdensome, or not in keeping with modern corporate structures. Therefore, the Commission is proposing a limited revision to the 2013 Aggregation Proposal that would permit all owners of 10 percent or more of an owned entity (*i.e.,* the owners of up to and including 100 percent of an owned entity) to disaggregate the positions of the owned entity in the circumstances specified in proposed rule § 150.4(b)(2). All other aspects of the 2013 Aggregation Proposal, including the proposed criteria for disaggregation relief and other aspects not discussed herein, remain the same.

The Commission has the authority to revise its proposed relief under section 4a(a)(7) of the CEA, which authorizes the Commission to provide relief from the requirements of the position limits regime. The reasons for this proposed revision are discussed below.

B. Commenters' Views

Commenters on the 2013 Aggregation Proposal generally praised the proposed relief for owners of between 10 percent and 50 percent of an owned entity, but asserted that the proposed application procedures for owners of a more than 50 percent equity or ownership interest were unnecessary and inappropriate.[34]

A few commenters opposed providing aggregation relief for owners of more than 10 percent of an owned entity. Better Markets, Inc. (''Better Markets''), an organization that advocates for financial reform, commented that allowing disaggregation of majority-owned subsidiaries would ignore the clear language of CEA section 4a(a)(1) and ''would allow traders to easily circumvent Position Limits by creating multiple subsidiaries and dividing its positions among them.'' [35] Better Markets said the Commission must therefore not allow any disaggregation relief for owners holding a more than 10 percent interest in an owned entity.[36] Occupy the SEC, another organization that advocates for financial reform, said that the provision for relief for owners of more than 50 percent of an owned entity should be removed because ''there can be no plausible justification for exempting largely interconnected firms from the position limits regime,'' and in any case the proposed relief for greater than 50 percent owners would be of little use because it ''adds a veritable gauntlet of conditions [in proposed rule 150.4(b)(3)] that few companies will be able to pass.'' [37]

The Futures Industry Association (''FIA''), a trade association, commented that the Commission should permit majority-owned affiliates to be disaggregated regardless of whether the entities are required to consolidate financial statements.[38] The FIA opined that conditioning disaggregation of majority-owned affiliates on the lack of a requirement for consolidated financial statements would be arbitrary, because the accounting principles ''are wholly unrelated to the question of actual control of day-to-day trading decisions and positions.'' [39] The FIA requested that the Commission amend the proposal to allow a person to rebut the presumption of control of a majority-owned affiliate solely by demonstrating that the person does not control the trading and positions of the owned entity through, among other things, effective procedures that prevent coordinated trading.[40] The FIA recommended that the Commission remove the condition for each representative of the board of directors to certify that he or she does not control the trading decisions of the owned entity.[41]

Other commenters said that the Commission should provide the same disaggregation relief for owners of more than 50 percent of an owned entity as is proposed to be provided for owners of 50 percent or less. For example, the Asset Management Group of the Securities Industry and Financial Markets Association said that the Commission should extend ''the owned entity exemption at proposed [rule] 150.4(b)(2) to include all third party ownership interests (greater than 50 [percent]) that do not involve actual common trading control.'' [42] The Center for Capital Markets Competitiveness of the U.S. Chamber of Commerce said that the requirement in proposed rule § 150.4(b)(3) to submit an application to the Commission and await its approval would be unworkable in practice and not provide any apparent regulatory benefit.[43]

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[32] *See id.* The 2013 Aggregation Proposal also included amended rule § 150.1(e)(5) and proposed rule § 150.4(b)(5) that would allow managers of employee benefit plans (*i.e.,* persons that manage a commodity pool, the operator of which is excluded from registration as a commodity pool operator under rule § 4.5(a)(4)) to be treated as an IAC, on the condition that an IAC notice filing is made as required under rule § 150.4(c). *See id.* at 68961. The aspects of the 2013 Aggregation Proposal related to proposed rule §§ 150.1(e)(5) and 150.4(b)(5) are not affected by the revisions discussed herein.

[33] *See* 1999 Amendments, 64 FR at 24044 (''[T]he Commission . . . interprets the 'held or controlled' criteria as applying separately to ownership of positions or to control of trading decisions.''). *See also,* Exemptions from Speculative Position Limits for Positions which have a Common Owner but which are Independently Controlled and for Certain Spread Positions; Proposed Rule, 53 FR 13290, 13292, (Apr. 22, 1988). In response to two separate petitions, the Commission proposed the independent account controller exemption from speculative position limits, but declined to remove the ownership standard from its aggregation policy.

[34] The comments on the 2013 Aggregation Proposal are available on the Commission's Web site at *http://comments.cftc.gov/PublicComments/CommentList.aspx?id=1427.* Commenters also addressed other aspects of the 2013 Aggregation Proposal, but since those other aspects remain the same under this revision to the proposal, it is unnecessary to address those comments at this time.

[35] Better Markets, Inc. on February 10, 2014 (''CL–Better Markets'') at 2–3.

[36] CL–Better Markets at 3.

[37] Occupy the SEC on August 7, 2014 at 5–6. Occupy the SEC did not comment on the provision for disaggregation relief for owners holding between a 10 percent and a 50 percent interest in an owned entity.

Another commenter, Chris Barnard, said that he initially took a negative view of providing relief for owners of more than 50 percent of an owned entity, but concluded such relief was acceptable because of the strength of the conditions in proposed rule § 150.4(b)(3). Chris Barnard on January 16, 2014 at 1–2.

[38] Futures Industry Association on February 6, 2014 (''CL–FIA'') at 4, 8 and 10–11.

[39] CL–FIA at 10.

[40] CL–FIA at 10. The FIA commented that because the exemption for majority-owned entities would be effective only after a Commission determination, the Commission would have discretion on a case-by-case basis to review facts and circumstances. CL–FIA at 10.

[41] CL–FIA at 10–11.

[42] The Asset Management Group of the Securities Industry and Financial Markets Association on February 10, 2014 at 6. The Coalition of Physical Energy Companies, on February 10, 2014 at 3–8, also said that the ''Greater Than 50 Percent'' category should be eliminated and such situations treated in accordance with proposed rule § 150.4(b)(2).

[43] Center for Capital Markets Competitiveness of the U.S. Chamber of Commerce on February 10, 2014 at 9. ICE Futures U.S., Inc., a designated contract market (''DCM''), agreed that the requirements in proposed rule § 150.4(b)(3) would

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The Commodity Markets Council recommended that the Commission not require aggregation based solely on ownership of legal entities, but instead extend the IAC exemption to all separately organized companies, whether or not they are affiliated.[44] The Natural Gas Supply Association (''NGSA'') recommended that the Commission leave the current rules on aggregation in place unchanged, because ''[u]nder the status quo, the Commission may bring enforcement action against an investor if it directs or otherwise controls the trading of an owned entity whose positions it claims it does not control.''[45]

MidAmerican Energy Holdings Company (''MidAmerican''), an energy services company which is controlled by Berkshire Hathaway, Inc. (''Berkshire''), commented that, absent aggregation relief for majority-owned affiliates that are consolidated for accounting purposes, the proposed position limits would impose ''serious regulatory costs and consequences'' to establish an extensive compliance monitoring and coordination program across independently managed, disparate businesses, and would be contrary to policies, procedures, systems, and controls established to provide functional and legal separation for individual operating businesses.[46] MidAmerican explained that Berkshire and its industrial operating businesses are generally managed on a decentralized basis, with no centralized or integrated business functions and minimal involvement by Berkshire's corporate headquarters in day-to-day business activities of MidAmerican or Berkshire's other operating businesses.[47] MidAmerican recommended that the Commission provide for disaggregation upon a notice filing by a group of majority-owned entities that meet the four criteria in the proposal or, if the group does not meet all four criteria in the proposal, provide for the group to rely on the submission of an application for relief until the Commission has acted on the application.[48]

CME Group (''CME''), a holding company for a number of DCMs, stated that the Commission did not identify any basis or justification for the various features of the proposed aggregation regime.[49] CME contended that features of the 2013 Aggregation Proposal (regarding the owned entity aggregation rules, the IAC exemption, and the ''substantially identical trading strategies'' rule) are not in accordance with law, arbitrary and capricious, an unexplained departure from the Commission's administrative precedent, and not more permissive than existing aggregation standards.[50] The Commodity Markets Council and the NGSA were also of the opinion that the 2013 Aggregation Proposal was not supported by the Commission's administrative precedent.[51] CME and NGSA asserted that section 4a(a)(1) of the CEA provides no basis for requiring aggregation of positions held by another person in the absence of control of such other person.[52] CME also stated that rule § 150.4(b) generally exempts a commodity pool's participants with an ownership interest of 10 percent or greater from aggregating the positions held by the pool.[53] Finally, CME and NGSA contended that two of the Commission's enforcement cases indicate that the Commission has viewed aggregation as being required only where there is common trading control.[54]

be unworkable, and suggested that the Commission should ''[a]t a minimum,'' revise the rule to reflect an objective process for action within a specified time. ICE Futures U.S., Inc. on February 10, 2014 at 3.

Similar comments were made by the American Gas Association on February 10, 2014 at 5–11, the Commercial Energy Working Group on February 10, 2014 at 2–8, the Managed Funds Association on February 10, 2014 at 9–15, and the Private Equity Growth Capital Council on February 10, 2014 (''CL–PEGCC'') at 3–8.

[44] Commodity Markets Council on February 10, 2014 (''CL–CMC'') at 16–17. In a separate comment letter, the Commodity Markets Council recommended that affiliated companies not be required to aggregate their positions when (1) the companies are authorized to control trading decisions on their own, (2) the owner maintains only such minimum control as is consistent with its fiduciary responsibilities to supervise diligently the trading of the owned entity (or other applicable responsibilities), (3) the companies actually trade independently, and (4) the companies have no knowledge of each other's trading decisions. Commodity Markets Council on July 25, 2014 (''CL–CMC II'') at 5–6.

[45] Natural Gas Supply Association on February 10, 2014 (''CL–NGSA'') at 39–43.

[46] MidAmerican Energy Holdings Company on February 7, 2014 (''CL-MidAmerican'') at 1–2.

[47] CL-MidAmerican at 2.

[48] CL-MidAmerican at 3. MidAmerican recommended an application for relief by majority-owned affiliates not meeting all four criteria would need to rebut the assumption of control over majority-owned subsidiaries and meet two conditions: (1) The requirements applicable to entities with 50 percent or less common ownership; and (2) The requirement that representatives of board members of an entity covered by the relief request attest to the absence of trading control. MidAmerican recommended that the Commission consider the following factors that may rebut the assumption of control over majority-owned subsidiaries: (1) Separate trading accounts and broker relationships for each entity; (2) periodic certification from an officer of the requesting entity that the policies and procedures designed to prevent trading-level control or coordination remain in place and are effective; (3) lack of common guarantor and/or provision of independent credit support; (4) lack of cross-default or cross-acceleration provisions in trading contracts; (5) maintenance of separate identifiable assets; (6) maintenance of separate lines of business (*i.e.,* the business of one entity is not dependent upon the other); and (7) any other structural, legal, or regulatory barriers limiting control and interdependencies among affiliated entities. CL-MidAmerican at 4–5.

[49] CME Group on February 10, 2014 (''CL–CME'') at 9.

[50] CL–CME at 2, 6, and 10–11. CME opined that under the Commission's precedent, a 10 percent or more ownership or equity interest in an *account* is an indicia of trading control, but this precedent does not support a requirement for aggregation based on a 10 percent or more ownership or equity interest in an *entity.* CL–CME at 11. CME reasoned that the Commission's use of the term ''account'' has never referred to an owned entity that itself has accounts, that the 1979 Aggregation Policy suggests the Commission contemplated a definition of ''account'' that means no more than a personally owned futures trading account, and that the 1999 Amendments to the aggregation rules were focused on directly owned accounts. CL–CME at 11–12.

[51] The Commodity Markets Council said that under the Commission's precedents ''[l]egal affiliation [between companies] has been an indicium but not necessarily sufficient for position aggregation.'' CL–CMC at 16.

NGSA said that the Commission has never specifically required aggregation solely on the basis of ownership of another legal person. CL–NGSA at 42. To support its view, NGSA said that the 1979 Aggregation Policy and the 1999 Amendments apply to only trading accounts that are directly or personally held or controlled by an individual or legal entity, the Commission's large trader rules require aggregation of multiple accounts held by a particular person, not the accounts of a person and its owned entities, and regulation § 18.04(b) distinguishes between owners of the ''reporting trader'' and the owners of the ''accounts of the reporting trader.'' *Id.* at 42–43.

[52] CL–CME at 5–6; CL–NGSA at 41. CME commented that the Commission failed to consider the statutorily required factors, because CME asserts it is false that prior rules required aggregation of owned entity positions at a 10 percent ownership level. CL–CME at 8.

NGSA contended that ''CEA section 4a(a)(1) only allows the Commission to require the aggregation of positions on ownership alone when those positions are directly owned by a person. The positions of another person are only to be aggregated when the person has direct or indirect control over the trading of another person.'' CL–NGSA at 41.

[53] CL–CME at 13. CME noted that 63 FR 38525 at 38532 n. 27 (July 17, 1998) (proposal to amend regulation 150.3 to include the separately incorporated affiliates of a CPO, CTA or FCM as eligible entities for the exemption relief of regulation 150.3) states: ''Affiliated companies are generally understood to include one company that owns, or is owned by, another or companies that share a common owner.'' CL–CME at 13 n. 52. CME also asserted that the term ''principals'' under regulation § 3.1(a)(2)(ii) include entities that have a direct ownership interest that is 10 percent or greater in a lower tier entity, such as the parent of a wholly-owned subsidiary. From these two provisions, CME concluded that the corporate parent of a wholly-owned CPO would be affiliated with, and a principal of, its wholly-owned subsidiary.

[54] *See* CL–CME at 14–15, citing In the Matter of Vitol Inc. et al., Docket No. 10–17 (Sept. 14, 2010), available at *http://www.cftc.gov/ucm/groups/public/@lrenforcementactions/documents/legalpleading/enfvitolorder09142010.pdf* (''In the Matter of Vitol'') and In the Matter of Citigroup Inc. et al., Docket No. 12–34 (Sept. 21, 2012), available at *http://www.cftc.gov/ucm/groups/public/@lrenforcementactions/documents/legalpleading/*

C. Revised Proposed Rule

In view of the points raised by commenters on the 2013 Aggregation Proposal and upon further review of the matter, the Commission is proposing to revise the proposal to delete proposed rule §§ 150.4(b)(3) and 150.4(c)(2), and to change proposed rule § 150.4(b)(2) so that it would apply to all persons with an ownership or equity interest in an owned entity of 10 percent or greater (*i.e.,* an interest of up to and including 100%) in the same manner as proposed rule § 150.4(b)(2) would apply, before this revision, to owners of an interest of between 10 percent and 50 percent. The Commission is also proposing conforming changes in proposed rule § 150.4(b)(7), to delete a cap of 50 percent on the ownership or equity interest for broker-dealers to disaggregate, and in proposed rule § 150.4(e)(1)(i), to delete a delegation of authority referencing proposed rule § 150.4(b)(3).[55] The entirety of the Commission's aggregation-related proposed amendments to part 150, as set out in the 2013 Aggregation Proposal as revised herein, is set forth at the end of this notice.

The Commission finds merit in the comments of the FIA that ownership of a greater than 50 percent interest in an entity (and the related consolidation of financial statements) may not mean that the owner actually controls day-to-day trading decisions of the owned entity. The Commission believes that, on balance, the overall purpose of the position limits regime (to diminish the burden of excessive speculation which may cause unwarranted changes in commodity prices) would be better served by focusing the aggregation requirement on situations where the owner is, in view of the circumstances, actually able to control the trading of the owned entity.[56] The Commission reasons that the ability to cause unwarranted changes in the price of a commodity derivatives contract would result from the owner's control of the owned entity's trading activity.

The Commission has considered the views of Better Markets and other commenters who warned that inappropriate relief from the aggregation requirements could allow circumvention of position limits through the use of multiple subsidiaries. However, the Commission believes that the criteria in proposed rule § 150.4(b)(2)(i), which must be satisfied in order to disaggregate, will appropriately indicate whether an owner has control of or knowledge of the trading activity of the owned entity. The disaggregation criteria require that the two entities not have knowledge of each other's trading and, moreover, have and enforce written procedures to preclude such knowledge.[57] And, in fact, as noted in the 2013 Aggregation Proposal, the Commission has applied, and expects to continue to apply, certain of the same conditions in connection with the IAC exemption to ensure independence of trading between an eligible entity and an affiliated independent account controller. If the disaggregation criteria are satisfied, therefore, the Commission preliminarily believes that disaggregation may be permitted even if the owner has a greater than 50 percent ownership or equity interest in the owned entity. Even in the case of majority ownership, if the disaggregation criteria are satisfied, the ability of an owner and the owned entity to act together to engage in excessive speculation or to cause unwarranted price changes should not differ significantly from that of two separate individuals.

The Commission points out that finalization of proposed rule § 150.4(b)(2), which would allow persons with ownership or equity interests in an owned entity of up to and including 100 percent to disaggregate the positions of the owned entity if certain conditions were satisfied, would not mean that there would be no aggregation on the basis of ownership. Rather, aggregation would still be the ''default requirement'' for the owner of a 10 percent or greater interest in an owned entity, unless the conditions of proposed rule § 150.4(b)(2) are satisfied.[58]

Furthermore, satisfaction of the criteria of proposed rule § 150.4(b)(2) would not mean that an owner and owned entity would be entirely immune from aggregation in all circumstances. For example, aggregation is and would continue to be required under both current regulation § 150.4(a) and proposed rule § 150.4(a)(1) if two or more persons act pursuant to an express or implied agreement; and this aggregation requirement would apply whether the two or more persons are an owner and owned entity(ies) that meet the conditions in proposed rule § 150.4(b)(2), or are unaffiliated individuals. The Commission intends to continue to enforce the requirement of aggregation when two persons are acting together pursuant to an express or implied agreement regardless of whether the two persons are unaffiliated or if one person has an ownership interest in the other.

In determining whether the criteria in proposed rule § 150.4(b)(2) are an appropriate test for owners of more than 50 percent of an owned entity, the Commission notes the comments of MidAmerican regarding the relevant variances in corporate structures. MidAmerican stated that there are instances where one entity has a 100 percent ownership interest in another entity, yet does not control day-to-day business activities of the owned entity. Also, in this situation the owned entity would not have knowledge of the activities of other entities owned by the same owner, nor would it raise the heightened concerns, triggered when one entity both owns and controls trading of another entity, that the owner would necessarily act in a coordinated manner with other owned entities.

The Commission also appreciates that a requirement to aggregate the positions of majority-owned subsidiaries could

enfcitigroupcgmlorder092112.pdf (''In the Matter of Citigroup'').

NGSA contended that In the Matter of Vitol was based on facts that would be relevant only if common trading control was necessary for aggregating the positions of affiliated companies. *See* CL–NGSA at 43. NGSA did not discuss In the Matter of Citicorp.

[55] The Commission also proposes to delete a cross-reference to proposed rule § 150.4(b)(3)(vii) in proposed rule § 150.4(c)(1).

[56] The Commission notes in this regard that there may be significant burdens in meeting the requirements of proposed rule § 150.4(b)(3) even where there is no control the trading of the owned entity, as was suggested by the Center for Capital Markets Competitiveness of the U.S. Chamber of Commerce, the Asset Management Group of the Securities Industry and Financial Markets Association and the other commenters. *See supra* nn. 42 and 43.

[57] *See* 2013 Aggregation Proposal, 78 FR at 68961, referring to regulation § 150.3(a)(4) (proposed to be replaced by proposed rule § 150.4(b)(5)). Such conditions have been useful in ensuring that trading is not coordinated through the development of similar trading systems, and that procedures are in place to prevent the sharing of trading decisions between entities.

[58] The Commission noted in the 2013 Aggregation Proposal that if there were no aggregation on the basis of ownership, it would have to apply a control test in all cases, which would pose significant administrative challenges to individually assess control across all market participants. *See* 2013 Aggregation Proposal, 78 FR at 68956. Further, the Commission considered that if the statute required aggregation only if the existence of control were proven, market participants may be able to use an ownership interest to directly or indirectly influence the account or position and thereby circumvent the aggregation requirement. *See id.* On further review and after considering the comments of the FIA and others, the Commission believes that the disaggregation criteria in proposed rule § 150.4(b)(2)(i) provide an effective, easily implemented means of applying a ''control test'' to determine if disaggregation should be allowed, without creating a loophole through which market participants could circumvent the aggregation requirement.

require corporate groups to establish procedures to monitor and coordinate trading activities across disparate owned entities, which could have unpredictable consequences. The Commission recognizes that these consequences could include not only the cost of establishing these procedures, but also the impairment of corporate structures which were established to insure that the various owned entities engage in business independently. This independence may serve important purposes which could be lost if the aggregation requirement were imposed too widely.

Further, the Commission notes that for those corporate groups that establish policies and controls to separate different operating businesses, the disaggregation criteria in proposed rule § 150.4(b)(2)(i) should be relatively familiar and easy to satisfy. That is, the disaggregation criteria and their application to corporate groups like MidAmerican's group are in line with prudent corporate practices that are maintained for longstanding, well-accepted reasons. The Commission does not intend that the aggregation requirement interfere with these structures.[59]

MidAmerican and the Commodity Markets Council proposed various alternative criteria which could be used to determine whether the positions of an owner and owned entity could be disaggregated.[60] However, after considering these suggestions, the Commission does not believe that the suggested criteria are significantly different from the criteria in proposed rule § 150.4(b)(2)(i) in the 2013 Aggregation Proposal. Also, some of the suggested criteria appear to be suitable for particular situations, but not necessarily all corporate groups.[61] Overall, the Commission believes that the criteria in proposed rule § 150.4(b)(2)(i) are appropriate and suitable for determining when disaggregation is permissible due to a lack of control and shared knowledge of trading activities. [62]

In response to the assertions of CME and NGSA, the Commission reiterates its belief, as stated in the 2013 Aggregation Proposal, that ownership of an entity is an appropriate criterion for aggregation of that entity's positions, due in part to the direction in section 4a(a)(1) of the CEA that all positions held by a person should be aggregated.

The Commission has explained that this interpretation is supported by Congressional direction and Commission precedent from as early as 1957 and continued through 1999.[63] For example, in 1968, Congress amended the aggregation standard in CEA section 4a to include positions ''held by'' one trader for another,[64] supporting the view that an owner should aggregate the positions held by an owned entity (because the owned entity is holding the positions for the owner). During the Commission's 1986 reauthorization, points similar to those raised now by CME and NGSA were considered and rejected. At that time, witnesses at Congressional hearings suggested that ''aggregation of positions based on ownership without actual control unnecessarily restricts a trader's use of the futures and options markets,'' but the Congressional committee did not recommend any changes to the statute based on these suggestions.[65]

In 1988, the Commission reviewed petitions by the Managed Futures Trade Association and the Chicago Board of Trade which argued against aggregation based only on ownership.[66] In response to the petition, however, the Commission stated that:

> Both ownership and control have long been included as the appropriate aggregation criteria in the Act and Commission regulations. Generally, inclusion of both criteria has resulted in a bright-line test for aggregating positions. And as noted above, although the factual circumstances surrounding the control of accounts and positions may vary, ownership generally is clear.
>
> . . . In the absence of an ownership criterion in the aggregation standard, each potential speculative position limit violation would have to be analyzed with regard to the individual circumstances surrounding the degree of trading control of the positions in question. This would greatly increase uncertainty.[67]

Contrary to CME's and NGSA's contentions, the aggregation

[59] In the 2013 Aggregation Proposal, the Commission noted that if the aggregation rules adopted by the Commission would be a precedent for aggregation rules enforced by designated contract markets and swap execution facilities, it would be even more important that the aggregation rules set out, to the extent feasible, ''bright line'' rules that are capable of easy application by a wide variety of market participants while not being susceptible to circumvention. *See* 2013 Aggregation Proposal, 78 FR at 68596, n. 103. The Commission believes that by implementing an approach to aggregation that is in keeping with longstanding corporate practices, the proposed revisions promote the goal of setting out ''bright line'' rules that are relatively easy to apply while not being susceptible to circumvention.

[60] *See, e.g.,* CL-MidAmerican at 4–5, CL–CMC II at 5–6.

[61] For example, MidAmerican recommended factors such as whether the owner and the owned entity have separate trading accounts, separate assets, separate lines of business, independent credit support and other specific indications of separation. *See* CL-MidAmerican at 4–5. In the Commission's view, criteria such as these are specific manifestations of the general principles stated in proposed rule § 150.4(b)(2)(i) that the owner and the owned entity not have knowledge of the trading decisions of the other and trade pursuant to separately developed and independent trading systems. Similarly, whether the two entities do or do not have separate assets or separate lines of business would not necessarily indicate whether they are engaged in coordinated trading.

[62] As stated in the 2013 Aggregation Proposal, the Commission proposes that the criteria in proposed rule § 150.4(b)(2)(i) would be interpreted and applied in accordance with the Commission's past practices. *See, e.g.,* 1979 Aggregation Policy, 44 FR 33839 (providing indicia of independence); CFTC Interpretive Letter No. 92–15 (CCH ¶ 25,381) (ministerial capacity overseeing execution of trades not necessarily inconsistent with indicia of independence); 1999 Amendments, 64 FR at 24044 (intent in issuing final aggregation rule ''merely to codify the 1979 Aggregation Policy, including the continued efficacy of the [1992] interpretative letter'').

[63] *See* 2013 Aggregation Proposal, 78 FR at 68956.

[64] *See* Pub. L. 90–258, Sec. 2, 82 Stat. 26 (1968). The Senate Report accompanying the 1968 amendment stated that ''all of the changes made by this section incorporate longstanding administrative interpretations reflected in orders of the [Commodity Exchange] Commission.'' S. Rep. No. 947, 90th Cong. 2d Sess. (1968) at page 5.

[65] *See* H.R. Rep. No. 624, 99th Cong., 2d Sess. (1986) at page 43. The Report noted that:

> During the subcommittee hearings on reauthorization, several witnesses expressed dissatisfaction with the manner in which certain market positions are aggregated for purposes of determining compliance with speculative limits fixed under Section 4a of the Act. The witnesses suggested that, in some instances, aggregation of positions based on ownership without actual control unnecessarily restricts a trader's use of the futures and options markets. In this connection, concern was expressed about the application of speculative limits to the market positions of certain commodity pools and pension funds using multiple trading managers who trade independently of each other. The Committee does not take a position on the merits of the claims of the witnesses.

Id.

[66] The Managed Futures Trade Association petition requested that the Commission amend the aggregation standard for exchange-set speculative position limits in regulation § 1.61(g) (now regulation § 150.5(g)), by adding a proviso to exclude the separate accounts of a commodity pool where trading in those accounts is directed by unaffiliated CTAs acting independently. *See* Exemption From Speculative Position Limits for Positions Which Have a Common Owner but Which Are Independently Controlled; Proposed Rule, 53 FR 13290, 13291–92 (Apr. 22, 1988). The petition argued the ownership standard, as applied to ''multiple-advisor commodity pools, is unfair and unrealistic'' because while the commodity pool may own the positions in the separate accounts, the CPO does not control trading of those positions (the unaffiliated CTA does) and therefore the pool's ownership of the positions will not result in unwarranted price fluctuations. *See id.* at 13292.

The petition from the Chicago Board of Trade (which is now a part of CME) sought to revise the aggregation standard so as not to require aggregation based solely on ownership without control. *See id.*

[67] *See id.* In response to the petitions, however, the Commission proposed the IAC exemption, which provides ''an additional exemption from speculative position limits for positions of commodity pools which are traded in separate accounts by unaffiliated account controllers acting independently.'' *Id.*

requirement in CEA section 4a is not phrased in terms of whether the owner holds an interest in a trading account. In fact, the word ''account'' does not even appear in the statute.[68] CME and NGSA incorrectly contend that the Commission has limited its interpretation of the term ''account'' to include only a personally owned futures trading account; the Commission has not. In 1986, for example, the Commission considered a comment that the use of the term ''account'' means a direct interest in a specific futures trading account, and rejected this view, writing that the Commission ''has generally interpreted and applied these rules more broadly'' and that ''[t]o conduct effective market surveillance and enforce speculative limits, the Commission must know the relationship in terms of financial interest *or* control between traders as well as that between a trader and trading accounts.'' [69] CME and NGSA also misread the 1999 Amendments, which specifically stated that ''the Commission. . . interprets the 'held or controlled' criteria as applying separately to ownership of positions or to control of trading decisions .'' [70] CME misconstrues the 1999 amendments' reference to the Commission's large-trader reporting system as being related to the aggregation rules for the position limits regime.[71] But the 1999 amendments are consistent, because they included an explanation of situations in which reporting could be required based on both control and ownership.[72] And, CME's citation to exemptions for aggregation for certain commodity pools [73] simply prove too much—the reason these exemptions are in place is because aggregation *would* be required due to ownership or control of the commodity pools if the exemptions were not available.

Last, CME and NGSA misread the Commission's enforcement history, which in fact does not contradict the Commission's traditional view of aggregation of owned entity positions as being required on the basis of either control or ownership. The first case cited by CME and NGSA did not enforce the Commission's aggregation standard, but rather section 9(a)(4) of the CEA, which makes it unlawful for any person willfully to conceal any material fact to a board of trade acting in furtherance of its official duties under the Act.[74] In this case, respondent companies willfully failed to disclose to a DCM the true nature of the relationship and the limited nature of the barriers to trading information flow between two companies.[75] Nowhere does the case speak to whether aggregation standards may be applied based on either or both of ownership or control.

In describing the second case it cites, CME seems to have made assumptions that never appear in the Commission's decision. The only facts actually cited as relevant in this case were that a company and its two wholly-owned subsidiaries acted as counterparties in over-the-counter swaps contracts, engaged in futures trading, and held aggregate net-long positions in excess of the Commission's all-months position limits.[76] Nowhere did the Commission find, as erroneously described by CME, that the companies off-set the ''same risk acquired from similarly situated counterparties.'' [77] Nor did the Commission find, as CME incorrectly asserts, that the subsidiaries traded as agents for the corporate parent.[78]

The Commission solicits comment on all aspects of the revision to its proposed modification of rule 150.4 described herein. Commenters are invited to address whether proposed rule § 150.4(b)(2), as revised, appropriately furthers the overall purposes of the position limits regime while not creating opportunities for circumvention of the aggregation requirement.

III. Related Matters

A. Considerations of Costs and Benefits

Section 15(a) of the CEA requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the CEA or issuing certain orders. Section 15(a) further specifies that the costs and benefits shall be evaluated in light of the following five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the section 15(a) factors.

On November 15, 2013, the Commission proposed certain modifications to its policy for aggregation under the part 150 position limits regime (*i.e.,* the 2013 Aggregation Proposal).[79] The 2013 Aggregation Proposal provided the public with an opportunity to comment on the Commission's cost-and-benefit considerations of the proposed amendments, including identification and assessment of any costs and benefits not discussed therein. In particular, the Commission requested that commenters provide data or any other information that they believe supports their positions with respect to the Commission's considerations of costs and benefits.

In this release, the Commission proposes to revise the 2013 Aggregation Proposal so that any person who owns 10 percent or more of another entity would be permitted to disaggregate the positions of the entity under a unified set of conditions and procedures. All other aspects of the 2013 Aggregation Proposal, including the proposed criteria for disaggregation relief, remain the same.

In the following, the Commission provides a general background for the 2013 proposed amendments and the

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[68] As noted above, section 4a(a)(1) of the CEA provides that ''In determining whether any person has exceeded such limits, the positions held and trading done by any persons directly or indirectly controlled by such person shall be included with the positions held and trading done by such person.'' 7 U.S.C. 6a(a)(1).

[69] *See* Reports Filed by Contract Markets, Futures Commission Merchants, Clearing Members, Foreign Brokers and Large Traders; Final Rule, 51 FR 4712, 4716 (Feb. 7, 1986) (referring to the use of the term ''account'' in regulation 18.04, which required reports relating to persons whose accounts are controlled by the reporting trader and persons who have a financial interest of 10 percent or more in the account of the trader) (emphasis added).

[70] *See* 1999 Amendments, 64 FR at 24043 and fn. 26 (referring to rule 18.01 requirement of aggregation for reporting purposes when a trader ''holds, has a financial interest in or controls positions in more than one account'').

[71] *See* CL–CME at 12, citing the 1999 Amendments, 64 FR at 24043.

[72] The Commission stated that its ''routine large trader reporting system is set up so that it does not double count positions which may be controlled by one and traded for the beneficial ownership of another. In such circumstances, although the routine reporting system will aggregate the positions reported by FCMs using only the control criterion, the staff may determine that certain accounts or positions should also be aggregated using the ownership criterion or may by special call receive reports directly from a trader.'' 1999 Amendments, 64 FR at 24043 and fn. 26.

[73] *See* CL–CME at 13, citing rule § 150.4(b) and (c).

[74] *See* In the Matter of Vitol at 2.

[75] *See id.*

[76] *See* In the Matter of Citigroup at 2–3. The Commission's order specifically stated that ''The positions of Citigroup's wholly-owned subsidiaries, including CGML, in December 2009 are subject to aggregation pursuant to Commission Regulation § 150.4(a)–(b).'' *See id.* at 2, n. 2.

[77] *See* CL–CME at 15.

[78] *See id.* Rather, the Commission's order found the parent company liable for the violations of its wholly-owned subsidiaries under section 2(a)(1)(B) of the CEA because the actions of the wholly-owned subsidiaries occurred within the scope of their employment, office, or agency with respect to the parent company. *See* In the Matter of Citigroup at 4, citing CEA section 2(a)(1)(B) and regulation 1.2.

[79] *See* 2013 Aggregation Proposal, 78 FR at 68958–59.

current 2015 proposed revisions and discusses commenters' responses to the 2013 Aggregation Proposal that are relevant to its considerations of costs and benefits. The Commission further considers the expected costs and benefits of the 2015 proposed revisions in light of the five factors outlined in section 15(a).

Using the existing regulation 150.4 as the baseline for comparison,[80] the Commission considers in this section the incremental costs and benefits that arise from the proposed 2015 revisions.[81] That is, if the proposed 2015 revisions are not adopted, the aggregation standards that would apply would be those described in the Commission's existing regulation 150.4. The 2013 Aggregation Proposal set forth the costs and benefits of the Commission's proposed amendments of existing regulation 150.4. All aspects of the 2013 Aggregation Proposal's considerations of costs and benefits remain the same other than those related specifically to the instant proposal to allow persons owning 10 percent or more of another entity to disaggregate the positions of the entity under a unified set of conditions and procedures. Thus, while the existing regulation 150.4 serves as the baseline for this consideration of costs and benefits, we also discuss as appropriate for clarity the differences from the 2013 Aggregation Proposal.

1. Background

As discussed in the preamble, the Commission's historical approach to position limits in current part 150 generally consists of three components: (1) The level of each limit, which sets a threshold that restricts the number of speculative positions that a person may hold in the spot-month, in any individual month, and in all months combined; (2) an exemption for positions that constitute bona fide hedging transactions and certain other types of transactions; and (3) standards to determine which accounts and positions a person must aggregate for the purpose of determining compliance with the position limit levels.

The third component of the Commission's position limits regime—aggregation—is set out in regulation 150.4.[82] Regulation 150.4 requires that unless a particular exemption applies, a person must aggregate all positions for which that person: (1) Controls the trading decisions, or (2) has at least a 10 percent ownership or equity interest in an account or position; and in doing so the person must treat positions that are held by two or more persons pursuant to an express or implied agreement or understanding as if they were held by a single person.[83]

The 2013 Aggregation Proposal set forth conditions and procedures to grant a person permission to disaggregate the positions of a separately organized entity (''owned entity''). The permission or exemption is dependent on the person's level of ownership or equity interest in the owned entity. In the 2013 Aggregation Proposal, the ownership or equity-interest levels were divided into two categories: (1) A person with an interest of between 10 percent and 50 percent would be permitted to disaggregate the positions, upon filing a notice demonstrating compliance with certain requirements specified in the proposed amendments; (2) a person with a greater than 50 percent interest would have to apply on a case-by-case basis to the Commission for permission, and await the Commission's decision as to whether certain prerequisites enumerated in the 2013 Aggregation Proposal had been met.[84]

2. Comments on the 2013 Aggregation Proposal

In response to the 2013 Aggregation Proposal, several commenters raised concerns about the costs and benefits associated with the proposed changes to regulation 150.4. CME declared that the Commission failed to consider adequately the costs and benefits of ''every aspect'' of the 2013 Aggregation Proposal.[85] Yet, for the most part, commenters did not identify specific monetary costs or provide any quantitative information to support their arguments. Instead, they made the general statements that requiring owners without actual control to aggregate positions would weaken the ability of largely passive investors to provide capital investment and generate returns for their beneficiaries,[86] and that it would run contrary to certain established corporate structures to provide functional and legal separation for individual operating businesses.[87]

NGSA and PEGCC expressed concern over attendant compliance costs for persons with greater than 50 percent interest in an owned entity.[88] NGSA and MidAmerican asserted that the proposal would require new position-trading surveillance and compliance systems for owned entities, and involve more intraday coordination.[89] NGSA identified another general cost: constraints on risk management programs when an owned entity's commodity trading is restricted to 20 percent of positions.[90] PEGCC characterized the exemption-application process as unworkable because of the unlimited waiting period for Commission review and approval.[91] As a result, the Commission's approach would create uncertainty for applicants and burden Commission staff resources.[92] Furthermore, during the waiting period, applicants would have to expend costs to develop interim compliance programs.[93]

Commenters also suggested alternatives to the exemption processes proffered in the 2013 Aggregation Proposal. Several commenters advised the Commission to accept a notice filing.[94] PEGCC also recommended that the Commission modify the certifications requirement for the proposed greater than 50 percent ownership exemption. Instead of producing certifications from the owner entity and board members, PEGCC proposed that the Commission require a certification from the owner entity only.[95] They also recommended that the Commission eliminate the grace period for seeking re-certification after the person loses its greater than 50 percent ownership exemption for failing to meet a condition.[96] PEGCC remarked that the Commission had failed to provide any rationale for the grace period, and stated that the person should be able to apply for re-certification once it loses its status.[97]

3. The Current Proposal

The Commission is proposing to revise the 2013 Aggregation Proposal to delete proposed rule § 150.4(b)(3) and § 150.4(c)(2), and to change proposed rule § 150.4(b)(2), so that the latter provision would apply to all persons with an ownership or equity interest in an owned entity of 10 percent or greater. More precisely, under these proposed revisions, a person with at least a 10

[80] 17 CFR 150.4.

[81] As expressed throughout this preamble, all aspects of the amendments as proposed in the 2013 Aggregation Proposal, except as explicitly modified by the revisions discussed in this 2015 release, remain the same.

[82] 17 CFR 150.4.

[83] 17 CFR 150.4(b), (c), and (d).

[84] Note that no aggregation would be required if the ownership or equity interest is below 10 percent.

[85] CL–CME at 6. *See also* CL–MidAmerican at 1.

[86] CL–SIFMA at 1.

[87] CL–MidAmerican at 2.

[88] CL–NGSA at 39; CL–PEGCC.

[89] CL–NGSA at 39; CL-MidAmerican at 2.

[90] CL–NGSA at 40.

[91] CL–PEGCC at 4, 5.

[92] CL–PEGCC at 4.

[93] *Id.*

[94] *See, e.g.,* CL–PEGCC at 6.

[95] CL–PEGCC at 7.

[96] *Id.*

[97] *Id.*

percent interest would not be required to aggregate an owned entity's positons, if such person files a notice attesting to no trading control and implementation of firewalls to prevent access to relevant information, among other conditions. The Commission is also proposing conforming changes in other sections of proposed rule 150.4.[98]

As discussed in Section III.A.2, commenters raised concerns and suggested several alternatives for the exemptive category covering owners with a greater-than-50-percent interest. The Commission recognizes that the proposed amendments for this category in the 2013 Aggregation Proposal may impose burdens on certain market participants. It has embraced some of the commenters' suggestions and revised the requirements for those market participants seeking relief from the aggregation obligations accordingly. The Commission welcomes comment on all aspects regarding the cost-and-benefit considerations of the 2015 proposed revisions. Commenters are encouraged to suggest additional alternatives that may result in a superior cost-and-benefit profile, and provide support for their position both qualitatively and quantitatively.

4. Costs and Benefits

As noted in the preamble, the Commission's general policy on aggregation is derived from CEA section 4a(a)(1), which directs the Commission to aggregate positions based on separate considerations of ownership, control, or persons acting pursuant to an express or implied agreement. The Commission's historical approach to its statutory aggregation obligation has thus included both ownership and control factors designed to prevent evasion of prescribed position limits. The Commission continues to believe that these factors together constitute an appropriate criterion for aggregation of that entity's positions.

The Commission believes that the revisions proposed herein would maintain the Commission's historical approach to aggregation while adding thoughtful exemptions to relieve market participants from unnecessary burdens due to aggregation. Moreover, the proposed exemptions would only apply under legitimate conditions. As a result, the Commission's aggregation policy is more focused on targeting market participants that pose an actual risk of engaging in the activities which the position limits regime is intended to prevent.

a. Benefits

The primary purpose of requiring positions of owned entities to be aggregated is to prevent evasion of prescribed position limits through coordinated trading. The Commission recognizes, however, that an overly restrictive or prescriptive aggregation policy may result in unnecessary burdens or unintended consequences. Such unintended consequences may take the form of reduced liquidity because imposing aggregation requirements on owned entities that are not susceptible to coordinated trading would unnecessarily restrict their ability to trade commodity derivatives contracts. Moreover, as argued by some commenters, requiring passive investors to aggregate the positions of entities they own may potentially diminish capital investments in their businesses,[99] or interfere with existing decentralized business structures.[100] By providing exemptive relief to market participants under legitimate circumstances—for instance, the demonstration of no control over trading—potential negative effects on derivatives markets would be reduced.

The proposed 2015 revisions would also benefit market participants by mitigating their compliance burdens associated with the aggregation requirements as well as the position limits requirements more generally. Under the proposed exemptions, eligible market participants would not have to establish and maintain the infrastructure necessary to aggregate positions across owned entities. Further, an eligible entity with legitimate hedging needs and whose aggregated positions are above the position limits thresholds in the absence of any exemption would have the option of applying for an aggregation exemption instead of applying for a bona fide hedging exemption.

Finally, under the proposed 2015 revisions, the same set of exemption standards and procedures would apply to a person with any level of ownership or equity interest in the owned entity being considered—as long as the level is high enough to trigger the aggregation requirements (*i.e.,* at least 10 percent). This unified exemptive framework facilitates legal clarity and consistency. It also further mitigates the burdens facing market participants. Consider, for example, a parent-holding company that has different levels of ownership or equity interest in its various subsidiaries. Under the proposed unified framework, such parent-holding company would not need to establish and maintain multiple sets of systems for the purpose of obtaining aggregation exemptions for each of these subsidiaries.

The Commission requests comment on its considerations of the benefits of the proposed 2015 revisions. Commenters are specifically encouraged to include both quantitative and qualitative assessments of these benefits, as well as data or other information to support such assessments.

b. Costs

To a large extent, market participants may already have incurred many of the compliance costs associated with existing regulation 150.4. The Commission and DCMs generally have required aggregation of positions starting at a 10 percent interest threshold under the current regulatory requirements of part 150 as well as the acceptable practices found in the prior version of part 38. The Commission therefore believes that market participants active on DCMs have already developed systems for aggregating positions across owned entities.[101]

The Commission anticipates there are two main types of direct costs associated with the 2015 proposed revisions. First, there would be initial costs incurred by entities as they develop and maintain systems to determine whether they may be eligible for the proposed exemptions. Second, there would be costs related to subsequent filings required by the exemptions. In addition, some entities may also sustain direct costs for modifying existing operational protocols—such as firewalls and reporting schemes—to be eligible to claim an exemption. It is difficult to quantify these direct costs because such costs are heavily dependent on the individual characteristics of each entity's current systems, its corporate structure, and its use of commodity derivatives, among other attributes.

Should the Commission's other proposed amendments to the position

[98] See earlier sections of this preamble for a discussion on all proposed revisions to regulation 150.4.

[99] SIFMA Letter at p. 1.

[100] MidAmerican Letter at p. 2.

[101] The 10 percent threshold has been in place for the nine agricultural contracts with federal limits for decades, and for other contracts where limits were imposed by DCMs and enforced by the Commission. *See supra,* note 15 (citing to the 1979 Aggregation Policy, 44 FR at 33843, where the Commission codified its view that, except in certain limited circumstances, a financial interest in an account at or above 10 percent ''will constitute the trader as an account owner for aggregation purposes'').

limits regime in part 150 be adopted as proposed,[102] the aggregation requirements would cover a greater set of commodity derivative contracts. Part 150 applies currently to futures and options contracts referencing nine commodities as stated in regulation 150.2. The other 2013 proposed amendments would expand the list, and would apply on a federal level to commodity derivative contracts, including swaps, based on an additional 19 commodities. This expansion would likely create additional compliance costs for futures market participants because they would have to broaden current procedures for aggregating futures positions to include swaps positions, as well as for swaps market participants, who would be required to develop and maintain systems to comply with the aggregation rules. Further, exchanges would be required to conform their aggregation policies to the Commission's aggregation policy. However, the revisions proposed herein provide exemptive relief from these requirements.

In accordance with the Paperwork Reduction Act, the Commission has quantified the filing costs required to claim the proposed exemptions discussed in Section III.C below. The Commission estimates that 240 entities will submit exemption claims for a total of 340 responses per year. The 240 entities will incur a total burden of 6,850 labor hours at a cost of approximately $822,000 annually to claim exemptive relief under regulation 150.4, as proposed herein.[103]

The Commission requests comment on its consideration of the costs imposed by the proposed 2015 revisions. Commenters are specifically encouraged to submit both qualitative and quantitative estimates of the potential costs, as well as data or other information to support such estimates.

5. Section 15(a) Considerations

a. Protection of Market Participants and the Public

As pointed out above, the proposed aggregation exemptions would be granted to an entity only upon demonstrating lack of trading control as well as the implementation of information firewalls. These conditions help to ensure that the effectiveness of the Commission's aggregation policy is not jeopardized, thereby protecting the public.

b. Efficiency, Competition, and Financial Integrity of Markets

An important rationale for providing aggregation exemptions is to avoid overly restricting commodity derivatives trading of owned entities not susceptible to coordinated trading. As discussed above, such trading restrictions may potentially result in reduced liquidity in commodity derivatives markets, diminished investment by largely passive investors, or distortions of existing decentralized business structures. Thus, the proposed exemptions help promote efficiency and competition, and protect market integrity by helping to prevent these undesirable consequences.

c. Price Discovery

By avoiding overly restricting commodity derivatives trading of those entities that are not susceptible to coordinated trading, the proposed exemptions may help improve liquidity by encouraging more market participation. This might improve the price discovery function or it might have only a negligible effect on the price discovery function of relevant derivative markets.

d. Risk Management

The imposition of position limits helps to restrict market participants from amassing positions that are of sufficient size potentially to cause sudden or unreasonable fluctuations or unwarranted changes in the price of a commodity derivatives contract, or to be used to manipulate the market price. The proposed exemptions would allow an owner to disaggregate the positions of an owned entity in circumstances where the Commission has determined that the positions are less of a risk of disrupting market operation through coordinated trading. The Commission believes that the proposed exemptions would not materially inhibit the use of commodity derivatives for hedging, as bona fide hedging exemptions are available to any entity regardless of aggregation of positions and exemptions from aggregation.

e. Other Public Interest Considerations

As pointed out above, the proposed aggregation exemptions would mitigate market participants' compliance burdens with the aggregation requirements and the position limits requirements more generally. The Commission has not identified any other public interest considerations related to the costs and benefits of the proposed exemptive relief. The Commission requests comment on any potential public interest considerations, as well as data or other information to support such considerations.

6. Section 15(b) Considerations

Section 15(b) of the CEA requires the Commission to consider the public interest to be protected by the antitrust laws and to endeavor to take the least anticompetitive means of achieving the objectives, policies and purposes of the CEA, before promulgating a regulation under the CEA or issuing certain orders. The Commission preliminarily believes that the proposed exemptive relief will be consistent with the public interest protected by the antitrust laws. The proposal would broaden the availability of one category of relief from the aggregation requirement to more owners and owned entities, retaining conditions intended to address the Commission's concerns about circumvention of position limits by coordinated trading or direct or indirect influence between entities. The Commission requests comment on any considerations related to the public interest to be protected by the antitrust laws and potential anticompetitive effects of the proposal, as well as data or other information to support such considerations.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'') requires that agencies consider whether the rules they propose will have a significant economic impact on a substantial number of small entities and, if so, provide a regulatory flexibility analysis respecting the impact.[104] A regulatory flexibility analysis or certification typically is required for ''any rule for which the agency publishes a general notice of proposed rulemaking pursuant to'' the notice-and-comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b).[105] The requirements related to the proposed amendments fall mainly on registered entities, exchanges, FCMs, swap dealers, clearing members, foreign brokers, and large traders. The Commission has previously determined that registered DCMs, FCMs, swap dealers, major swap participants, eligible contract participants, SEFs, clearing members, foreign brokers and large traders are not small entities for purposes of the RFA.[106] While the

[102] *See* Position Limits for Derivatives, 78 FR 75680 (December 12, 2013).

[103] See Section III.C of this release for a more detailed summary of the Commission's PRA burden estimates.

[104] 44 U.S.C. 601 *et seq.*

[105] 5 U.S.C. 601(2), 603–05.

[106] *See* Policy Statement and Establishment of Definitions of ''Small Entities'' for Purposes of the Regulatory Flexibility Act, 47 FR 18618, 18619, Apr. 30, 1982 (DCMs, FCMs, and large traders) (''RFA Small Entities Definitions''); Opting Out of Segregation, 66 FR 20740, 20743, Apr. 25, 2001 (eligible contract participants); Position Limits for Futures and Swaps; Final Rule and Interim Final Rule, 76 FR 71626, 71680, Nov. 18, 2011 (clearing

requirements under the proposed rulemaking may impact non-financial end users, the Commission notes that position limits levels apply only to large traders. Accordingly, the Chairman, on behalf of the Commission, hereby certifies, on behalf of the Commission, pursuant to 5 U.S.C. 605(b), that the actions proposed to be taken herein would not have a significant economic impact on a substantial number of small entities. The Chairman made the same certification in the 2013 Aggregation Proposal,[107] and the Commission did not receive any comments on the RFA.

C. Paperwork Reduction Act

1. Overview

The Paperwork Reduction Act (''PRA''), 44 U.S.C. 3501 *et seq.,* imposes certain requirements on Federal agencies in connection with their conducting or sponsoring any collection of information as defined by the PRA. 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 control number issued by the Office of Management and Budget (''OMB''). Certain provisions of the proposed rules would result in amendments to previously-approved collection of information requirements within the meaning of the PRA. Therefore, the Commission is submitting to OMB for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11 the information collection requirements proposed in this rulemaking proposal as an amendment to the previously-approved collection associated with OMB control number 3038–0013.

If adopted, responses to this collection of information would be mandatory. The Commission will protect proprietary information according to the Freedom of Information Act and 17 CFR part 145, titled ''Commission Records and Information.'' In addition, the Commission emphasizes that section 8(a)(1) of the Act strictly prohibits the Commission, unless specifically authorized by the Act, from making public ''data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers.'' The Commission also is required to protect certain information contained in a government system of records pursuant to the Privacy Act of 1974.

On November 15, 2013, the Commission published in the **Federal Register** a notice of proposed modifications to part 150 of the Commission's regulations (*i.e.,* the 2013 Aggregation Proposal). The modifications addressed the policy for aggregation under the Commission's position limits regime for futures and option contracts on nine agricultural commodities set forth in part 150, and noted that the modifications would also apply to the position limits regimes for 28 exempt and agricultural commodity futures and options contracts and the physical commodity swaps that are economically equivalent to such contracts, if such regimes are finalized. The Commission is now proposing a revision to its 2013 Aggregation Proposal.

Specifically, the Commission is now proposing that all persons holding a greater than 10 percent ownership or equity interest in another entity could avail themselves of an exemption in proposed rule § 150.4(b)(2) to disaggregate the positions of the owned entity. To claim the exemption, a person would need to meet certain criteria and file a notice with the Commission in accordance with proposed rule § 150.4(c). The notice filing would need to demonstrate compliance with certain conditions set forth in proposed rule § 150.4(b)(2)(i)(A) through (E). Similar to other exemptions from aggregation, the notice filing would be effective upon submission to the Commission, but the Commission may call for additional information as well as reject, modify or otherwise condition such relief. Further, such person is obligated to amend the notice filing in the event of a material change to the filing. The Commission now proposes to delete rule § 150.4(b)(3) from its proposal. This rule would have established a similar but separate owned-entity exemption with more intensive qualifications for exemption.

2. Methodology and Assumptions

It is not possible at this time to precisely determine the number of respondents affected by the proposed revision to the 2013 Aggregation Proposal. The proposed revision relates to exemptions that a market participant may elect to take advantage of, meaning that without intimate knowledge of the day-to-day business decisions of all its market participants, the Commission could not know which participants, or how many, may elect to obtain such an exemption. Further, the Commission is unsure of how many participants not currently in the market may be required to or may elect to incur the estimated burdens in the future.

These limitations notwithstanding, the Commission has made best-effort estimations regarding the likely number of affected entities for the purposes of calculating burdens under the PRA. The Commission used its proprietary data, collected from market participants, to estimate the number of respondents for each of the proposed obligations subject to the PRA by estimating the number of respondents who may be close to a position limit and thus may file for relief from aggregation requirements.

The Commission's estimates concerning wage rates are based on 2011 salary information for the securities industry compiled by the Securities Industry and Financial Markets Association (''SIFMA''). The Commission is using a figure of $120 per hour, which is derived from a weighted average of salaries across different professions from the SIFMA Report on Management & Professional Earnings in the Securities Industry 2011, modified to account for an 1800-hour work-year, adjusted to account for the average rate of inflation in 2012. This figure was then multiplied by 1.33 to account for benefits [108] and further by 1.5 to account for overhead and administrative expenses.[109] The Commission anticipates that compliance with the provisions would require the work of an information technology professional; a compliance manager; an accounting professional; and an associate general counsel. Thus, the wage rate is a weighted national average of salary for professionals with the following titles (and their relative weight); ''programmer (average of senior and non-senior)'' (15% weight), ''senior accountant'' (15%) ''compliance manager'' (30%), and ''assistant/associate general counsel'' (40%). All

members); Core Principles and Other Requirements for Swap Execution Facilities, 78 FR 33476, 33548, June 4, 2013 (SEFs); A New Regulatory Framework for Clearing Organizations, 66 FR 45604, 45609, Aug. 29, 2001 (DCOs); Registration of Swap Dealers and Major Swap Participants, 77 FR 2613, Jan. 19, 2012, (swap dealers and major swap participants); and Special Calls, 72 FR 50209, Aug. 31, 2007 (foreign brokers).

[107] *See* 78 FR 68973.

[108] The Bureau of Labor Statistics reports that an average of 32.8% of all compensation in the financial services industry is related to benefits. This figure may be obtained on the Bureau of Labor Statistics Web site, at *http://www.bls.gov/news.release/ecec.t06.htm.* The Commission rounded this number to 33% to use in its calculations.

[109] Other estimates of this figure have varied dramatically depending on the categorization of the expense and the type of industry classification used (*see, e.g.,* BizStats at *http://www.bizstats.com/corporation-industry-financials/finance-insurance-52/securities-commodity-contracts-other-financial-investments-523/commodity-contracts-dealing-and-brokerage-523135/show* and Damodaran Online at *http://pages.stern.nyu.edu/~adamodar/pc/datasets/uValuedata.xls.* The Commission has chosen to use a figure of 50% for overhead and administrative expenses to attempt to conservatively estimate the average for the industry.

monetary estimates have been rounded to the nearest hundred dollars.

The Commission welcomes comment on its assumptions and estimates.

3. Collections of Information

Proposed rule § 150.4(b)(2) would require qualified persons to file a notice in order to claim exemptive relief from aggregation. Further, proposed rule § 150.4(b)(2)(ii) states that the notice is to be filed in accordance with proposed rule § 150.4(c), which requires a description of the relevant circumstances that warrant disaggregation and a statement that certifies that the conditions set forth in the exemptive provision have been met. Previously proposed rule § 150.4(b)(3) (which the Commission is now deleting from the proposal) would have specified that qualified persons may request an exemption from aggregation in accordance with proposed rule § 150.4(c). Such a request would be required to include a description of the relevant circumstances that warrant disaggregation and a statement certifying the conditions have been met. Persons claiming these exemptions would be required to submit to the Commission, as requested, such information as relates to the claim for exemption. An updated or amended notice must be filed with the Commission upon any material change.

In the 2013 Aggregation Proposal, the Commission estimated that 100 entities will each file two notices annually under proposed rule § 150.4(b)(2), at an average of 20 hours per filing. Thus, the Commission approximates a total per entity burden of 40 labor hours annually. At an estimated labor cost of $120, the Commission estimates a cost of approximately $4,800 per entity for filings under proposed rule § 150.4(b)(2).

The Commission also estimated that 25 entities would each file one notice annually under proposed rule § 150.4(b)(3), at an average of 30 hours per filing. Thus, the Commission approximates a total per entity burden of 30 labor hours annually. At an estimated labor cost of $120, the Commission estimates a cost of approximately $3,600 per entity for filings under proposed rule § 150.4(b)(3).

For this proposed revision to the 2013 Aggregation Proposal, the Commission estimates that the 25 entities that would have filed one notice annually under proposed rule § 150.4(b)(3) will instead file those notices under proposed rule § 150.4(b)(2). The burden for each such filing would be reduced by 10 hours (*i.e.,* 30 hours minus 20 hours) and $1,200 (*i.e.,* 10 hours times $120 per hour).

Thus, while the Commission estimates that the effect of this proposed revision will not change the number of entities making filings or the number of responses in order to claim exemptive relief under proposed rule 150.4 (so the estimate in the 2013 Aggregation Proposal that 240 entities will submit a total of 340 responses per year will remain the same),[110] the total burden will be reduced to 6,850 labor hours (from 7,100 labor hours) at a cost of approximately $822,000 (instead of $852,000) annually.

4. Information Collection Comments

The Commission invites the public and other federal agencies to comment on any aspect of the reporting and recordkeeping burdens discussed above. Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments in order to: (1) Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) evaluate the accuracy of the Commission's estimate of the burden of the proposed collections of information; (3) determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collections of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Comments may be submitted directly to the Office of Information and Regulatory Affairs, by fax at (202) 395–6566 or by email at *OIRA-submissions@omb.eop.gov*. Please provide the Commission with a copy of comments submitted so that all comments can be summarized and addressed in the final regulation preamble. Refer to the **ADDRESSES** section of this document for comment submission instructions to the Commission. A copy of the supporting statements for the collection of information discussed above may be obtained by visiting *RegInfo.gov*. OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this release. Consequently, a comment to OMB is most assured of being fully considered if received by OMB (and the Commission) within 30 days after the publication of this notice of proposed rulemaking.

Finally, it should be noted that the following proposed amendments to part 150 may require conforming technical changes if the Commission also adopts any proposed amendments to its regulations regarding position limits.[111]

List of Subjects in 17 CFR Part 150

Bona fide hedging, Position limits, Referenced contracts.

For the reasons discussed in the preamble, the Commodity Futures Trading Commission proposes to amend 17 CFR part 150 as follows:

PART 150—LIMITS ON POSITIONS

■ 1. The authority citation for part 150 is revised to read as follows:

Authority: 7 U.S.C. 6a, 6c, and 12a(5), as amended by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, 124 Stat. 1376 (2010).

■ 2. Revise paragraphs (d) and (e)(2) and (5) of § 150.1 to read as follows:

§ 150.1 Definitions.

* * * * *

(d) *Eligible entity* means a commodity pool operator; the operator of a trading vehicle which is excluded, or which itself has qualified for exclusion from the definition of the term ''pool'' or ''commodity pool operator,'' respectively, under § 4.5 of this chapter; the limited partner, limited member or shareholder in a commodity pool the operator of which is exempt from registration under § 4.13 of this chapter; a commodity trading advisor; a bank or trust company; a savings association; an insurance company; or the separately organized affiliates of any of the above entities:

(1) Which authorizes an independent account controller independently to control all trading decisions with respect to the eligible entity's client positions and accounts that the independent account controller holds directly or indirectly, or on the eligible entity's behalf, but without the eligible entity's day-to-day direction; and

(2) Which maintains:

(i) Only such minimum control over the independent account controller as is consistent with its fiduciary responsibilities to the managed positions and accounts, and necessary

[110] In the 2013 Aggregation Proposal, the Commission estimated that 75 entities would each file one notice annually under proposed rule § 150.4(b)(5) at an average of 10 labor hours and cost of approximately $1,200 per filing, and that 40 entities would each file one notice annually under proposed rule § 150.4(b)(8) at an average of 40 labor hours and cost of approximately $4,800 per filing. These estimates remain unchanged.

[111] *See* Position Limits for Derivatives, 78 FR 75680 (December 12, 2013).

to fulfill its duty to supervise diligently the trading done on its behalf; or

(ii) If a limited partner, limited member or shareholder of a commodity pool the operator of which is exempt from registration under § 4.13 of this chapter, only such limited control as is consistent with its status.

(e) * * *

(2) Over whose trading the eligible entity maintains only such minimum control as is consistent with its fiduciary responsibilities to the managed positions and accounts to fulfill its duty to supervise diligently the trading done on its behalf or as consistent with such other legal rights or obligations which may be incumbent upon the eligible entity to fulfill;

* * * * *

(5) Who is:

(i) Registered as a futures commission merchant, an introducing broker, a commodity trading advisor, or an associated person of any such registrant, or

(ii) A general partner, managing member or manager of a commodity pool the operator of which is excluded from registration under § 4.5(a)(4) of this chapter or § 4.13 of this chapter, provided that such general partner, managing member or manager complies with the requirements of § 150.4(c).

* * * * *

§ 150.3 [Amended]

■ 3. Amend § 150.3 as follows:

■ a. Remove the semicolon and the word ''or'' at the end of paragraph (a)(3);

■ b. Add a period at the end of paragraph (a)(3); and

■ c. Remove paragraph (a)(4).

■ 4. Revise § 150.4 to read as follows:

§ 150.4 Aggregation of positions.

(a) *Positions to be aggregated*—(1) *Trading control or 10 percent or greater ownership or equity interest.* For the purpose of applying the position limits set forth in § 150.2, unless an exemption set forth in paragraph (b) of this section applies, all positions in accounts for which any person, by power of attorney or otherwise, directly or indirectly controls trading or holds a 10 percent or greater ownership or equity interest must be aggregated with the positions held and trading done by such person. For the purpose of determining the positions in accounts for which any person controls trading or holds a 10 percent or greater ownership or equity interest, positions or ownership or equity interests held by, and trading done or controlled by, two or more persons acting pursuant to an expressed or implied agreement or understanding shall be treated the same as if the positions or ownership or equity interests were held by, or the trading were done or controlled by, a single person.

(2) *Substantially identical trading.* Notwithstanding the provisions of paragraph (b) of this section, for the purpose of applying the position limits set forth in § 150.2, any person that, by power of attorney or otherwise, holds or controls the trading of positions in more than one account or pool with substantially identical trading strategies, must aggregate all such positions.

(b) *Exemptions from aggregation.* For the purpose of applying the position limits set forth in § 150.2, and notwithstanding the provisions of paragraph (a)(1) of this section, but subject to the provisions of paragraph (a)(2) of this section, the aggregation requirements of this section shall not apply in the circumstances set forth in this paragraph.

(1) *Exemption for ownership by limited partners, shareholders or other pool participants.* Any person that is a limited partner, limited member, shareholder or other similar type of pool participant holding positions in which the person by power of attorney or otherwise directly or indirectly has a 10 percent or greater ownership or equity interest in a pooled account or positions need not aggregate the accounts or positions of the pool with any other accounts or positions such person is required to aggregate, except that such person must aggregate the pooled account or positions with all other accounts or positions owned or controlled by such person if such person:

(i) Is the commodity pool operator of the pooled account;

(ii) Is a principal or affiliate of the operator of the pooled account, unless:

(A) The pool operator has, and enforces, written procedures to preclude the person from having knowledge of, gaining access to, or receiving data about the trading or positions of the pool;

(B) The person does not have direct, day-to-day supervisory authority or control over the pool's trading decisions;

(C) The person, if a principal of the operator of the pooled account, maintains only such minimum control over the commodity pool operator as is consistent with its responsibilities as a principal and necessary to fulfill its duty to supervise the trading activities of the commodity pool; and

(D) The pool operator has complied with the requirements of paragraph (c) of this section on behalf of the person or class of persons; or

(iii) Has, by power of attorney or otherwise directly or indirectly, a 25 percent or greater ownership or equity interest in a commodity pool, the operator of which is exempt from registration under § 4.13 of this chapter.

(2) *Exemption for certain ownership of greater than 10 percent in an owned entity.* Any person with an ownership or equity interest in an owned entity of 10 percent or greater (other than an interest in a pooled account subject to paragraph (b)(1) of this section), need not aggregate the accounts or positions of the owned entity with any other accounts or positions such person is required to aggregate, provided that:

(i) Such person, including any entity that such person must aggregate, and the owned entity:

(A) Do not have knowledge of the trading decisions of the other;

(B) Trade pursuant to separately developed and independent trading systems;

(C) Have and enforce written procedures to preclude each from having knowledge of, gaining access to, or receiving data about, trades of the other. Such procedures must include document routing and other procedures or security arrangements, including separate physical locations, which would maintain the independence of their activities;

(D) Do not share employees that control the trading decisions of either; and

(E) Do not have risk management systems that permit the sharing of trades or trading strategy; and

(ii) Such person complies with the requirements of paragraph (c) of this section.

(3) [Reserved]

(4) *Exemption for accounts held by futures commission merchants.* A futures commission merchant or any affiliate of a futures commission merchant need not aggregate positions it holds in a discretionary account, or in an account which is part of, or participates in, or receives trading advice from a customer trading program of a futures commission merchant or any of the officers, partners, or employees of such futures commission merchant or of its affiliates, if:

(i) A person other than the futures commission merchant or the affiliate directs trading in such an account;

(ii) The futures commission merchant or the affiliate maintains only such minimum control over the trading in such an account as is necessary to fulfill its duty to supervise diligently trading in the account;

(iii) Each trading decision of the discretionary account or the customer

trading program is determined independently of all trading decisions in other accounts which the futures commission merchant or the affiliate holds, has a financial interest of 10 percent or more in, or controls; and

(iv) The futures commission merchant or the affiliate has complied with the requirements of paragraph (c) of this section.

(5) *Exemption for accounts carried by an independent account controller.* An eligible entity need not aggregate its positions with the eligible entity's client positions or accounts carried by an authorized independent account controller, as defined in § 150.1(e), except for the spot month in physical-delivery commodity contracts, provided that the eligible entity has complied with the requirements of paragraph (c) of this section, and that the overall positions held or controlled by such independent account controller may not exceed the limits specified in § 150.2.

(i) *Additional requirements for exemption of affiliated entities.* If the independent account controller is affiliated with the eligible entity or another independent account controller, each of the affiliated entities must:

(A) Have, and enforce, written procedures to preclude the affiliated entities from having knowledge of, gaining access to, or receiving data about, trades of the other. Such procedures must include document routing and other procedures or security arrangements, including separate physical locations, which would maintain the independence of their activities; provided, however, that such procedures may provide for the disclosure of information which is reasonably necessary for an eligible entity to maintain the level of control consistent with its fiduciary responsibilities to the managed positions and accounts and necessary to fulfill its duty to supervise diligently the trading done on its behalf;

(B) Trade such accounts pursuant to separately developed and independent trading systems;

(C) Market such trading systems separately; and

(D) Solicit funds for such trading by separate disclosure documents that meet the standards of § 4.24 or § 4.34 of this chapter, as applicable, where such disclosure documents are required under part 4 of this chapter.

(ii) [Reserved]

(6) *Exemption for underwriting.* A person need not aggregate the positions or accounts of an owned entity if the ownership or equity interest is based on the ownership of securities constituting the whole or a part of an unsold allotment to or subscription by such person as a participant in the distribution of such securities by the issuer or by or through an underwriter.

(7) *Exemption for broker-dealer activity.* A broker-dealer registered with the Securities and Exchange Commission, or similarly registered with a foreign regulatory authority, need not aggregate the positions or accounts of an owned entity if the ownership or equity interest is based on the ownership of securities acquired in the normal course of business as a dealer, *provided that* such person does not have actual knowledge of the trading decisions of the owned entity.

(8) *Exemption for information sharing restriction.* A person need not aggregate the positions or accounts of an owned entity if the sharing of information associated with such aggregation (such as, only by way of example, information reflecting the transactions and positions of a such person and the owned entity) creates a reasonable risk that either person could violate state or federal law or the law of a foreign jurisdiction, or regulations adopted thereunder, provided that such person does not have actual knowledge of information associated with such aggregation, and provided further that such person has filed a prior notice pursuant to paragraph (c) of this section and included with such notice a written memorandum of law explaining in detail the basis for the conclusion that the sharing of information creates a reasonable risk that either person could violate state or federal law or the law of a foreign jurisdiction, or regulations adopted thereunder. However, the exemption in this paragraph shall not apply where the law or regulation serves as a means to evade the aggregation of accounts or positions. All documents submitted pursuant to this paragraph shall be in English, or if not, accompanied by an official English translation.

(9) *Exemption for higher-tier entities.* If an owned entity has filed a notice under paragraph (c) of this section, any person with an ownership or equity interest of 10 percent or greater in the owned entity need not file a separate notice identifying the same positions and accounts previously identified in the notice filing of the owned entity, provided that:

(i) Such person complies with the conditions applicable to the exemption specified in the owned entity's notice filing, other than the filing requirements; and

(ii) Such person does not otherwise control trading of the accounts or positions identified in the owned entity's notice.

(iii) Upon call by the Commission, any person relying on the exemption paragraph (b)(9) of this section shall provide to the Commission such information concerning the person's claim for exemption. Upon notice and opportunity for the affected person to respond, the Commission may amend, suspend, terminate, or otherwise modify a person's aggregation exemption for failure to comply with the provisions of this section.

(c) *Notice filing for exemption.* (1) Persons seeking an aggregation exemption under paragraph (b)(1)(ii), (b)(2), (b)(4), (b)(5), or (b)(8) of this section shall file a notice with the Commission, which shall be effective upon submission of the notice, and shall include:

(i) A description of the relevant circumstances that warrant disaggregation; and

(ii) A statement of a senior officer of the entity certifying that the conditions set forth in the applicable aggregation exemption provision have been met.

(2) [Reserved]

(3) Upon call by the Commission, any person claiming an aggregation exemption under this section shall provide such information demonstrating that the person meets the requirements of the exemption, as is requested by the Commission. Upon notice and opportunity for the affected person to respond, the Commission may amend, suspend, terminate, or otherwise modify a person's aggregation exemption for failure to comply with the provisions of this section.

(4) In the event of a material change to the information provided in any notice filed under paragraph (c) of this section, an updated or amended notice shall promptly be filed detailing the material change.

(5) Any notice filed under paragraph (c) of this section shall be submitted in the form and manner provided for in paragraph (d) of this section.

(d) *Form and manner of reporting and submitting information or filings.* Unless otherwise instructed by the Commission or its designees, any person submitting reports under this section shall submit the corresponding required filings and any other information required under this part to the Commission using the format, coding structure, and electronic data transmission procedures approved in writing by the Commission. Unless otherwise provided in this section, the notice shall be effective upon filing. When the reporting entity discovers errors or omissions to past reports, the entity shall so notify the Commission

and file corrected information in a form and manner and at a time as may be instructed by the Commission or its designee.

(e) *Delegation of authority to the Director of the Division of Market Oversight.* (1) The Commission hereby delegates, until it orders otherwise, to the Director of the Division of Market Oversight or such other employee or employees as the Director may designate from time to time, the authority:

(i) [Reserved]

(ii) In paragraph (b)(9)(iii) of this section to call for additional information from a person claiming the exemption in paragraph (b)(9)(i) of this section.

(iii) In paragraph (d) of this section for providing instructions or determining the format, coding structure, and electronic data transmission procedures for submitting data records and any other information required under this part.

(2) The Director of the Division of Market Oversight may submit to the Commission for its consideration any matter which has been delegated in this section.

(3) Nothing in this section prohibits the Commission, at its election, from exercising the authority delegated in this section.

Issued in Washington, DC, on September 23, 2015, by the Commission.

Christopher J. Kirkpatrick,

Secretary of the Commission.

Note: The following appendices will not appear in the Code of Federal Regulations.

Appendices to Aggregation of Positions Supplemental Notice of Proposed Rulemaking—Commission Voting Summary, Chairman's Statement, and Commissioner's Statement

Appendix 1—Commission Voting Summary

On this matter, Chairman Massad and Commissioners Bowen and Giancarlo voted in the affirmative. No Commissioner voted in the negative.

Appendix 2—Statement of Chairman Timothy G. Massad

As part of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Congress mandated that the CFTC adopt limits to address the risk of excessive speculation in physical commodity derivative contracts. In 2013, the Commission proposed these rules on ''position limits.'' These proposed rules included guidelines to determine which accounts and positions a person with an ownership interest must aggregate to determine compliance. In addition, the Commission separately proposed an exemption process from this ''aggregation'' requirement.

Today, we are proposing a simplification of that exemption process. Instead of requiring a participant that has a 50 percent or more interest in an entity to apply for and obtain prior approval from the Commission, our proposal would rely on a notice filing. If that participant files a notice attesting to the Commission that it has no control over the trading of that entity, and that firewalls are in place to prevent access to information, then it need not wait for the CFTC's review and approval. This notice filing process is similar to what the Commission uses in many other areas.

This should create a more practical, efficient rule. It is important to note that the proposed change does not alter the standard of when aggregation is required. Moreover, the Commission retains its authority to call for additional information and modify or terminate an exemption for failure to comply with the standard.

Today's proposed modification is part of our ongoing consideration of the substantial public input the Commission received on its 2013 position limits proposal. As we continue to consider that input and work on a final rule, I want to underscore that the Commission appreciates the importance and complexity of these issues, and we intend to take the time necessary to get it right. We hope to have more to say about issues related to position limits in the coming months.

Appendix 3—Statement of Commissioner J. Christopher Giancarlo

I support these proposed changes to the aggregation rules because I believe they make the position limits regime more workable. However, this is just the first of many steps needed to make the CFTC's approach to position limits less harmful to the risk management activities of American farmers, energy producers, manufacturers, risk-hedgers and trading institutions that do business around the globe. We must avoid at all costs adopting flawed government regulations that prevent our markets from operating effectively at a time of plunging commodity prices.[1] That means not displacing the everyday commercial judgement of farmers and businesses with a small set of allowable hedging options pre-selected by a Washington Commission with limited experience in commercial risk management.

As I recently stated,[2] the CFTC must change the proposed requirement that a market participant aggregate trading positions across subsidiaries over which it has no control or in which it may only be invested on a short-term basis. The proposal from 2013 essentially requires a market participant to apply for permission from the CFTC before it can disaggregate a position if the participant owns more than fifty percent of an entity, even if it has zero control or influence over that entity. This approach does not reflect the realities of modern commerce in which global trading firms may often have many unconnected subsidiaries that neither communicate nor share trading strategies or market position information.

I commend the CFTC staff for taking into account public comments and putting forward a revised rule proposal that better recognizes the varied corporate structures of contemporary market participants. I am hopeful that today's proposal will serve as the basis for a workable solution to the flawed approach to aggregation in the previous proposal.

In addition, today's proposal would relieve the Commission of the obligation to conduct a detailed, individualized inquiry into the relationships of the owned entities of a majority-owner applicant that seeks to disaggregate its trading positions across a global corporate enterprise. I agree with commenters that characterized the 2013 process as unworkable and a burden on already-limited Commission resources.

Furthermore, this proposed reform appears considerably more attentive to liquidity concerns than the 2013 proposal. By permitting majority owners that lack trading control to file a disaggregation notice with immediate effect rather than navigating a case-by-case Commission approval process, the 2015 framework significantly reduces barriers to disaggregation, thereby possibly increasing market participation.

One area discussed at length in the current proposal is the issue of control of a corporate entity. Specifically, I invite public comment on whether there should be a removal of the presumption of control of an entity for all minority ownership interests. This would allow the exclusion now available to minority owners with a stake below ten percent, while retaining the presumption for interests exceeding fifty percent.

In addition, I am concerned that, by requiring an owner to aggregate an owned entity's positions when its affiliates have risk-management systems that permit the sharing of trades or trading strategy, the proposed rule may stymie critical risk-mitigation efforts. Owners and their affiliates may need to share information regarding trades or trading strategy to verify compliance with applicable credit limits as well as restrictions and collateral requirements for inter-affiliate transactions, among other risk-management and compliance-related objectives.[3]

Accordingly, I invite public comment on whether the Commission should consider modifying the current proposal to clarify that owners and their affiliates may share such trading information as is necessary for effective risk safeguards without forfeiting

[1] *See* Ira Iosebashvili and Tatyana Shumsky, Investors Flee Commodities, The Wall Street Journal, Jul. 20, 2015, *available at http://www.wsj.com/articles/investors-flee-commodities-1437434367; See also* Veronica Brown and Pratima Desai, Speculators Show Global Commodities Rout Still Has Legs, Reuters, Jul. 27, 2015, *available at http://www.reuters.com/article/2015/07/27/us-markets-commodities-rout-idUSKCN0Q11TJ20150727.*

[2] *See* Keynote Address by Commissioner J. Christopher Giancarlo, 7th Annual Capital Link Global Commodities, Energy & Shipping Forum, Sept. 16, 2015, *available at http://www.cftc.gov/PressRoom/SpeechesTestimony/opagiancarlo-8.*

[3] Letter from Walt Lukken, President and Chief Executive Officer, Futures Industry Association, to Melissa Jurgens, Secretary, CFTC (Feb. 6, 2014), at 8–9, *available at https://secure.fia.org/downloads/Aggregation_Comment_Letter_020614.pdf.*

eligibility for disaggregation. If the Commission remains concerned that this accommodation will facilitate coordinated trading, it might require affiliates sharing trading data to restrict dissemination of the information to those responsible for compliance and risk-management efforts, maintaining internal firewalls to conceal the information from employees who develop or execute trading strategies.

I also welcome public comment on whether the Commission should consider modifying the proposed rule to clarify that an owner filing a notice of trading independence in order to claim an exemption from aggregation under this rule need only make subsequent filings in the event of a material change in the owner's degree of control over its subsidiary's positions. The text of the proposed rule does not appear to require periodic filings following the initial notice of trading independence, but the Commission's calculation of the proposal's costs seems to assume that such filings will be made on an annual basis.

I encourage the public to comment on my above concerns and propose potential solutions if appropriate.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM15–23–000]

Collection of Connected Entity Data From Regional Transmission Organizations and Independent System Operators

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations to require each regional transmission organization (RTO) and independent system operator (ISO) to electronically deliver to the Commission, on an ongoing basis, data required from its market participants that would; first identify the market participants by means of a common alpha-numeric identifier; and secondly list their ''Connected Entities,'' which includes entities that have certain ownership, employment, debt, or contractual relationships to the market participants, as specified in this NOPR; and finally describe in brief the nature of the relationship of each Connected Entity. Such information will assist screening and investigative efforts to detect market manipulation, an enforcement priority of the Commission. The initiative would also assist market monitors for the RTOs and ISOs in their individual and joint investigations of potential cross-market manipulation. Unless the RTOs and ISOs request continuation of existing affiliate disclosure requirements based on a particularized need, the Commission expects that this new disclosure obligation will supplant all existing affiliate disclosures requirements contained in the RTOs and ISOs tariffs. The proposed definitional uniformity of the term ''Connected Entity'' across all of the RTOs and ISOs may help ease compliance burdens on market participants that are active in more than one RTO or ISO, and that are now required to submit affiliate information that may be unique to each of the organized markets in which they participate.

DATES: Comments on the proposed rule are due November 30, 2015.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- Electronic Filing through *http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- Mail/Hand Delivery: Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures Section of this document.

FOR FURTHER INFORMATION CONTACT:

David Pierce (Technical Information), Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–6454, *david.pierce@ferc.gov.*

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SUPPLEMENTARY INFORMATION:

1. In this Notice of Proposed Rulemaking (NOPR), the Federal Energy Regulatory Commission (Commission) proposes, pursuant to sections 222, 301(b), 307(a) and 309 of the Federal Power Act (FPA),[1] to amend its regulations to require each regional transmission organization (RTO) and independent system operator (ISO) to electronically deliver to the Commission, on an ongoing basis, data required from its market participants that would: (i) Identify the market participants by means of a common alpha-numeric identifier; (ii) list their ''Connected Entities,'' which includes entities that have certain ownership, employment, debt, or contractual relationships to the market participants, as specified in this NOPR; and (iii) describe in brief the nature of the relationship of each Connected Entity. The uniform identification of market participants, together with the listing of entities that comprise a network of common interests, would enhance the Commission's efforts to detect and deter market manipulation, a central objective of the Commission as identified in its FY 2014–2018 Strategic Plan.[2] Unless the RTOs and ISOs request continuation of existing affiliate disclosure requirements based on a particularized need, the Commission expects that this new disclosure obligation will supplant all existing affiliate disclosures requirements contained in the RTOs and ISOs tariffs.

2. In the Strategic Plan, the Commission cited monitoring and surveillance activities as a key function in meeting the objective of detecting and deterring market manipulation.[3] In recent years the Commission has greatly enhanced its capabilities in this regard, having developed automated screens of market activities and set up analytical procedures to detect potential market manipulation. Understanding the ownership, employment, debt, and contractual relationships of market participants would provide context for such data, and help determine whether there appears to be a legitimate business rationale for seemingly anomalous trading patterns, or whether there may be market manipulation, fraud, or abuse. This in turn will further the Commission's goal of detecting and deterring possible market manipulation. As we explain below, the existing affiliate disclosure requirements do not appropriately enable the Commission to identify and monitor these business relationships.

I. Background

3. Beginning in the late 1960s, the electric industry gradually transformed itself from one populated by mostly self-sufficient vertically integrated utilities compensated by cost-based rates, to

[1] 16 U.S.C. 824v, 825(b), 825f(a), 825(h).

[2] *Federal Energy Regulatory Commission Strategic Plan FY 2014–2018*, Objective 1.2 (Mar. 2014), *available at http://www.ferc.gov/about/strat-docs/FY-2014-FY-2018-strat-plan.pdf.*

[3] *Id.*

competitive markets characterized by open transmission access, partial disaggregation of generation and transmission, and market-based rates.[4] Competitive markets brought with them the potential for market manipulation, and Congress, acting in response to the abuses characterizing the Western Energy Crisis of 2000–2001, passed the Energy Policy Act of 2005 (EPAct 2005).[5] This legislation, among other things, gave the Commission authority to address market manipulation, including the ability to assess substantial civil fines and seek criminal penalties.[6]

4. In 2012, utilizing the authority granted by Congress under the FPA, the Commission expanded the tools available to staff to investigate market activity for potential manipulation. In Order No. 771,[7] the Commission required e-Tag Authors and Balancing Authorities to ensure Commission access to their e-Tags. And in Order No. 760,[8] the Commission required the RTOs and ISOs to electronically deliver to the Commission, on a regular basis, their existing data relating to physical and virtual offers and bids, market awards, resource outputs, marginal cost estimates, shift factors, financial transmission rights, internal bilateral contracts, uplift, and interchange pricing. These orders have provided needed tools for staff to monitor market activities.

5. The Commission has also been granted access by the Commodity Futures Trading Commission (CFTC) to its Large Trader Report, and the information contained therein has significantly added to the Commission's ability to carry out its enforcement responsibilities. In addition, on January 2, 2014, the Commission and the CFTC signed a new Memorandum of Understanding (MOU) to share information in connection with market surveillance and investigations into potential market manipulation, fraud, or abuse.[9] This MOU establishes procedures for sharing information of mutual interest related to market surveillance and investigative matters, while maintaining confidentiality and data protection.[10]

6. Nonetheless, despite increased access to trading data, the Commission cannot fully utilize this information in order to detect and deter market manipulation because of uncertainty regarding the identity of a given market participant, which may trade under different identifiers in different markets and venues. The Commission also lacks a clear window into the relationships between market participants and other entities, which can be complex. Without an understanding of which companies share ownership or debt interests, or who may function in key employment or other contractual roles (such as asset management), it can be difficult to ascertain which individuals or companies may benefit from a given transaction or, indeed, who may be jointly participating in a common course of conduct.

7. Currently, each RTO and ISO requires market participants to provide it with a list of the participant's affiliates.[11] However, requirements vary as to the nature of a reportable affiliate relationship and the frequency for updating the information. In addition, for purposes of ferreting out potential market manipulation, it is important to explore relationships that extend beyond corporate affiliation. Such additional relationships may involve contractual relationships such as tolling and asset management agreements, or debt structures that are convertible to ownership interests.

8. The existing affiliate disclosure rules do not provide the tools necessary for the Commission to sufficiently monitor these increasingly complex business relationships that impact our jurisdictional markets. Thus, the Commission believes it is desirable to use a new term, one that is free of any associations that have developed around the term ''affiliate,'' and one that is uniform across all of the RTOs and ISOs, to describe a relationship of interest in probing for potential market manipulation. We propose the term ''Connected Entity,'' and further propose to make the definition of that term uniform across the organized electric markets.

II. Discussion

Need for Connected Entity Information

9. The Commission employs a variety of screens to identify anomalous trading. When it detects such anomalies, it attempts to determine whether the behavior is legitimate market activity. It does this in large part by analyzing the circumstances surrounding the activity, including trading patterns and trader explanations. Some patterns that have emerged to date are: limited risk or riskless combinations of trades to enhance the value of a position or portfolio, such as wash trades; repetitive, uneconomic physical trading or flows to benefit a position; trading to affect the formation of an index price; withholding physical generation to benefit a financial and/or physical position; and using virtual bids to benefit a financial and/or physical position.

10. Rather than performing a trade or other action that results in a direct benefit to itself, a market participant might instead take actions that benefit another entity that bears a financial or legal relationship to it. Entities under common control, whether by ownership, beneficial interest, or contractual relationships, might also collude to set prices by taking positions that together result in a market manipulation. An understanding of these relationships is crucial in exploring the design and possible purposes behind a trading pattern, from which inferences of intent can be drawn and investigated. The existing affiliate disclosure requirements imposed through the RTOs and ISOs tariffs do not capture all of these business relationships.

11. As evidence of intent is critical in establishing whether there has been market manipulation,[12] the Commission can better monitor and protect the markets from wrongdoing if these relationships are fully known.

[4] *Enhancement of Electricity Market Surveillance and Analysis through Ongoing Electronic Delivery of Data from Regional Transmission Organizations and Independent System Operators,* Order No. 760, 77 FR 26674 (May 7, 2012), FERC Stats. & Regs. ¶ 31,330, at P 2 (2012).

[5] Pub. L. 109–58, 119 Stat. 594.

[6] *See* 16 U.S.C. 825o (criminal penalties); 16 U.S.C. 825o-1 (civil fines).

[7] *Availability of E-Tag Information to Commission Staff,* Order No. 771, 77 FR 76367 (Dec. 28, 2012), FERC Stats. & Regs. ¶ 31,339 (2012), *order on rehearing and clarification,* 142 FERC ¶ 61,181 (2013).

[8] Order No. 760, FERC Stats. & Regs. ¶ 31,330 at PP 8–19.

[9] *Memorandum of Understanding Between the Commodity Futures Trading Commission and the Federal Energy Regulatory Commission Regarding Information Sharing and Treatment of Proprietary Trading and Other Information* (Jan. 2, 2014), *available at http://www.ferc.gov/legal/mou/mou-ferc-cftc-info-sharing.pdf.*

[10] *Id.*

[11] *See, e.g.,* the following sections from the tariffs of the RTOs/ISOs: California Independent System Operator Corporation (CAISO): Section 39.9 and 4.10.1.5.1 (for congestion revenue rights); ISO New England Inc. (ISO–NE): Section I.3.5; Midcontinent Independent System Operator, Inc. (MISO): Attachment L.1.A.5 (credit application evaluation disclosure requirement), Attachment L.1.B.5 (ongoing credit evaluation disclosure requirement); New York Independent System Operator, Inc. (NYISO): Section 2.15; PJM: Section 216.2.1 (Interconnection customer affiliate disclosure requirement), Attachment Q 1.A.5 (credit application evaluation disclosure requirement), Attachment Q 1.B.5 (ongoing credit evaluation disclosure requirement).

[12] In Order No. 670, the Commission promulgated regulations 18 CFR 1c.1 and 1c.2, which prohibit manipulation in the natural gas and electric energy markets. In that order, the Commission stated that ''any violation of the Final Rule requires a showing of scienter.'' *Prohibition of Energy Market Manipulation,* Order No. 670, FERC Stats. & Regs. ¶ 31,202, at P 52 (2006).

Moreover, more complete information about these relationships will reduce the number of informal inquiries in response to false positive surveillance screen trips that may result from an incomplete picture of market participants' incentive structures.

Sources and Completeness of Connected Entity Information

12. Although there are a few third-party sources of public information that contain data about the affiliate relationships of entities trading in the electric energy markets, their information and manner of collection is insufficient for the Commission's market monitoring responsibilities. These sources include vendors such as Dun & Bradstreet, SNL Financial, and Ventyx. The primary service provided by these companies is tracking trading information, not compiling affiliate data, and their affiliate information is generally derived from public sources that do not cover all market participants. Further, whether such information is current or complete cannot be ascertained from the listings. Nor do such listings include entities that are connected by contractual relationships, rather than ownership. For all these reasons, an up-to-date, reliable, and complete listing of Connected Entities cannot be obtained from these third-party sources.

13. Obtaining Connected Entity data from RTOs and ISOs leaves unaddressed similar data from entities operating outside the organized electric markets. However, the Commission has estimated, using Electric Quarterly Report (EQR) data and existing affiliation information gleaned from market-based rate filings and other available sources, that approximately 90 percent of the reported wholesale sales of electricity subject to the Commission's jurisdiction are made either by market participants in one or more of the six RTOs and ISOs, or by companies related by ownership to such a market participant.[13] Therefore, access to Connected Entity data for all the market participants in each of the RTOs and ISOs would provide most of such data for all the transactions of interest in the Commission's electric manipulation screening. We invite comment on the desirability and feasibility of expanding our proposal to require the submission of Connected Entity information from non-RTO/ISO market participants, and on any difficulties commentators might perceive to exist in doing so.

14. The Commission recognizes that this proposal would place additional burden on market participants to implement the new reporting requirement and to submit the Connected Entity information to the RTOs and ISOs as proposed. However, we believe that the benefits of this proposal will outweigh the additional burden imposed on market participants. Moreover, as noted above, each of the six RTOs and ISOs already requires its market participants to submit data identifying certain affiliate relationships. It is possible that some, if not all, market participants will be able to use its existing processes for reporting affiliate information to the RTOs and ISOs to lessen the burden of this proposed reporting. For market participants that are active in more than one market, it is also possible that the burden of making a uniform Connected Entity filing in all those markets, once the initial implementation period is over, would be no greater than the current burden of making multiple affiliate filings, each of which is unique to its particular RTO or ISO. For participants in only one market, we recognize that there will likely be an increase in the administrative time needed for compliance. As for the RTOs and ISOs themselves, we believe they would incur the initial implementation costs required to make compliance filings to amend their tariffs to conform the filed information to the new Commission standards, and revising their collection processes to be consistent with those standards.

Authority To Acquire Connected Entity Information

15. The Commission has the authority to require the type of record keeping and submittals contemplated in this NOPR. As discussed below, the Commission's anti-manipulation authority under section 222 of the FPA, taken together with its investigative authority under section 307(a) of the FPA, its administrative powers under section 309 of the FPA, and its inspection and examination authority under section 301(b) of the FPA, provides ample basis for accessing Connected Entity data.

16. Section 222 of the FPA grants the Commission authority over the prohibition of market manipulation in connection with the purchase or sale of electric energy and transmission subject to the Commission's jurisdiction.[14] It also prohibits manipulation by ''any entity,'' including entities exempted from the Commission's rate-related jurisdiction. Section 301(b) of the FPA provides that the Commission shall at all times have access to, and the right to inspect and examine all accounts and records of public utilities,[15] which includes RTOs and ISOs. Section 309 of the FPA grants the Commission the authority to ''perform any and all acts, and to prescribe, issue, make, amend, and rescind such orders, rules and regulations as it may find necessary and appropriate to carry out the provisions of [the FPA].'' [16] And section 307(a) of the FPA provides that the Commission has authority to investigate any facts, conditions, practices, or matters it may deem necessary or proper to determine whether any person, electric utility, transmitting utility, or other entity may have violated or might violate the FPA or the Commission's regulations.[17] It also has investigatory authority to aid in the enforcement of the FPA or the Commission's regulations, or to obtain information about wholesale electric energy sales or the transmission of electric energy in interstate commerce.[18] This investigatory authority is not limited to a particular case or controversy, but allows an agency to ''investigate merely on suspicion that the law is being violated, or even just because it wants assurance that it is not.'' [19]

17. The Commission has already required the RTOs and ISOs to provide this type of information to the Commission. Most notably, in Order No. 760, the Commission required the RTOs and ISOs to electronically deliver to it, on an ongoing basis, data relating to physical and virtual offers and bids, market awards, resource outputs, marginal cost estimates, shift factors, financial transmission rights, internal bilateral contracts, uplift, and interchange pricing.[20] The information sought under this NOPR would typically be provided with less frequency than that which the RTOs and ISOs submit under Order No. 760. And the submittal of Connected Entity data would be transmitted through the same channels as the RTOs and ISOs already employ for Order No. 760 data.

[13] These RTOs and ISOs are: ISO–NE., NYISO, PJM, MISO, Southwest Power Pool, Inc., and CAISO. The Electric Reliability Council of Texas is non-jurisdictional and not included in the calculation. Staff determined this percentage by examining the Electric Quarterly Reports, which must be filed by all public utilities and by non-public utilities that trade above a *de minimus* amount. *See* 18 CFR 35.10(b) (2015).

[14] 16 U.S.C. 824v.

[15] 16 U.S.C. 825(b).

[16] 16 U.S.C. 825(h).

[17] 16 U.S.C. 825f(a).

[18] *Id.*

[19] *United States* v. *Morton Salt,* 338 U.S. 632, 642 (1950).

[20] *See* Order No. 760, FERC Stats. & Regs. ¶ 31,330 at Summary.

Additional Benefits and Confidentiality of Connected Entity Data

18. Establishing common identifiers and a uniform definition of Connected Entity, as is proposed in this NOPR, would have the additional benefit of assisting the RTO/ISO market monitors in their responsibilities to oversee the markets. Market monitors could assess cross-market transactions and compare their data with that produced by their neighboring market monitors, assured that the data was accurate and consistent.[21]

19. Understanding the relationship between connected entities can be an important aspect of the Commission's *ex post* analysis, which is a critical element of the market-based rate program. In *Lockyer,* the Ninth Circuit cited with approval the Commission's dual requirement of an *ex ante* finding of the absence of market power and sufficient post-approval reporting requirements, finding that the Commission does not rely on *ex ante* market forces alone in approving market-based rate tariffs. In particular, the court found that the ongoing oversight and timely reconsideration of market-based rate authorization under section 205 of the FPA enables the Commission to meet its statutory duty to ensure that all rates are just and reasonable.[22]

20. The Commission anticipates that submitting Connected Entity data would not place market participants under increased risk in relation to the disclosure of confidential or proprietary information. Some of the information to be gathered by the RTOs and ISOs from participants is already publicly available. This would include, in the case of publicly-traded companies, data found in their Securities and Exchange Commission (SEC) filings; in the case of contractual control over a jurisdictional asset, the data would generally be available through EQR reporting requirements. To the extent, however, that Connected Entity information is not already public, we intend that the collection of Connected Entity information be treated as non-public, to the same extent as is Order No. 760 data and any other investigatory material submitted under Part 1b of the Commission's regulations.[23]

21. Connected Entity information that is commercially sensitive, such as all or part of the contractual arrangements among entities, may satisfy the requirements of exemption 4 of the Freedom of Information Act (FOIA), which protects ''trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential.'' [24] The non-public information to be gathered under the proposed rule may also fall within the ambit of FOIA exemption 7, which protects certain ''records and information compiled for law enforcement purposes.'' [25]

Proposed Definition of a Connected Entity

22. Over the years, the term ''affiliate'' has been used frequently in tariffs and regulations, but not always with exactly the same definition. The term has also usually centered on relationships involving control by virtue of an ownership interest.[26] However, in carrying out the Commission's responsibility to oversee the markets for possible market manipulation, other relations may be equally worthy of examination. We thus propose an entirely new term, to be used in connection with investigatory data gathered for the purposes identified in this NOPR, that of ''Connected Entity.'' We propose to revise 18 CFR 35.28(g)(4) to define Connected Entity as follows:

23. A Connected Entity, which includes natural persons, is one which stands in one or more of the following relationships to a market participant:

a. An entity that directly or indirectly owns, controls, or holds with power to vote, 10 percent or more of the ownership instruments of the market participant, including but not limited to voting and non-voting stock and general and limited partnership shares; or an entity 10 percent or more of whose ownership instruments are owned, controlled, or held with power to vote, directly or indirectly, by a market participant; or an entity engaged in Commission-jurisdictional markets that is under common control with the market participant;

b. The chief executive officer, chief financial officer, chief compliance officer, and the traders of a market participant (or employees who function in those roles, regardless of their titles);

c. An entity that is the holder or issuer of a debt interest or structured transaction that gives it the right to share in the market participant's profitability, above a *de minimis* amount, or that is convertible to an ownership interest that, in connection with other ownership interests, gives the entity, directly or indirectly, 10 percent or more of the ownership instruments of the market participant; or an entity 10 percent or more of whose ownership instruments could, with the conversion of debt or structured products and in combination with other ownership interests, be owned or controlled, directly or indirectly, by a market participant; or

d. Entities that have entered into an agreement with the market participant that relates to the management of resources that participate in Commission-jurisdictional markets, or otherwise relates to operational or financial control of such resources, such as a tolling agreement,[27] an energy management agreement, an asset management agreement,[28] a fuel management agreement, an operating management agreement, an energy marketing agreement, or the like.[29]

We invite comment on the appropriate threshold for a *de minimis* share of a company's profits.

Legal Entity Identifiers

24. In the past, the Commission has considered methods to ensure that there is no confusion as to the identification of entities subject to its jurisdiction. For

[21] *See Southwest Power Pool, Inc.,* 137 FERC ¶ 61,046 at P 19 (2011) (''[T]he Commission clarifies that Market Monitoring Units, RTOs, and ISOs may communicate referral information with each other across regions . . . The Commission strongly encourages this type of communication, as long as reasonable precautions are taken to ensure that all referral information remains non-public.''); *see also New York Independent System Operator,* 136 FERC ¶ 61,116 (2011).

[22] *Cal. ex rel. Lockyer* v. *FERC,* 383 F.3d 1006 (9th Cir. 2004). *See also Cal.* v. *FERC,* 784 F.3d 1267 (9th Cir. 2015).

[23] 18 CFR part. 1b (2015).

[24] 5 U.S.C. 552(b)(4); *accord* 18 CFR 388.107(d) (2015).

[25] 5 U.S.C. 552(b)(7); *accord* 18 CFR 388.107(g) (2015).

[26] *See, e.g.,* 18 CFR 35.36(a)(9) (2015).

[27] Tolling agreements are common in the energy industry, and in essence function as leasing contracts or options on a generating plant wherein the ''toller'' has the right to the plant output at his or her discretion.

[28] Asset management agreements, in general, are contractual relationships where a party agrees to manage fuel supply and delivery arrangements, including transportation, for another party, and to consume the electricity produced or share in some fashion in the revenues from the sale of that electricity.

[29] As the Commission observed in Order No. 697, energy/asset managers provide a variety of services, including, but not limited to, operating generation plants (sometimes under tolling agreements), acting as billing agents, bundling transmission and power for customers, and scheduling transactions. *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities,* Order No. 697, FERC Stats. & Regs. ¶ 31,252, *clarified,* 121 FERC ¶ 61,260 (2007), *order on reh'g,* Order No. 697–A, FERC Stats. & Regs. ¶ 31,268, *clarified,* 124 FERC ¶ 61,055, *order on reh'g,* Order No. 697–B, FERC Stats. & Regs. ¶ 31,285 (2008), *order on reh'g,* Order No. 697–C, FERC Stats. & Regs. ¶ 31,291 (2009), *order on reh'g,* Order No. 697–D, FERC Stats. & Regs. ¶ 31,305 (2010), *aff'd sub nom. Mont. Consumer Counsel* v. *FERC,* 659 F.3d 910 (9th Cir. 2011), *cert. denied,* 133 S. Ct. 26 (2012). Regardless of the label attached to a particular contract, all such services would fall within the ambit of the reporting requirement proposed in this NOPR.

example, it formerly required usage of the DUNS identification system in EQR filing requirements. However, the Commission found that system to be an imprecise tool for the purpose, and removed the requirement in 2012.[30] At that same time, it considered various alternatives to the use of DUNS numbers, but found none that would be adequate.[31]

25. However, a relatively new system is rapidly becoming the globally accepted method to ensure accurate identification of legal entities. That system involves the establishment of Legal Entity Identifiers (LEIs), which are unique IDs assigned to single entities. In this country, adoption of the LEI system has been accelerated in response to the Dodd-Frank Act, which mandated initiatives to improve the quality of financial data available to regulators and others.[32] The Office of Financial Research (OFR), which was created under the Dodd-Frank Act, is leading the effort to establish uniform LEIs and several federal agencies involved in the regulation of financial transactions have, or are in the process of, mandating the use of LEIs for certain purposes. Among these are the CFTC and the SEC, which now require their use for certain swaps-related activities.[33]

26. LEIs are issued by Local Operating Units (LOUs) of the Global LEI System, and as of December 31, 2014, over 330,000 entities from 189 countries had obtained LEIs from 20 operational issuers endorsed by the LEI Regulatory Oversight Committee (ROC). The Global LEI Foundation was established in June of 2014 as a not-for-profit organization overseen by the ROC to act as its operational arm, and which maintains a centralized database of LEIs and corresponding reference data.

27. Obtaining an LEI is relatively inexpensive (approximately $250, with annual upkeep fees of approximately $150). Application is made by a legal entity, such as a corporation or partnership, and the LOU verifies authenticity of the entity by checking official governmental records. It then assigns to it an LEI, a 20-digit alpha-numeric code unique to that entity. A given alpha-numeric string is thus a permanent identifier, and is also exclusive; that is, no other entity is assigned that LEI, and the entity itself may not obtain another LEI.[34]

28. We believe that the establishment of a reliable, standard identification system will greatly benefit staff's ability to conduct investigations of trading patterns in the energy markets. It appears to us that the use of LEIs is the best method to achieve this goal. We therefore propose that the RTOs and ISOs require their market participants to obtain LEIs, and to report in their Connected Entity Data filing their own LEI and the LEI of each of their Connected Entities, if the Connected Entity has obtained one. However, the LEI system is still relatively new, and we invite comments on the feasibility of its use, on whether any other system besides LEIs would be a preferable method of achieving uniform identification, and on whether waivers might be appropriate in given situations.

III. Requirements for Collection of Connected Entity Data

29. As part of this rulemaking, we propose to require the submission from the RTOs and ISOs of Connected Entity information pertaining to each of its market participants.[35] To meet this obligation, we propose that each RTO and ISO make a compliance filing setting forth in its tariff the requirement that its market participants submit to it a list of their Connected Entities, in the format approved by the Commission. This list would include all of a market participant's Connected Entities, as defined above. The Connected Entities need not be engaged in activities in the same markets as the market participant for their inclusion to be required. The RTOs and ISOs would in turn transmit this information to the Commission in its native format.

30. As a condition of participating in any of the RTO/ISO markets, the market participants would have to have on file with that RTO or ISO their Connected Entity data, which must be updated within 15 days of a change in status of the data. In addition, it would be a condition of participation for each market participant to certify, on a yearly basis, that its Connected Entities filed data is comprehensive and accurate.

31. We propose that the RTOs and ISOs include in their tariffs the authority (although not the obligation) to audit market participants to determine if their submitted Connected Entity data is accurate, complete, and up to date. Commission staff may also from time to time conduct audits for this purpose.

32. As discussed above, we also propose that each market participant be required to acquire an LEI, and include its own LEI and the LEIs of each of its Connected Entities (if known) on its submitted Connected Entity list.

33. We further propose that the information requested be delivered to the RTOs and ISOs in a form and manner acceptable to the Commission. By way of illustration, we envision that the following formats for submission of Connected Entity data would be mandated:

- A table that contains rows with columns identifying the market participant by LEI, legal name, RTO or ISO, and RTO/ISO assigned identifier, if any. If there is more than one RTO/ISO identifier, there would be a separate row for each, with the preceding columns remaining the same. If the market participant participates in more than one RTO or ISO, there would be additional rows setting forth all the categories mentioned for each RTO/ISO. Thus, a row would appear as follows (columns separated by a star):

LEI of market participant (MP)* Legal Name of MP * RTO/ISO * RTO/ISO Identifier of MP

- A table or tables that disclose the market participant's relationships with each of its Connected Entities. Each row would address a single Connected Entity and the type of relationship with the market participant (ownership, employee, debt, contract). The LEI and the legal name of the market participant would be placed in the first two columns, respectively, and the LEI and the legal name of the Connected Entity in the third and fourth columns, respectively, and the type of relationship in the fifth column. For ownership, the date the direct, indirect or beneficial ownership reached 10 percent would be stated, as well as the total ownership as of the date of the report. For employees, which might be set forth in a separate table, the full legal name of the employee would be stated and the person's title and date of hire. For debt, the date the debt was incurred would be stated, and the debt holder and indebted party identified. For contracts, the start and end date of the

[30] *Electricity Market Transparency Provisions of Section 220 of the Federal Power Act,* Order No. 768, FERC Stats. & Regs. ¶ 31,336, at P 171 (2012); *orders on reh'g and clarification,* Order No. 768–A, 143 FERC ¶ 61,054 (2013) and *order on reh'g,* Order No. 768–B, 150 FERC ¶ 61,075 (2015).

[31] Order No. 768, FERC Stats. & Regs. ¶ 31,336 at P 171.

[32] Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. 5301, at 5343 (a).

[33] *See, e.g.,* 17 CFR 45.4, 45.6 (2015) (CFTC); *Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information,* 80 FR 14564, 17 CFR part 242 (2015) (SEC) (published in the **Federal Register** as a final rule on March 19, 2015, with an effective date of May 18, 2015).

[34] *See* the LEI ROC Web site for further information on the LEI identifier system. The Legal Entity Identifier Regulatory Oversight Committee—LEI ROC, *http://www.leiroc.org.*

[35] For this purpose, the term ''market participant'' includes all entities that participate in any of the various markets of the RTO and ISO in question, whether as a seller or a buyer.

contract would be stated as well as a brief descriptor of the contract type (tolling, asset management, etc.). If there are multiple relationships with the same Connected Entity, separate rows would be used for each. Thus, a row would appear as follows:

LEI of MP * Legal Name of MP * LEI of Connected Entity * Legal Name of Connected Entity * relationship type (ownership, employee, debt, contract).

This table would also provide, whether by footnote or other reference means, a more detailed description of the particular relationship given. For a contract, for instance, the major provisions of the contract would be listed, such as effective date, term, renewal provisions, and matters pertinent to the type of contract, such as heat rate curve for a tolling agreement, the MW or MWh curves for a power purchase agreement, together with identification of the generator or plant involved, the nature of any output sharing, and the like.

34. The repetition of cells necessitated by the foregoing format, while it will make the document physically longer than might otherwise be the case, is needed so that the appropriate pairing of entities can be presented in a machine-readable manner. An appendix is included with this NOPR to provide some examples of how these submittals might be structured. We invite comments on formatting suggestions, as well as on the substantive matters set forth in this Notice of Proposed Rulemaking.

35. Finally, we propose that in their compliance filings, RTOs and ISOs list all affiliate information disclosure requirements. As we anticipate that the Connected Entity submissions will provide the RTOs and ISOs with as much and more information as they currently receive from the existing affiliate disclosures, we propose eliminating all existing affiliate disclosure requirements. However, if there is some particularized need that would not be met by the Connected Entity submissions, the RTOs and ISOs may request in their compliance filings to retain any such disclosure requirements, in which case they would need to include justifications for such retention. Insofar as possible, duplicative information submission should be avoided. We also solicit comments as to whether it would be feasible and more efficient for the RTOs and ISOs to utilize the Connected Entities information that would be submitted through this proposal for the same purposes that they currently use the information provided through their existing affiliate disclosure requirements. In particular, we solicit comments regarding whether replacing existing affiliate disclosure requirements in the RTO and ISO tariffs with the Connected Entity submission obligations will adversely affect implementation of other provisions of the RTO and ISO tariffs. If so, then how? Such comments may also address whether any changes should be made to the data table formats to allow RTOs and ISOs to utilize Connected Entities information for other purposes.

IV. Information Collection Statement

36. The collections of information contained in this proposed rule are being submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d). We solicit comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. Respondents subject to the filing requirements of this proposed rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

37. The proposed rule does not require entities other than RTOs/ISOs to report information to the Commission. The RTOs/ISOs will gather the required data from the market participants directly. However, we include burden estimates not only for RTOs/ISOs but also for market participants and Connected Entities.[36]

38. We recognize that there will be an initial implementation burden associated with providing the Commission the requested data. This includes submitting a compliance filing to the Commission. We estimate 30 hours for each RTO/ISO to prepare the filing at a cost of $3,896 per filer.

39. Each RTO and ISO already submits electronic market data to the Commission in accordance with Order No. 760. We propose that these same channels be used to handle the relatively small increase in data submission proposed under this rulemaking. RTO/ISO staff will need to add additional tables to their databases and make provisions for those tables to be included in regular transmissions. We estimate eight hours for each RTO/ISO to make these additions at an average cost of $624 per filer.[37]

40. Each RTO/ISO will also need to modify its current process for accepting information from market participants. We estimate 320 person-hours (costs weighted as previously described) for each RTO/ISO to make these changes at an average cost of $24,960 each.

41. Incremental, ongoing maintenance costs for RTOs/ISOs are assumed to be minimal. We estimate maintenance to require 40 person-hours per year at an average annual cost per RTO/ISO of $3,120.

42. This NOPR also proposes that RTOs/ISOs have the option to audit market participants to verify the accuracy and completeness of their submissions. If each of the six RTOs/ISOs chooses to audit an average of 10 market participants per year, we estimate this to require 40 hours per audit for a total annual auditing burden per RTO/ISO of 400 hours and annual cost of $20,444.

43. Market participants, through their affiliate disclosures, already submit information about some of their Connected Entities to the RTOs/ISOs. This proposed rule enlarges the information to be collected and standardizes its format. It is estimated that for multi-market participants, the additional cost of initial compliance and the ongoing costs of maintaining that information will be somewhat offset by the savings of standardization across the several RTOs/ISOs. This NOPR proposes that market participants obtain and maintain an LEI, which we understand currently costs about $250 to obtain and $150 per year thereafter to maintain. While there will be an initial implementation burden associated with providing the RTOs/ISOs the requested data, these costs may vary widely from participant to participant largely in proportion to the size of the entity. Since the data related to the Connected Entity is information readily available to the market participant, the costs of

[36] The estimated hourly cost (salary plus benefits) provided in this section are based on the figures for May 2014 posted by the Bureau of Labor Statistics for the Utilities sector (*available at http://www.bls.gov/oes/current/naics2_22.htm#13-0000*). The hourly estimates for salary plus benefits are: Legal (code 23–0000), $129.87, computer and mathematical (code 15–0000), $58.25, information systems manager (code 11–3021), $94.55, IT security analyst (code 15–1122), $63.55, auditing and accounting (code 13–2011), $51.11, information and record clerk (Referred to as administrative work in the body) (code 43–4199), $37.50.

[37] The following weightings were applied to estimate the average hourly cost (salary plus benefits) of $78.00; legal staff, 1/6, information systems manager, 1/6, computer and mathematical, 1/3, information security analyst, 1/3.

gathering the data is expected to be largely administrative in nature with some minimal review by legal staff.[38] We estimate that the average market participant will initially require four hours to register for an LEI and to collect, standardize, and provide the requested data to the RTO/ISO. We estimate the four hours of burden to cost $168 annually per market participant. (The cost of obtaining and maintaining the LEI is separate.)

44. The proposed rule requires market participants to update and submit Connected Entity data after material changes and annually. We estimate that this ongoing burden will require less time than the initial collection but may occur more than once per year. We estimate three hours for each market participant to maintain their LEI registration and to collect, update, standardize, and transmit the requested data to the RTO/ISO. This burden would be largely administrative (95 percent) with some minimal review by legal staff (5 percent). We estimate the total burden to be $126 per participant.

45. Market participants or Connected Entities may, from time to time, seek to confirm the accuracy of information concerning them that has been submitted to an RTO/ISO by other market participants. We conservatively estimate that one-fourth of market participants and Connected Entities will seek to confirm such information. Such confirmations would be largely administrative (95 percent) with some minimal review by legal staff (5 percent). We estimate that these confirmations will take approximately one hour for an average burden of $42 per market participant or Connected Entity seeking confirmation. Connected entities may also respond to requests for information from market participants. We estimate that each Connected Entity will spend one hour responding to these requests. Such responses would be largely administrative (95 percent) with some minimal review by legal staff (5 percent). We estimate that this activity will take approximately one hour for an average burden of $42 per Connected Entity.

46. The following table summarizes the estimated burden and cost increases rounded to the nearest dollar in FERC–921, due to the proposed rule:

FERC-921 modifications in NOPR in RM15-023 on Connected Entity Reporting

Respondent Burden Category	Number of Respondents {1}	Annual Number of Responses per Respondent {2}	Total Number of Responses {1}{2}={3}	Burden hours per Response {4}	Hourly Cost per Response {5}	Cost Per Response {4}{5}={6}	Total Burden Hours Per Respondent {2}{4}={7}	Total Cost Per Respondent {2}{6}={8}	Total Annual Burden Hours {1}{7}={9}	Total Annual Cost {1}{9}={10}
RTO/ISO compliance filing (tariff change)	6	1	6	30	$ 129.87	$ 3,896	30	$ 3,896	180	$ 23,377
RTOs/ISOs initial implementation cost for receipt, storage, and transmission of connected entity data	6	1	6	328	$ 78.00	$ 25,584	328	$ 25,584	1,968	$ 153,504
RTOs/ISOs ongoing maintenance and transmission of connected entity data to FERC	6	4	24	40	$ 78.00	$ 3,120	160	$ 12,480	960	$ 74,880
RTOs/ISOs, periodic auditing of connected entity information (1% of participants per year)	6	10	60	40	$ 51.11	$ 2,044	400	$ 20,444	2,400	$ 122,664
Sub total for RTO/ISOs							**918**	**$ 62,404**	**5,508**	**$ 374,425**
Market participant LEI registration, initial development, and reporting connected entities to RTO/ISO	6000	1	6000	4	$ 42.12	$ 168	4	$ 418	24,000	$ 2,510,880
Market Participant optional confirmation of data about them	6000	0.25	1500	1	$ 42.12	$ 42	0.25	$ 11	1,500	$ 63,180
Market participant LEI maintenance, connected entity list maintenance, periodic updates, and reporting	6000	1.5	9000	3	$ 42.12	$ 126	5	$ 340	27,000	$ 2,037,240
Sub total for Market Participants							**9**	**$ 769**	**52,500**	**$ 4,611,300**
Connected entity optional confirmation of and response to requests for data about them	9000	1.25	11250	1	$ 42.12	$ 42	1.25	$ 53	11,250	$ 473,850
Sub total for Connected entities							**1.25**	**$ 53**	**11,250**	**$ 473,850**
Changes, due in RM15-023								Totals	69,258	$ 5,459,575

47. The table above contains estimates of the number of market participants and the number of Connected Entities per market participant. We estimate that there are 6,000 market participants in the RTO/ISO markets, based on an

[38] Using the average hourly cost of salary plus benefits provided above, the following weightings were applied to estimate the average hourly cost of $42.12: 95 percent information and record clerk, 5 percent legal.

analysis of data submitted by the RTOs/ISOs in accordance with Order No. 760. We estimate the number of Connected Entities to be an additional 9,000 companies, based on an analysis of data from Ventyx, a third party vendor which supplies ownership information about market participants.

Information Collection Costs: We estimate the initial and ongoing cost of compliance with the NOPR's proposed requirements for each type of respondent as follows:

RTO/ISO

○ Initial Burden: 358 hours, $29,480.

○ Ongoing Burden (starting year one): 560 hours, $32,924.

Market Participant

○ Initial Burden: 4 hours, $168 plus $250 to acquire LEI.

○ Ongoing Burden (starting year two): 5 hours, $201, plus $150 to maintain LEI.

Connected Entity

○ Ongoing Burden (starting year one): 1.25 hours, $53.

Title: FERC–921,[39] Ongoing Electronic Delivery of RTO/ISO Data.

Action: Proposed revisions to existing information collection.

OMB Control No.: 1902–0257.

Respondents for this Rulemaking: RTOs and ISOs; market participants; Connected Entities.

Frequency of Information: Initial implementation, compliance filing, and periodic updates (at least annually).

48. *Necessity of Information:* As wholesale electricity markets continue to develop and evolve, new opportunities arise for anti-competitive or manipulative behavior. The Commission's market monitoring and surveillance capabilities and associated data requirements must keep pace with market developments and evolve along with the markets. The data discussed in this NOPR will allow the Commission to more effectively identify and address such behavior; to identify ineffective market rules; to better inform Commission policies and regulations; and thus to help ensure just and reasonable rates.

49. *Internal Review:* The Commission has made a preliminary determination that the proposed revisions are necessary to keep pace with ever-changing possibilities for anti-competitive or manipulative behavior and to better inform Commission policies and regulations, and thus to ensure that rates are just and reasonable. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimate associated with the information requirements.

50. Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, Office of the Executive Director, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, email: *DataClearance@ferc.gov,* phone: (202) 502–8663, fax: (202) 273–0873].

51. Comments concerning the information collections proposed in this NOPR, and the associated burden estimates, should be sent to the Commission in this docket and may also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at the following email address: *oira_submission@omb.eop.gov.* Please reference FERC–921 and OMB Control No. 1902–0257 in your submission.

V. Environmental Analysis

52. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[40] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[41] The actions proposed here fall within a categorical exclusion in the Commission's regulations, *i.e.,* they involve information gathering, analysis, and dissemination.[42] Therefore, environmental analysis is unnecessary and has not been performed.

VI. Regulatory Flexibility Act

53. The Regulatory Flexibility Act of 1980 (RFA)[43] generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a rule and that minimize any significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA) Office of Size Standards is responsible for the definition of a small business.[44] These standards are provided on the SBA Web site.[45] We reviewed the SBA's current size standards with respect to the three classes of entities covered in the proposed rule: RTOs/ISOs, market participants, and their Connected Entities.

54. The SBA classifies an entity as an electric utility if it is primarily engaged in the transmission, generation and/or distribution of electric energy for sale. Under this definition, RTOs/ISOs are considered electric utilities. The size criterion for a small electric utility is having 500 or fewer employees.[46] Since every RTO and ISO has more than 500 employees, none are small entities.[47]

55. Market participants and their Connected Entities are likely to be in several market sectors and therefore subject to a variety of SBA size standards. We have identified a broad cross-section of the most likely SBA market sectors for participants and their Connected Entities. Industries in these subsectors include utilities, oil and gas production, mining, finance, and leasing. Among these sectors, there are various criteria and thresholds for determining whether a business is small, but the numbers of employees do not exceed 1,000, and the revenues do not exceed $38.5 million.[48]

56. While many market participants and Connected Entities are some of the largest businesses in the United States (for example, large electric utilities and commercial banks), other market participants, such as individual power plants or small trading firms, would qualify as small under the SBA standards. It is difficult to estimate the size of all the entities affected by this proposed rule since many of smaller entities may be privately held with little public information available. However,

[39] OATT compliance filings (like the one-time compliance filing here) are normally included under FERC–516 (OMB Control No. 1902–0096). However, the reporting requirements (including the compliance filing) contained in this proposed rule in Docket No. RM15–23–000 will be included in FERC–921.

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

[41] 18 CFR 380.4 (2015).

[42] *See* 18 CFR 380.4(a)(5).

[43] 5 U.S.C. 601–12.

[44] 13 CFR 121.101 (2015).

[45] U. S. Small Business Administration, *Table of Small Business Size Standards Matched to North American Industry Classification System Codes* (effective July 14, 2014), *available at https://www.sba.gov/sites/default/files/Size_Standards_Table.pdf.*

[46] 13 CFR 121.101 (Sector 22, Utilities). Of note, the SBA recently revised its size standard for electric utilities (effective January 22, 2014) from a standard based on megawatt hours to one based on the number of employees, including affiliates.

[47] For five of the RTOs/ISOs, full-time employee estimates are based on human resources reports published on the Web site of each RTO/ISO. For the sixth RTO/ISO, the full-time employee estimate was obtained from the Chief Financial Officer.

[48] 13 CFR 121.101.

if every market participant and Connected Entity identified above were assumed to be small under SBA standards, a substantial number of small businesses, as many as 15,000, would be impacted by this proposed rule.

57. The economic impact of this proposed rule is directly related to the complexity of the organization, that is, the more entities to which a company is related, the more information that must be reported. The data from Ventyx indicates that complexity of this type correlates with the organization's size: larger entities will have more reportable relationships than smaller ones. Therefore, it is reasonable to believe that the cost of complying for small entities will be significantly less than the cost for large ones. The analysis of connectedness based on Ventyx data suggests that, on average, each market participant has 1.5 Connected Entities. However, this average likely overstates the number of connections for small entities since the analysis also found the median number of connections to be zero. This is also intuitively correct since concentrations of connections are typical only for large organizations.[49] This analysis indicates that if an entity is truly small and its connections are related to its size, the number of Connected Entities that it would need to report is likely to be zero or one.

58. Using these assumptions, we estimate that small businesses will be required to report few, if any, Connected Entity relationships. We estimate the initial burden for small companies to be $418 [50] with an annual maintenance burden of $213.[51] According to SBA guidance, the determination of significance of impact ''should be seen as relative to the size of the business, the size of the competitor's business, and the impact the regulation has on larger competitors.'' [52] Based on the above analysis, the reporting requirements proposed in this NOPR should not have a significant economic impact on a substantial number of small entities.

VII. Comment Procedures

59. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due November 30, 2015. Comments must refer to Docket No. RM15–23–000, include the commenter's name, the organization they represent, if applicable, and their address in their comments.

60. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

61. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

62. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VIII. Document Availability

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

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

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

List of Subjects in 18 CFR Part 35

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

By direction of the Commission. Commissioner LaFleur is concurring with a separate statement attached.

Dated: September 17, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

In consideration of the foregoing, the Commission proposes to amend 18 CFR part 35 to read as follows:

PART 35—FILING OF RATE SCHEDULES AND TARIFFS

■ 1. The authority citation for part 35 continues to read as follows:

Authority: 16 U.S.C. 791a-825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

■ 2. Amend § 35.28 by revising paragraph (g)(4) to read as follows:

§ 35.28 Non-discriminatory open access transmission tariff.

* * * * *

(g) * * *

(4) Electronic delivery of data. Each Commission-approved regional transmission organization and independent system operator must electronically deliver to the Commission, on an ongoing basis and in a form and manner acceptable to the Commission, data related to the markets that the regional transmission organization or independent system operator administers. The submittal shall include information concerning each market participant's Connected Entities, together with the Legal Entity Identifiers of the market participants and their Connected Entities (if known), as submitted to the regional transmission organization or independent system operator by the market participants. Connected Entity is defined as follows:

(i) An entity that directly or indirectly owns, controls, or holds with power to vote, 10 percent or more of the ownership instruments of the market participant, including but not limited to voting and non-voting stock and general and limited partnership shares; or an entity 10 percent or more of whose ownership instruments are owned, controlled, or held with power to vote,

[49] In our analysis, the top 100 most connected market participants, almost all of which are not considered small, account for 20 percent of all relationships.

[50] This includes the initial LEI registration ($250) plus four hours of largely administrative work (95 percent) with some minimal review by legal staff (5 percent). ($168, at $42.12 per hour (salary plus benefits)).

[51] This includes annual LEI maintenance fee ($150) plus 1.5 hours of largely administrative work (95 percent) with some minimal review by legal staff (5 percent) ($63 at $42.12 per hour (salary plus benefits)).

[52] U.S. Small Business Administration, *A Guide for Government Agencies How to Comply with the Regulatory Flexibility Act, at* 18 (May 2012), *available at https://www.sba.gov/sites/default/files/advocacy/rfaguide_0512_0.pdf.*

directly or indirectly, by a market participant; or an entity engaged in Commission-jurisdictional markets that is under common control with the market participant;

(ii) The chief executive officer, chief financial officer, chief compliance officer, and the traders of a market participant (or employees who function in those roles, regardless of their titles);

(iii) An entity that is the holder or issuer of a debt interest or structured transaction that gives it the right to share in the market participant's profitability, above a *de minimus* amount, or that is convertible to an ownership interest that, in connection with other ownership interests, gives the entity, directly or indirectly, 10 percent or more of the ownership instruments of the market participant; or an entity 10 percent of more of whose ownership instruments could, with the conversion of debt or structured products and in combination with other ownership interests, be owned or controlled, directly or indirectly, by a market participant; or

(iv) Entities that have entered into an agreement with the market participant that relates to the management of resources that participate in Commission-jurisdictional markets, or otherwise relates to operational or financial control of such resources, such as a tolling agreement, an energy management agreement, an asset management agreement, a fuel management agreement, an operating management agreement, an energy marketing agreement, or the like.

* * * * *

Appendix: Table Structures for Connected Entity Reporting

The proposed rule requires RTOs and ISOs to submit tables identifying market participants by their Legal Entity Identifier (LEI), any RTO/ISO specific identifiers, and designated relationships between those market participants and their connected entities. The body of the proposed rule describes the relationships to be reported; this appendix suggests the structure of the tables that would be suitable for compliance.

Companies Table

The first table will indicate in which markets each entity and Connected Entity (or entities) participates as well as any and all market identifiers used by those entities in each market. The columns of the table will contain at least the standard company name, LEIs, and market identifiers for all Connected Entities in a given submission. Each row will associate an LEI with a company name, market, and market identifier. In some cases, entities will trade using different market identifiers in the same market, in which case the entity will add a row for every market and for each unique market identifier used by that company. In the case where multiple entities are using the same market identifier, this can be indicated in a similar manner. If a Connected Entity does not participate in jurisdictional markets, then no market identifier is available and is not required.

Here is a sample table indicating the cases described above

Standard company name	LEI	Market	Market identifier
ACME Energy	001	MISO	328502
ACME Energy	001	PJM	00034253
ACME Energy	001	PJM	00098345
ACME Renewables	002	PJM	00034253
Smith Company	123	NYISO	3362000012
Johnson Inc	999	None	None

- *Standard Company Name:* The full name of the company which conforms in spelling and punctuation to all previous filings done by or on behalf of the same company.
- *Legal Entity Identifier (LEI):* The unique alpha-numeric identifier conforming to ISO 17442:2012 assigned to the legal entity.
- *Market:* Standard code for jurisdictional markets: PJM, NYISO, MISO, SPP, CAISO, ISONE, NON–RTO, None (*i.e.,* does not participate in any electric markets).
- *Market Identifier:* Market identifiers are the alpha-numeric codes used by markets to associate a market participant with their bids, offers, and settlements.

Connected Entities

Connected Entities are those entities which are related to the reporting entity by (a) ownership or control, (b) key employees, (c) debt holders or issuers, or (d) contractual relationships. Since employee identification is significantly different from that of non-person entities, a subtable for employee information is suggested and described below.

Employees

The key employee positions to be included will be set forth in the RTOs/ISOs tariff, in conformity with the final adopted Commission regulation. The employee table will indicate the designated employees who are employed by each organization, their reportable roles, and the period of time they have held those positions. Persons employed by multiple entities will be indicated with multiple rows for different companies.

Reportable roles that are jointly filled (*e.g.* Co-CEO) should be indicated as such (same company, same job but different employees). Employees who are no longer in reportable roles shall have at least one filing where the end date is not null. Employees changing reportable roles for a given company will appear twice in at least one filing (made in a timely manner): one row will indicate an end date for the employee/role and another row will contain a start date for a different reportable role. Individual employees filling multiple reportable roles will be indicated with multiple rows, one for each role.

Standard company name	LEI	First name	Middle	Last	Role	Start date	End date
ACME Energy	001	Jane	Doe	Smith	Trader	2010/01/01	
ACME Energy	001	Jim	William	Jones	CEO	2009/01/03	2015/01/01
ACME Energy	001	Jim	William	Jones	Chairman	2015/01/01	
ACME Renewables.	002	Aaron	Jerome	Case	CEO	2012/05/01	
Smith Company	123	Xavier	Horatio	Martin	CEO	2007/01/01	
Johnson Inc	999	Jane	Doe	Smith	CEO	2010/06/01	

The column definitions are self-explanatory.

Relationships

The relationships table is intended to provide a map (or graph) to the remaining three types of Connected Entities of the market participant, which include both its corporate family as well as outside entities

connected by debt or contractual relationships. The relationships to be included are described in the body of the Notice of Proposed Rulemaking.

Relationship

Relationships should be classified based on the broad categories defined above. Relationships may fall into the following general categories (omitting employees, category (b), who are reported in a separate subtable):

- owns (a)
- controls (a)
- has voting power (a)
- is under common control with (a)
- other ownership or control relationship with (a)
- owns debt of (c)
- owns convertible debt of (c)
- has a structured transaction with (c)
- other debt relationship with (c)
- has a management agreement with (d)
- has an operating agreement with (d)
- has a marketing agreement with (d)
- has a tolling agreement with (d)
- has a fuel management agreement with (d)
- other kind of agreement with (d).

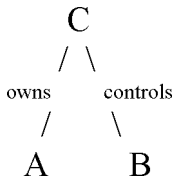
Contractual agreements between two parties regarding a third party should be entered as a multilateral relationship as described below.

Relationship Description

Each table will include a field for the filing entity to summarize any pertinent relationship details which may not be captured in the standardized fields.

Simple Relationship Structures

A relatively straightforward corporate family of three companies that all participate in MISO and PJM might be as follows:



If C owns A and C controls B, the entity and relationships tables would be reported as follows:

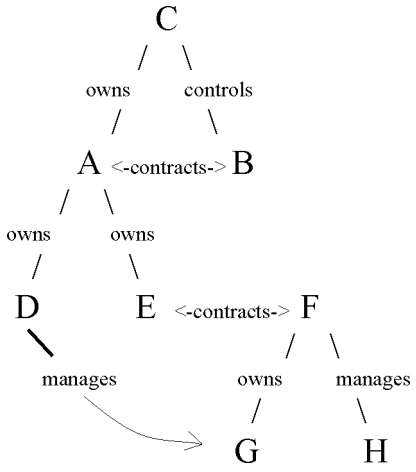
Standard company name	LEI	Market	Market identifier
A	001	MISO	0001
B	002	MISO	0002
C	003	MISO	0003
A	001	PJM	ABC
B	002	PJM	BCD
C	003	PJM	DCE

LEI 1	LEI 2	Relationship	Start date	End date	Relationship description
003	001	OWNS (a)	2015/12/04		Wholly owned subsidiary.
003	002	CONTROLS (a)	2015/02/01		Exercises discretion over key market functions.

In the event several Connected Entities are market participants in the same RTO or ISO, a combined filing of the structural relationships, but not the debt and contracts, could be made, disclosing on one form all of the connected entities. In such case, each Connected Entity must consent to the combined filing and verify the accuracy of the information.

More Complex Structures

Relationships within the electric industry can be very complex. The illustrated method of reporting pairwise relationships based on LEIs extends to relationships of arbitrary complexity.



Standard company name	LEI
A	001
B	002
C	003
D	004
E	005
F	006
G	007
H	008

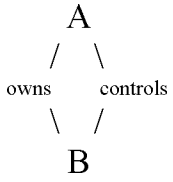
LEI 1	LEI 2	Relationship	Start date	End date	Relationship description
003	001	OWNS (a)	2015/12/04		Wholly owned subsidiary.
003	002	CONTROLS (a)	2015/02/01		Exercises discretion over key market functions.
001	002	HAS A TOLLING AGREEMENT WITH (c).	2010/01/01	2020/01/01	1 will provide raw materials to 2 under an agreement that 2 will return electricity at a specified heat rate.
001	004	OWNS (a)	2011/05/02		Wholly-owned subsidiary.
001	005	OWNS (a)	2000/01/05		Wholly-owned subsidiary.

LEI 1	LEI 2	Relationship	Start date	End date	Relationship description
005	006	HAS A FUEL MANAGEMENT AGREEMENT WITH (d).	2005/01/01		Procures gas and transport on behalf of 2.
006	007	OWNS (a)	2005/01/01		Wholly-owned subsidiary
006	008	HAS AN ASSET MANAGEMENT AGREEMENT WITH (d).	2001/10/01		Manages fleet operations.
004	007	HAS AN ENERGY MARKETING AGREEMENT WITH (d).	2010/01/01	2015/01/01	Fee-based marketing agreement of the energy produced by 2's assets.

The entity in the LEI 1 column is understood to be the entity on the left hand side of the relationship and the entity in the LEI 2 column is understood to be the entity on the right hand side.

Multiple Relationships

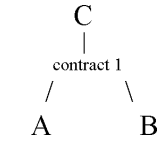
In some cases there may be multiple relationships between two market participants. Multiple relationships can be filed as follows:



LEI 1	LEI 2	Relationship	Other fields
001	002	OWNS	
001	002	CONTROLS	

Multilateral Relationships

Multilateral relationships have three or more parties. Such relationships are reportable using a relationship identification field, as long as all pairwise relationships that are party to the relationship are reported and each multilateral relationship is assigned a unique relationship identifier. The relationship identifier will be assigned by the reporting entity, each reportable relationship will have a unique relationship identifier, the identifier will be a numeric sequence (*i.e.* no names, no punctuation, etc.), and when possible, relationship identifiers should be consistent between filings.



LEI 1	LEI 2	Relationship	Contract ID	Other fields
003	002	CONTRACT	1	
003	001	CONTRACT	1	
002	001	CONTRACT	1	

These fields can be used to report any number of participants, contracts, or relationships, regardless of complexity.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Collection of Connected Entity Data from Regional Transmission Organizations and Independent System Operators

(Issued September 17, 2015)

LaFLEUR, Commissioner, *concurring:* Today's order proposes to amend the Commission's regulations by establishing a newly defined term, ''Connected Entity,'' and to require the collection of information regarding Connected Entities, to allow the Commission to better monitor complex business relationships that could be utilized to engage in manipulative conduct in our jurisdictional markets. I support this proposal because it is important that the Commission, in accordance with our statutory mandate, have the tools to protect customers from manipulative behavior, and the collection of this information would assist the Commission with that effort.

However, the Commission should always consider carefully whether the benefits offered by new compliance obligations outweigh the burdens that will be faced by market participants. I believe that the requirements in the Noticed of Proposed Rulemaking would create a significant new reporting regime for all market participants, as well as the RTOs and ISOs. I therefore encourage market participants to submit comments on today's proposed rulemaking that address the benefits of this proposed regulation, as well as the incremental costs or burdens that would be created by this new reporting requirement. I will carefully consider these issues as I decide whether to support the final rule.

Accordingly, I respectfully concur.

Cheryl A. LaFleur,

Commissioner.

[FR Doc. 2015–24281 Filed 9–28–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM15–24–000]

Settlement Intervals and Shortage Pricing in Markets Operated by Regional Transmission Organizations and Independent System Operators

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to revise its regulations to require that each regional transmission organization (RTO) and independent system operator (ISO) settle energy

transactions in its real-time markets at the same time interval it dispatches energy and settle operating reserves transactions in its real-time markets at the same time interval it prices operating reserves. The Commission also proposes to revise its regulations to require that each RTO/ISO trigger shortage pricing for any dispatch interval during which a shortage of energy or operating reserves occurs. Adopting these reforms would align prices with resource dispatch instructions and operating needs, providing appropriate incentives for resource performance.

DATES: Comments are due November 30, 2015.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- Electronic Filing through *http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- Mail/Hand Delivery: Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures Section of this document.

FOR FURTHER INFORMATION CONTACT:
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Joshua Kirstein (Legal Information), Office of General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8519, *joshua.kirstein@ferc.gov.*

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1. In this Notice of Proposed Rulemaking (NOPR), the Federal Energy Regulatory Commission (Commission) is proposing to address two existing practices that may fail to compensate resources at prices that reflect the value of the service resources provide to the system, thereby distorting price signals. In certain instances, this creates a disincentive for resources to respond to dispatch signals. The Commission proposes to require that each regional transmission organization (RTO) and independent system operator (ISO) align settlement and dispatch intervals by settling energy transactions in its real-time markets at the same time interval it dispatches energy and settling operating reserves transactions in its real-time markets at the same time interval it prices operating reserves.[1] The Commission is also proposing to require that each RTO/ISO trigger shortage pricing[2] for any dispatch interval during which a shortage of energy or operating reserves[3] occurs.

2. The Commission requires that rates for jurisdictional electricity service be just and reasonable and not unduly discriminatory or preferential. This requirement extends to market- and cost-based rates. The Commission has taken action to correct rates that become unjust and unreasonable, and has done so not only when the rates do not reflect costs but also when the underlying features, rate design, or market design fail to align.[4] It is paramount that resources have appropriate incentives to

[1] In this NOPR, the Commission sometimes uses the term ''dispatch'' as shorthand when describing how RTOs/ISOs acquire and price energy and operating reserves. We clarify that our proposal with respect to operating reserves refers to the intervals at which they are acquired and priced. For instance, the Commission does not use the term ''dispatch'' to refer to the four-to-five second signal sent to resources on Automatic Generation Control.

[2] Shortage pricing is triggered under two general scenarios: when the system operator does not have enough resources available to meet energy and operating reserve requirements, and when an RTO or ISO establishes a price above which it will choose to be deficient of operating reserves rather than procure resources that may be available to meet the minimum requirement, but cost more than the established price. Federal Energy Regulatory Commission, *Price Formation in Organized Wholesale Electricity Markets: Staff Analysis of Shortage Pricing,* Docket No. AD14–14–000, at 9 (Oct. 2014), *available at http://www.ferc.gov/legal/staff-reports/2014/AD14–14-pricing-rto-iso-markets.pdf* (Shortage Pricing Paper).

[3] The Commission's regulations define an operating reserve shortage as ''a period when the amount of available supply falls short of demand plus the operating reserve requirement.'' 18 CFR 35.28(b)(6).

[4] *See, e.g., Frequency Regulation Compensation in the Organized Wholesale Power Markets,* Order No. 755, FERC Stats. & Regs. ¶ 31,324, at P 3 (2011), *order on reh'g,* Order No. 755–A, 138 FERC ¶ 61,123 (2012) (''requir[ing] RTOs and ISOs to compensate frequency regulation resources based on the actual service provided, including a capacity payment that includes the marginal unit's opportunity costs and a payment for performance that reflects the quantity of frequency regulation service provided by a resource when the resource is accurately following the dispatch signal'').

respond to an energy or operating reserve shortage and that each resource is compensated based on a price that reflects the value of the service it provides.

3. It has become apparent that there are instances in which certain current RTO/ISO practices may fail to reflect the value of providing a given service, thereby distorting price signals and failing to provide appropriate signals for resources to respond to the actual operating needs of the market. One such practice that the Commission has identified and proposes to reform occurs when RTOs/ISOs dispatch resources every five minutes but perform settlements based on an hourly integrated price.[5] This misalignment between dispatch and settlement intervals may distort the price signals sent to resources and fail to reflect the actual value of resources responding to operating needs because compensation will be based on average output and average prices across an hour rather than output and prices during the periods of greatest need within a particular hour.

4. The Commission also preliminarily finds that a second problem occurs if there is a delay between the time when a system experiences a shortage of energy and operating reserves and the time when prices reflect the shortage condition. This can be particularly problematic when, for example, a shortage is required to last a minimum time period before shortage pricing is triggered. In this instance, short-term prices may fail to reflect potential reliability costs, as well as the value of both internal and external market resources responding to a dispatch signal.

5. To address the problems associated with differing dispatch intervals and settlement intervals, as well as with shortage pricing triggers, the Commission proposes to require that each RTO/ISO (1) settle energy transactions in its real-time markets at the same time interval it dispatches energy and settle operating reserves transactions in its real-time markets at the same time interval it prices operating reserves, and (2) trigger shortage pricing for any dispatch interval during which a shortage of energy or operating reserves occurs.[6] The settlement interval and shortage pricing reforms proposed herein will help ensure that resources have price signals that provide incentives to conform their output to dispatch instructions, and that prices reflect operating needs at each dispatch interval.

6. In Docket No. AD14–14–000, the Commission initiated a proceeding to evaluate issues regarding price formation in the energy and ancillary services markets operated by RTOs/ISOs (price formation proceeding). The Commission stated that the goals of price formation are to (1) maximize market surplus for consumers and suppliers; (2) provide correct incentives for market participants to follow commitment and dispatch instructions, make efficient investments in facilities and equipment, and maintain reliability; (3) provide transparency so that market participants understand how prices reflect the actual marginal cost of serving load and the operational constraints of reliably operating the system; and (4) ensure that all suppliers have an opportunity to recover their costs.[7]

7. The action the Commission takes herein is the first step to advancing the goals of the Commission's price formation proceeding. The Commission expects to undertake further action addressing various price formation topics, including offer price caps, mitigation, uplift transparency, and uplift drivers. The proposed reforms in this NOPR advance at least two of the Commission's goals with respect to price formation. Specifically, the proposed reforms will help provide correct incentives for market participants to follow commitment and dispatch instructions, to make efficient investments in facilities and equipment, and to maintain reliability. The proposed reforms will also help provide transparency and certainty so that market participants understand how prices reflect the actual marginal cost of serving load and the operational constraints of reliably operating the system. Price signals that reflect operating needs and system conditions would enhance incentives for resources to respond to dispatch instructions.[8] In the long-term, the Commission expects that appropriate price signals would produce prices that consistently reflect operating needs and system conditions which, in turn, would help to encourage efficient investments in facilities and equipment, enabling reliable service.[9]

8. Requiring settlement intervals to match dispatch intervals would make resource compensation more transparent by, among other things, increasing the proportion of resource payment provided through payments of energy and operating reserves rather than uplift.[10] Apportioning a greater proportion of a resource's revenue through payments for energy and operating reserves, rather than through uplift payments, increases transparency to the market by reflecting the costs of meeting system needs in settlement prices that are factored into a market price. In contrast, uplift payments bundle together a multitude of costs that are not factored into a market price. This increased transparency, in turn, better informs decisions to build or maintain resources and enhances consumers' ability to hedge. The benefits summarized above and discussed in detail below would ultimately help to ensure just and reasonable rates.

9. Implementing shortage pricing for any dispatch interval during which a shortage of energy or operating reserves occurs would provide an incentive for resources to ensure that they are available to respond to high prices, which should help alleviate shortages

[5] Hourly integrated prices are equal to the average price of all the individual dispatch intervals across an hour.

[6] Operating reserves refer to certain ancillary services procured in the wholesale market that have different definitions in each RTO/ISO. Operating reserves typically include:

(a) Regulating Reserve, used to account for very short-term deviations between supply and demand (*e.g.* 4 to 6 seconds); (b) Spinning, or Synchronous Reserve, which is capacity held in reserve and synchronized to the grid and able to respond within a relatively short amount of time (*e.g.,* within 10 minutes), to be used in case of a contingency, such as the loss of a generator; and, (c) Non-Spinning Reserve, capacity that is not synchronized to the grid and which can take longer to respond (*e.g.,* within 10–30 minutes) in case of a contingency.

Federal Energy Regulatory Commission, *Price Formation in Organized Wholesale Electricity Markets: Staff Analysis of Shortage Pricing,* Docket No. AD14–14–000, at 3 n.7 (Oct. 2014), *available at http://www.ferc.gov/legal/staff-reports/2014/AD14-14-pricing-rto-iso-markets.pdf* (Shortage Pricing Paper).

[7] *See* Notice Inviting Post-Technical Workshop Comments, Docket No. AD14–14–000, at 2 (Jan. 16, 2015); Notice, Docket No. AD14–14–000 (June 19, 2014).

[8] The Commission notes that the reforms proposed herein would further augment existing mechanisms in each RTO/ISO market that provide incentives to follow dispatch instructions, such as penalties for excessive or deficient energy and the allocation of commitment and dispatch costs to deviations from energy dispatch targets. *See, e.g.,* MISO, FERC Electric Tariff, §§ 40.3.3(a) (36.0.0) (allocating Revenue Sufficiency Guarantee costs to, *inter alia,* resources providing excessive or deficient energy), 40.3.4 (33.0.0) (charges for excessive or deficient energy deployment).

[9] *See, e.g.,* Scarcity and Shortage Pricing, Offer Mitigation and Offer Caps Workshop, Docket No. AD14–14–000, Tr. 42:13–19 (Oct. 28, 2014).

[10] RTOs and ISOs provide make-whole payments, or uplift payments, to resources whose commitment and dispatch resulted in a shortfall between the resource's offer and the revenue earned through market clearing prices. *See, e.g.,* Federal Energy Regulatory Commission, *Price Formation in Organized Wholesale Electricity Markets: Staff Analysis of Uplift in RTO and ISO Markets,* Docket No. AD14–14–000, at 2 (Aug. 2014), *available at http://www.ferc.gov/legal/staff-reports/2014/08-13-14-uplift.pdf* (Uplift Paper).

and avoid shortage pricing during subsequent dispatch intervals. This reform would also ensure that resources operating during a shortage are compensated for the value of the service that they provide, regardless of whether the shortage is short-lived.

10. The Commission seeks comment on these proposed reforms sixty (60) days after publication of this NOPR in the **Federal Register**.

I. Background

11. The Commission has addressed price formation in organized markets on prior occasions. In Order No. 719, the Commission addressed shortage pricing [11] and required RTOs/ISOs to develop and implement shortage pricing rules that would apply during operating reserve shortages to ''ensure that the market price for energy reflects the value of energy during an operating reserve shortage.'' [12] The Commission required such rules out of concern that inappropriate price signals during an operating reserve shortage would provide an insufficient incentive for market participants to take appropriate actions.

12. On June 19, 2014, the Commission initiated the price formation proceeding. In initiating that proceeding, the Commission stated that there may be opportunities for the RTOs/ISOs to improve the energy and ancillary service price formation process. The Commission explained that locational marginal prices (LMPs) used in energy and ancillary services markets ideally ''would reflect the true marginal cost of production, taking into account all physical system constraints, and these prices would fully compensate all resources for the variable cost of providing service.'' [13] The Commission directed staff to conduct outreach and to convene technical workshops on the following four general issues: (1) Use of uplift payments; (2) offer price mitigation and offer price caps; (3) scarcity and shortage pricing; and (4) operator actions that affect prices.[14] During the fall of 2014, staff convened technical workshops and issued reports on these topics. In one of those reports, issued in October 2014, staff analyzed shortage pricing issues.[15]

13. In its January 2015 Notice Inviting Comments, the Commission invited comments on specific questions that arose from the price formation technical workshops.[16] In response, among other price formation issues, commenters addressed settlement intervals and shortage pricing, as detailed below.

II. Discussion

14. In the following section, for each of the two proposals, the Commission first summarizes the views of commenters in the price formation proceeding on settlement intervals and triggers for shortage pricing. The Commission then explains the need for the reform set forth in the proposal and describes the proposed reform in detail. To remedy the potential unjust and unreasonable rates that are based on the use of hourly integrated prices for settlement as well as on restrictions on shortage pricing discussed more fully herein, the Commission proposes, pursuant to section 206 of the Federal Power Act (FPA),[17] to require that each RTO/ISO (1) settle energy transactions in its real-time markets at the same time interval it dispatches energy and settle operating reserves transactions in its real-time markets at the same time interval it prices operating reserves, and (2) trigger shortage pricing for any dispatch interval during which a shortage of energy or operating reserves occurs.[18]

A. Settlement Intervals

15. Some RTOs/ISOs do not settle resources at the same intervals at which they dispatch resources in their real-time energy markets.[19] Rather, they settle resources based on hourly average prices, as shown below.

TABLE 1—RTO/ISO DISPATCH AND SETTLEMENT INTERVALS

	Real-time dispatch [20] (minutes)	Real-time settlement [21]
CAISO	5	5 minute.
ISO–NE ..	5	hourly average.
MISO	5	hourly average.
NYISO	5	5 minute.
PJM	5	hourly average.
SPP	5	5 minute.

1. Comments on Settlement Intervals

16. In the price formation proceeding, commenters discussed using shorter settlement intervals (*i.e.,* sub-hourly) and provided implementation and transition recommendations.

17. Commenters in support of sub-hourly settlements describe general benefits, as well as specific related improvements, from the adoption of sub-hourly settlements. Commenters from a broad range of the industry state that sub-hourly settlement intervals would provide significant benefits to the market by compensating resources fully for their flexibility and ability to follow dispatch instructions. According to these commenters, sub-hourly settlement intervals would permit resources to be rewarded for their ability to perform by earning greater revenues when prices fluctuate, which in the long run should induce more flexibility from new and existing resources and eventually lower dispatch costs and improve reliability.[22]

[11] *Wholesale Competition in Regions with Organized Electric Markets,* Order No. 719, FERC Stats. & Regs. ¶ 31,281, at PP 192–194 (2008), *order on reh'g,* Order No. 719–A, FERC Stats. & Regs. ¶ 31,292, *order on reh'g,* Order No. 719–B, 129 FERC ¶ 61,252 (2009).

[12] *Id.* P 194.

[13] Notice, Docket No. AD14–14–000, at 2 (June 19, 2014).

[14] *Id.* at 1, 3–4.

[15] *See* Shortage Pricing Paper.

[16] Notice Inviting Post-Technical Workshop Comments, Docket No. AD14–14–000 (Jan. 16, 2015). A list of commenters and the abbreviated names the Commission will use for them in this document appears in Appendix A.

[17] 16 U.S.C. 824e.

[18] The Commission is not at this time proposing to change the price paid by any RTO/ISO when shortage pricing is triggered.

[19] California Independent System Operator Corporation (CAISO), New York Independent System Operator, Inc. (NYISO), and Southwest Power Pool, Inc. (SPP) currently use a settlement interval that matches the dispatch interval. ISO New England Inc. (ISO–NE) and Midcontinent Independent System Operator, Inc. (MISO) are considering moving to five-minute settlements. PJM Interconnection, L.L.C. (PJM) has stated that PJM settles hourly and does not currently anticipate proposing to move to a different interval. *See* Scarcity and Shortage Pricing, Offer Mitigation and Offer Caps Workshop, Docket No. AD14–14–000, Tr. 52:21–53:1, 53:11–54:11, 54:22–55:10 (Oct. 28, 2014).

[20] *See* CAISO, eTariff, § 34.5 (17.0.0); ISO–NE., Transmission, Markets and Services Tariff, Market Rule 1, § III.2.3 (15.0.0); MISO, FERC Electric Tariff, § 40.2 (34.0.0); NYISO Markets and Services Tariff, § 4.4.2.1 (17.0.0); PJM OATT, Attachment K, Appendix, § 2.3 (2.0.0); SPP, OATT, Sixth Revised Volume No. 1, Attachment AE, § 6.2.2 (1.0.0).

[21] *See* CAISO, eTariff, § 11.5 (2.0.0), Appendix A, Settlement Interval (2.0.0); ISO–NE., Transmission, Markets and Services Tariff, Market Rule 1, § III.2.2(b) (15.0.0); MISO, FERC Electric Tariff, §§ 40.3 (32.0.0), 40.3.1 (32.0.0), 40.3.3 (36.0.0); NYISO, NYISO Tariffs, NYISO Markets and Services Tariff, §§ 4.4.2.1, 4.4.2.8 (17.0.0); PJM, Intra-PJM Tariffs, OATT, Attachment K, Appendix, §§ 2.5(e), (4.0.0), 3.2.1(e), (f) (28.0.0); SPP, OATT, Sixth Revised Volume No. 1, Attachment AE, §§ 8.6, 8.6.1 (2.1.0). The above-tariff citations refer to internal transactions. CAISO settles its intertie interchange transactions on fifteen-minute intervals. *See* CAISO, CAISO eTariff, HASP Block Intertie Schedule (0.0.0).

[22] *See, e.g.,* ANGA Comments, Docket No. AD14–14–000, at 3–4 (Mar. 6, 2015); Brookfield Comments, Docket No. AD14–14–000, at 8 (Mar. 6, 2015); Calpine Comments, Docket No. AD14–14–000, at 11–12 (Mar. 6, 2015); Entergy Nuclear Power Marketing Comments, Docket No. AD14–14–000, at 12 (Mar. 6, 2015); Exelon Comments, Docket No. AD14–14–000, at 19 (Mar. 6, 2015); GDF SUEZ Comments, Docket No. AD14–14–000, at 9–10 (Mar. 6, 2015); ISO–NE Comments, Docket No. AD14–14–000, at 20–22 (Mar. 6, 2015); MISO Comments, Docket No. AD14–14–000, at 16–17 (Mar. 6, 2015); New York Transmission Owners Comments, Docket

18. Commenters detail other potential benefits to sub-hourly settlement in the real-time market. PJM Utilities Coalition notes that sub-hourly settlement would address price distortions and uneconomic incentives to produce power caused by the use of hourly settlements.[23] PJM Utilities Coalition also states that sub-hourly settlement would solve the problem of dispatching resources just before or after the clock hour and the resulting implications of averaging output during the clock hour.[24] Wartsila states that the transition to sub-hourly settlements provides valuable price signals to flexible capacity and notes that internal combustion engines in SPP have seen a three-fold increase in their capacity factor since SPP adopted sub-hourly real-time settlements, thus increasing compensation to those resources and lowering overall system costs.[25]

19. PSEG Companies state that the inefficiencies of hourly settlements in PJM's real-time market are evident when the LMP becomes relatively high during the first few dispatch intervals.[26] PSEG Companies add that internal resources will ramp up to respond to the price signal and other resources and external suppliers will also schedule interchange into PJM to capture the higher prices; when demand falls off in the subsequent intervals, however, resources will not reduce output in response to the lower prices (because they know they will be compensated at the hourly average prices), which has led to operational problems.[27] EPSA supports sub-hourly real-time market settlement in order to better align dispatch with price.[28]

20. At the Scarcity and Shortage Pricing, Offer Mitigation and Offer Caps Workshop held on October 28, 2014, representatives from RTOs/ISOs discussed the effect of settlement intervals on appropriately compensating resources based on actual performance, on providing an incentive for resources to follow dispatch signals, and on reducing uplift.[29] At the Uplift Workshop held on September 8, 2014, the representative from Potomac Economics asserted that settling transactions on an hourly price, when dispatch instructions change every five or fifteen minutes, has caused flexible units in MISO to operate inflexibly in order to obtain a higher hourly price. According to this panelist, this disparity between settlement and dispatch intervals has prompted development of a class of uplift payments meant to hold inflexible generators harmless for following dispatch instructions and to ensure generators' flexibility. This panelist suggested that aligning settlement and dispatch intervals could eliminate such uplift payments.[30]

21. In its comments, CAISO indicates that it uses both fifteen-minute and five-minute settlement intervals in its real-time market and that these intervals provide a dynamic price signal to reflect grid conditions. According to CAISO, fifteen-minute intertie schedules and prices provide an incentive for variable energy resources to offer economic bids into the CAISO market, which can reduce variable energy resources' exposure to the difference between day-ahead and five-minute real-time prices.[31]

22. Commenters in the price formation proceeding express caution about implementation and costs resulting from RTOs'/ISOs' adoption of sub-hourly settlements—costs both to RTOs/ISOs and market participants. SPP states that its sub-hourly settlement rules cost more to implement due to increased data storage and validation requirements.[32] ISO–NE and GDF SUEZ state that the one impediment to implementing sub-hourly real-time settlements in the ISO–NE market is the need for five-minute revenue quality metering; ISO–NE states that, according to stakeholders, it could take several years to implement and cost up to $20 million to install the necessary equipment, software, and data systems.[33] PJM similarly states that moving to sub-hourly settlements will require it to make software and hardware changes to multiple applications and systems at a cost that is anecdotally comparable to a moderately complex market integration proposal.[34]

23. Several commenters stress that, while sub-hourly settlements can bring benefits and efficiencies to the real-time market, transitioning to that settlement structure would require significant expenditures. Some RTOs/ISOs assert that there will be significant costs to make the necessary upgrades to metering equipment, software, hardware, and data systems, and that some of these upgrades could take several years to implement. As a result of these expenditures, some commenters note that action to align the settlement and dispatch interval may not occur absent a Commission directive.[35] Other commenters observe that load-serving entities might incur significant costs associated with telemetry and related equipment upgrades; increases in RTO/ISO administrative charges; and additional costs to meter, transfer, and store the data and to process settlements in accordance with RTO/ISO timelines.[36]

24. Due to the anticipated costs, several commenters request that the Commission require cost-benefit analyses before adoption of sub-hourly settlements, or that the Commission leave the decision to adopt sub-hourly settlements to RTO/ISO stakeholders.[37] Some commenters assert that RTO/ISO stakeholders must vet the implementation of sub-hourly settlements to ensure that appropriate market power mitigation measures are in place.[38] Exelon states that, while sub-hourly settlements can improve market efficiency, the timing and prioritization

No. AD14–14–000, at 9 (Mar. 6, 2015); NYISO Comments, Docket No. AD14–14–000, at 12–13 (Mar. 6, 2015); PJM Comments, Docket No. AD14–14–000, at 11–12 (Mar. 6, 2015); Potomac Economics Comments, Docket No. AD14–14–000, at 10 (Mar. 6, 2015); PSEG Companies Comments, Docket No. AD14–14–000, at 19–22 (Mar. 6, 2015); Wisconsin Electric Comments, Docket No. AD14–14–000, at 8 (Mar. 6, 2015); *see also* Xcel Comments at 4–5 (supporting sub-hourly settlement intervals but requesting that the Commission not require reporting sub-hourly settlement data in the Electric Quarterly Reports and if need be, direct the RTOs/ISOs to report that data).

[23] PJM Utilities Coalition Comments, Docket No. AD14–14–000, at 10–11 (Mar. 6, 2015).

[24] *Id.*

[25] Wartsila Comments, Docket No. AD14–14–000, at 1–2 (Mar. 6, 2015).

[26] PSEG Companies Comments, Docket No. AD14–14–000, at 20 (Mar. 6, 2015).

[27] *Id.* at 20–21.

[28] EPSA Comments, Docket No. AD14–14–000, Attach. A, Post-Technical Conference Questions for Comment: EPSA Responses, at 28 (Mar. 6, 2015).

[29] *See, e.g.,* Scarcity and Shortage Pricing, Offer Mitigation and Offer Caps Workshop, Docket No. AD14–14–000, Tr. 52:16–55:10 (Oct. 28, 2014).

[30] Uplift Workshop, Docket No. AD14–14–000, Tr. 45:4–23 (Sept. 8, 2014).

[31] CAISO Comments, Docket No. AD14–14–000, at 18–19 (Mar. 6, 2015).

[32] SPP Comments, Docket No. AD14–14–000, at 4 (Mar. 6, 2015).

[33] ISO–NE Comments, Docket No. AD14–14–000, at 23 (Mar. 6, 2015); GDF SUEZ Comments, Docket No. AD14–14–000, at 10 (Mar. 6, 2015).

[34] PJM Comments, Docket No. AD14–14–000, at 12 (Mar. 6, 2015).

[35] ISO–NE Comments, Docket No. AD14–14–000, at 23 (Mar. 6, 2015); PJM Comments, Docket No. AD14–14–000, at 12 (Mar. 6, 2015). GDF SUEZ echoes ISO–NE's statements about cost and timing to implement sub-hourly settlements in the ISO–NE market and requests that the Commission provide direction to overcome the lack of incentives facing meter readers to implement sub-hourly settlements. GDF SUEZ Comments, Docket No. AD14–14–000, at 10 (Mar. 6, 2015).

[36] PJM Utilities Coalition Comments, Docket No. AD14–14–000, at 11 (Mar. 6, 2015); TAPS Comments, Docket No. AD14–14–000, at 16–17 (Mar. 6, 2015).

[37] Direct Energy Comments, Docket No. AD14–14–000, at 8 (Mar. 6, 2015); OMS Comments, Docket No. AD14–14–000, at 4 (Mar. 2, 2015); PJM Utilities Coalition Comments, Docket No. AD14–14–000, at 11 (Mar. 6, 2015); TAPS Comments, Docket No. AD14–14–000, at 16 (Mar. 6, 2015).

[38] APPA and NRECA Comments, Docket No. AD14–14–000, at 38 (Mar. 6, 2015); *see also* PJM Utilities Coalition Comments, Docket No. AD14–14–000, at 11 (Mar. 6, 2015).

of adopting sub-hourly settlements should be evaluated when RTOs/ISOs develop work plans to analyze the causes of uplift.[39]

25. Commenters also provide the Commission with recommendations for implementation of sub-hourly settlement. PJM Utilities Coalition recommends that any move to sub-hourly settlements include at least one year notice of intent to allow for system readiness.[40] PJM Utilities Coalition suggests that RTOs/ISOs could first transition to fifteen-minute settlement intervals before moving to five-minute settlement intervals with stakeholders vetting the costs and benefits.[41] ANGA recommends that, to the extent possible, five-minute settlement intervals be made consistent across different RTOs/ISOs. According to ANGA, inconsistencies across RTO/ISO boundaries can increase market and interchange volatility and result in large price fluctuations that are not based upon market fundamentals and which could create an incentive for gaming between markets as market participants arbitrage distorted prices.[42]

2. Need for Reform of Settlement Intervals

26. The Commission preliminarily finds that the use of hourly integrated prices for real-time settlement may have the unintended effect of distorting price signals and, in certain instances, contributing to markets failing to respond appropriately to operating needs. Specifically, hourly integrated prices for real-time settlement may (1) not accurately reflect the value a resource provides to the system; (2) discourage resources from following dispatch instructions; and (3) cause increased uplift payments. Therefore, the Commission preliminarily finds that the use of hourly integrated prices for real-time settlement may result in rates that are unjust and unreasonable.

27. First, because hourly prices are an integrated average of sub-hourly dispatch interval prices over an hour, the hourly price does not reflect system needs and costs within a dispatch interval; thus, resources are not necessarily paid a price that reflects the value of the service they provide to the system during the dispatch interval. For example, a resource providing energy during high-priced dispatch intervals, that is then paid based on a lower hourly integrated price, is not compensated based on a price that reflects actual market conditions or the price at which it was economic to dispatch this resource.

28. Real-time settlement using prices that are averaged over an hour cannot capture the varying value of the service resources provide over the hour, which decreases the efficiency of RTO/ISO operations because RTOs/ISOs require resources to move within the hour to address changing operating conditions. Such settlement prices become the prices made transparent to the market and, when they are averaged to the point of not reflecting operating conditions and resultant supply and demand conditions, they may be unjust and unreasonable. In Order No. 719, the Commission found that then-existing rules on shortage pricing ''that do not allow for prices to rise sufficiently during an operating reserve shortage to allow supply to meet demand'' may be unjust and unreasonable.[43] Similarly, the Commission preliminarily finds here that market rules that settle real-time transactions at hourly integrated prices may be unjust and unreasonable because they result in settlement prices that do not reflect actual operating conditions or the value of energy resulting from supply and demand.

29. Second, the use of hourly integrated prices for settling transactions can provide an unwarranted incentive for resources to disregard dispatch instructions. For example, PSEG Companies and PJM Utilities Coalition explain that high prices in the beginning of an hour can cause internal resources to ramp up and external transactions to schedule into PJM to capture higher prices; when demand and prices fall in subsequent intervals, however, hourly integrated prices create an incentive to continue producing or importing energy, regardless of dispatch instructions to reduce output.[44]

30. As PSEG Companies illustrate by example, the use of hourly integrated prices for real-time settlement can create incentives that do not necessarily align with the system operator's dispatch instructions.[45] Consider a resource with $100/MWh cost, and an LMP that is $500/MWh for the first fifteen minutes of the hour (three intervals). Even if the LMP dropped to $0/MWh for the remainder of the hour, the hourly integrated price ($125/MWh) would still exceed the resource's cost of production. This settlement structure would provide an incentive to generate as much energy as possible, not only during the first fifteen minutes of very high prices, but during the entire hour, irrespective of the five-minute price thereafter. Studies have shown that, due to the incentives created by hourly integrated settlements, resources can earn significant additional payments by not following dispatch signals.[46]

31. Failing to follow dispatch instructions can impair the ability of the system operator to manage dispatch costs. Specifically, failing to follow dispatch instructions can result in power imbalances that the system operator must address by taking action, such as increasing use of regulating reserves or committing additional resources, which may result in increased uplift. These actions result in additional costs that are ultimately passed on to consumers. Because hourly integrated prices can impair the ability of the system operator to manage dispatch and the costs of dispatch, the Commission finds preliminarily that hourly integrated prices for real-time settlement can lead to unjust and unreasonable rates.[47]

32. Third, as MISO notes, dispatching resources within the hour based on their offers, but then compensating those resources based on a lower hourly integrated price can result in uplift costs because additional uplift payments are then necessary to enhance incentives for resources to follow dispatch instructions.[48] A study by Potomac

[39] Exelon Comments, Docket No. AD14–14–000, at 19 (Mar. 6, 2015).

[40] PJM Utilities Coalition Comments, Docket No. AD14–14–000, at 11 (Mar. 6, 2015).

[41] *Id.*

[42] ANGA Comments, Docket No. AD14–14–000, at 4 (Mar. 6, 2015).

[43] Order No. 719, FERC Stats. & Regs. ¶ 31,281 at P 192.

[44] PSEG Companies Comments, Docket No. AD14–14–000, at 20 (Mar. 6, 2015); PJM Utilities Coalition Comments, Docket No. AD14–14–000, at 10–11 (Mar. 6, 2015).

[45] PSEG Companies Comments, Docket No. AD14–14–000, at 20 & n.25 (Mar. 6, 2015).

[46] An analysis of actual LMP data showed how hourly settlement price signals can allow a resource to earn nearly twice the profit compared to if the resource is paid based on five-minute LMP price signals. *See* E. Ela *et al.,* National Renewable Energy Laboratory and Argonne National Laboratory, *Evolution of Wholesale Electricity Market Design with Increasing Levels of Renewable Generation,* at 62–66 (Sept. 2014), *available at http://www.nrel.gov/docs/fy14osti/61765.pdf.*

[47] In Order No. 764, the Commission similarly found that impairing the ability of the system operator to manage costs resulted in unjust and unreasonable rates; it determined a need for reform of scheduling practices and data reporting practices where ''existing practices . . . impair[ed] the ability of public utility transmission providers and their customers to manage costs associated with [Variable Energy Resource] integration effectively.'' *Integration of Variable Energy Resources,* Order No. 764, FERC Stats. & Regs. ¶ 31,331, at PP 21–22, *order on reh'g and clarification,* Order No. 764–A, 141 FERC ¶ 61,232 (2012), *order on clarification and reh'g,* Order No. 764–B, 144 FERC ¶ 61,222 (2013). It adopted reforms to those practices to ''remedy undue discrimination and ensure just and reasonable rates through more efficient utilization of transmission and generation resources.'' *Id.* P 22.

[48] MISO Comments, Docket No. AD14–14–000, at 17–18 (Mar. 6, 2015).

Economics shows that changes to sub-hourly settlement intervals can reduce uplift payments. Specifically, Potomac Economics estimates that, if MISO had implemented a real-time settlement interval that was equal to its dispatch interval (*i.e.,* five minutes) in 2014, it would have reduced uplift payments by approximately $6.6 million.[49]

33. For these reasons, the Commission proposes to require that each RTO/ISO settle energy transactions in its real-time markets at the same time interval it dispatches energy and settle operating reserves transactions in its real-time markets at the same time interval it prices operating reserves. The Commission also seeks comment on two additional aspects of the proposal, relating to intertie transactions and to operating reserves.

3. Commission Proposal

34. To remedy any potentially unjust and unreasonable rates caused by the use of hourly integrated prices for real-time settlement, the Commission proposes, pursuant to section 206 of the FPA,[50] to require that each RTO/ISO settle energy transactions in its real-time markets at the same time interval it dispatches energy and settle operating reserves transactions in its real-time markets at the same time interval it prices operating reserves.[51]

35. As explained further below, in the short term, the settlement interval reform proposed in this NOPR should improve incentives for resources to respond quickly to dispatch instructions, which should in turn lead to operators taking fewer out-of-market actions to ensure that supply meets demand. In the long-term, these reforms should provide more accurate price signals, which should provide, together with other market price signals, the appropriate incentives to build or maintain resources that can respond to an energy or operating reserve deficiency. In addition, where settlement and dispatch intervals are aligned, resources dispatched economically during high-priced periods would receive those high prices rather than an hourly average of the dispatch interval LMPs, thereby reducing the need to make uplift payments. Apportioning a greater proportion of a resource's revenue through payments for energy and operating reserves, rather than through uplift payments, would increase transparency to the market by reflecting the costs of resource dispatch in settlement prices that are factored into a market price. In contrast, uplift payments bundle together a multitude of costs that are not factored into a market price. This increased transparency, in turn, better informs decisions to build or maintain resources and enhances consumers' ability to hedge.

36. By improving resources' response to dispatch instructions, the settlement interval reform proposed herein would result in a more efficient use of generation resources to the benefit of all consumers. As described above, Wartsila explains that internal combustion engines have seen a three-fold increase in their capacity factor since SPP adopted sub-hourly real-time settlements, thus increasing compensation to those resources and lowering overall system costs.[52]

37. As the Commission has concluded in the past, more efficient use of generation resources can ensure that jurisdictional services are provided at rates, terms, and conditions of service that are just and reasonable and not unduly discriminatory or preferential, in accord with the Commission's statutory obligations.[53]

38. While the Commission expects that the settlement interval reform proposed in this NOPR should provide significant benefits, the Commission understands that modifying settlement systems can be a complex and costly endeavor.[54] Accordingly, the Commission proposes to allow twelve months from the date of the compliance filings for implementation of reforms to settlement systems to become effective. Further, the Commission seeks comment on the potential cost and time necessary to implement the reforms proposed in this NOPR. Specifically, the Commission seeks comment on required software changes, increased data storage and validation, and required changes to market participant metering or other equipment that would result from implementing the reforms proposed in this NOPR. The Commission also seeks comment on whether the changes necessary to implement the settlement interval reform proposed in this NOPR would be necessary in whole or in part to implement other reforms planned by the RTOs/ISOs or sought by stakeholders. The Commission further requests comments concerning whether such a long implementation period is necessary and how that implementation period may be shortened.

39. The Commission also seeks comment on two aspects of the substance of the settlement interval proposal relating to external transactions and to operating reserves. First, the logic underlying our reforms to settlement of internal transactions appears to apply equally to intertie transactions. While the Commission does not propose to extend the reforms to intertie transactions, the Commission seeks comment on whether settlement reforms are appropriate for intertie transactions that are scheduled on intervals different from the intervals on which RTOs/ISOs dispatch internal real-time energy.[55] The Commission also seeks comment on whether it is necessary to align the settlement interval for intertie transactions with external scheduling intervals, *i.e.,* fifteen minutes.

40. Second, the Commission recognizes that dispatch and pricing of energy and operating reserves are closely linked through co-optimization in the real-time market. This co-optimization ensures that resources are compensated for following RTO/ISO instructions and are indifferent to providing either energy or operating reserves during periods of high energy or operating reserves prices. Despite the close linkage between energy and operating reserves, the Commission understands that some of the problems associated with the use of hourly integrated prices for settling energy transactions might not apply as fully to settling operating reserves transactions. Further, the Commission recognizes the set of resources that are paid the real-time operating reserve price are potentially much smaller than the set of resources that are paid the real-time

[49] Potomac Economics, 2014 State of the Market Report for the MISO Electricity Markets at 43–44 & Figure 19 (2015), *available at https://www.misoenergy.org/Library/Repository/Report/IMM/2014%20State%20of%20the%20Market%20Report.pdf.*

[50] 16 U.S.C. 824e.

[51] All RTOs/ISOs dispatch internal resources using five-minute intervals. *See supra* Table 1. Some RTOs/ISOs, however, such as CAISO, schedule external transactions, such as intertie transactions, on a different interval.

[52] Wartsila Comments, Docket No. AD14–14–000, at 1–2 (Mar. 6, 2015).

[53] Order No. 764, FERC Stats. & Regs. ¶ 31,331 at P 5 (reforms adopted ''allow for the more efficient utilization of transmission and generation resources to the benefit of all customers. This, in turn, fulfills our statutory obligation to ensure that Commission-jurisdictional services are provided at rates, terms, and conditions of service that are just and reasonable and not unduly discriminatory or preferential.'').

[54] *See, e.g.,* ISO–NE Comments, Docket No. AD14–14–000, at 23 & nn.28–30 (Mar. 6, 2015) (citing Meter Reader Working Group, Sub-hourly Time & Cost Estimate, at slide 9 (July 10, 2014), *available at http://www.iso-ne.com/committees/markets/meter-reader*) (citing estimates from meter reader entities in New England that implementation of five-minute market settlements could cost more than $20 million and take more than seven years).

[55] The Commission clarifies that it is not proposing to modify the scheduling requirements adopted in Order No. 764.

energy price. The Commission understands that certain RTOs/ISOs acquire operating reserves on a different interval than these RTOs/ISOs dispatch energy. Accordingly, the Commission seeks comment on whether the Commission should require RTOs/ISOs to settle all real-time operating reserves transactions at the same interval as real-time energy dispatch and settlement intervals or whether a settlement interval that differs from an RTO's/ISO's real-time energy dispatch interval would be appropriate for some operating reserves transactions.

B. Shortage Pricing Triggers

1. Comments on Shortage Pricing Triggers

41. Panelists at the October 28, 2014 Shortage Pricing/Mitigation Workshop and commenters in the price formation proceeding discussed shortage pricing triggers. Panelists and commenters were divided on whether all shortage events should trigger shortage pricing.[56] Some favored such a trigger. These panelists explained that triggering shortage pricing for any shortage would allow pricing to reflect fluctuations across the hour better and also to offer more granular and accurate compensation.[57] In contrast, the panelist from PJM was more hesitant in sending a shortage price signal when a combined-cycle turbine with a thirty-minute startup time took five additional minutes to come online, explaining that a shortage price signal during such an event would diverge from an operator's understanding that the system is not experiencing a shortage.[58]

42. In its comments, EPSA argues that it is a high priority for all markets to establish shortage pricing based on operating reserves demand curves and co-optimized with the energy market.[59] New York Transmission Owners argue that if the electric system is short of resources, even for only five or ten minutes, that shortage should trigger shortage pricing.[60] Similarly, NYISO and Potomac Economics state that pricing each shortage, even a ''transient shortage,'' provides incentives to resources that have the capability to respond to brief-duration shortages.[61]

43. Several commenters favor triggering shortage pricing without any minimum duration for the event.[62] Arguments in favor of triggering shortage pricing for any shortage rely on the need to send price signals that provide an incentive for resources to offer their full flexibility and for market entry by reflecting actual system conditions in real time.[63] EEI states that generators should be able to recover reasonable and supportable costs incurred in unexpected circumstances.[64] PSEG Companies maintain that, while the ISO–NE and NYISO markets' rules (which price all shortages, no matter the duration) enable them to provide accurate price signals, PJM's market rules (which restrict ''transient shortage'' events from triggering shortage pricing) can distort its market prices.[65]

44. In contrast, Wisconsin Electric and PJM prefer that a shortage event last a minimum duration before triggering shortage pricing. Wisconsin Electric argues that there should be a minimum duration for invoking shortage pricing, and that this duration should allow flexibility to account for the nature of transmission limits and reserve levels in the operating environment, with shorter minimum intervals to invoke shortage pricing applicable under extreme load and temperatures.[66] PJM states that the minimum duration for shortage pricing should be at least as long as (and perhaps longer than) the settlement interval and that a minimum interval for triggering shortage pricing is required to stimulate investment.[67]

45. Some commenters argue that a ''transient'' or relatively brief shortage is not a ''real'' shortage because either the shortage is merely a mathematical artifact of the modeling, or the shortage will soon be resolved before generators can respond to shortage prices, even though the system is technically short of resources.[68]

2. Need for Reform of Shortage Pricing Triggers

46. Shortage prices send a short-term price signal to provide an incentive for the performance of existing resources and help to maintain reliability.[69] However, some RTOs/ISOs currently restrict the triggering of shortage pricing to shortages due only to certain causes, or they require a shortage to exist for a certain time, *e.g.,* thirty minutes, before invoking shortage pricing.[70]

47. As several commenters during the price formation proceeding noted, not invoking shortage pricing when there is a shortage (regardless of the duration or cause of that shortage) distorts price signals that are designed to elicit increased supply and to compensate resources for the value of the services they provide when the system needs energy or operating reserves. Moreover, prices in each dispatch interval should reflect the value provided by dispatched resources. In times of shortage, the value of services a resource provides increases because operating needs have increased. When shortage pricing is not applied when a shortage exists, the resulting price fails to reflect adequately the value that a resource provides to the system. This failure impairs efficient system dispatch and hinders appropriate incentives for resources to address an energy or operating reserves shortage. Because of such effects, the Commission finds preliminarily that the resulting price is not just and reasonable.

48. In making this preliminary finding, the Commission's rationale here is similar to the rationale the Commission relied on in Order No. 719. In that order, the Commission required shortage pricing in RTOs and ISOs. The Commission reasoned that ''rules that do not allow for prices to rise sufficiently during an operating reserve shortage to allow supply to meet demand are unjust, unreasonable, and

[56] *See, e.g.,* Scarcity and Shortage Pricing, Offer Mitigation and Offer Caps Workshop, Docket No. AD14–14–000, Tr. 38:19–51:8 (Oct. 28, 2014).

[57] *Id.* at 46:1–47:17, 50:13–19.

[58] Scarcity and Shortage Pricing, Offer Mitigation and Offer Caps Workshop, Docket No. AD14–14–000, Tr. 48:13–49:7 (Oct. 28, 2014).

[59] EPSA Comments, Docket No. AD14–14–000, at 36 (Mar. 6, 2015).

[60] New York Transmission Owners Comments, Docket No. AD14–14–000, at 23 (Mar. 6, 2015).

[61] NYISO Comments, Docket No. AD4–14–000, at 28–29 (Mar. 6, 2015); Potomac Economics Comments, Docket No. AD14–14–000, at 26 (Mar. 6, 2015).

[62] *See, e.g.,* CAISO Comments, Docket No. AD14–14–000, at 40 (Mar. 6, 2015); Calpine Comments, Docket No. AD14–14–000, at 20 (Mar. 6, 2015); GDF SUEZ Comments, Docket No. AD14–14–000, at 19 (Mar. 6, 2015); NYISO Comments, Docket No. AD14–14–000, at 28 (Mar. 6, 2015); Potomac Economics Comments, Docket No. AD14–14–000, at 25 (Feb. 24, 2015).

[63] Calpine Comments, Docket No. AD14–14–000, at 20 (Mar. 6, 2015); NYISO Comments, Docket No. AD14–14–000, at 28–29 (Mar. 6, 2015); Potomac Economics Comments, Docket No. AD14–14–000, at 25–26 (Feb. 24, 2015).

[64] EEI Comments, Docket No. AD14–14–000, at 5 (Mar. 6, 2015).

[65] PSEG Companies Comments, Docket No. AD14–14–000, at 31 (Mar. 6, 2015).

[66] Wisconsin Electric Comments, Docket No. AD14–14–000, at 16 (Mar. 6, 2015).

[67] PJM Comments, Docket No. AD14–14–000, at 22 (Mar. 6, 2015).

[68] MISO Comments, Docket No. AD14–14–000, at 37 (Mar. 6, 2015); OMS Comments, Docket No. AD14–14–000, at 6 (Mar. 2, 2015); PG&E Comments, Docket No. AD14–14–000, at 6 (Mar. 6, 2015); PJM Comments, Docket No. AD14–14–000, at 22 (Mar. 6, 2015); SCE Comments, Docket No. AD14–14–000, at 7 (Mar. 6, 2015); TAPS Comments, Docket No. AD14–14–000, at 24 (Mar. 6, 2015).

[69] *See* Shortage Pricing Paper at 4–5.

[70] *See* Scarcity and Shortage Pricing, Offer Mitigation and Offer Caps Workshop, Docket No. AD14–14–000, Tr. at 30:15–31:16 and 47:19–49:12 (describing PJM's practice); SPP, OATT, Sixth Revised Volume No. 1, Attachment AE, §§ 5.1.2.1 (1.0.0), 8.3.4.2 (0.0.0).

may be unduly discriminatory.'' [71] The Commission added: ''In particular, [such rules] may not produce prices that accurately reflect the value of energy. . . .'' [72] For similar reasons, the Commission now believes that not invoking shortage pricing during a shortage may result in unjust and unreasonable rates because prices do not accurately reflect the value of energy during a shortage. Accordingly, the Commission preliminarily finds that restricting shortage pricing to shortages lasting longer than one dispatch interval, or not invoking shortage pricing during relatively brief shortages, even though a shortage exists, results in rates that may be unjust and unreasonable.

49. Commenters that do not support triggering shortage pricing during ''transient shortages'' argue that such shortages can be either merely a mathematical artifact of the modeling, or a shortage that will soon be resolved before generators can respond to shortage prices, even though the system is technically short of resources.[73] The Commission, however, believes there are steps an RTO/ISO can take to mitigate seemingly artificial shortages, such as using the RTO's/ISO's look-ahead capability to prevent or minimize the occurrence of shortages that are caused by modeling or other operating deficiencies.[74] The Commission believes that reflecting the shortage in prices is still necessary even when a reserve shortage is so short-lived that resources may be unable to respond to the price signal, so that resources operating during the shortage are compensated for the value of the service that they provide. The Commission acknowledges that an RTO/ISO may need to calibrate administrative shortage prices to better reflect the value of the service.[75]

50. Based upon information gathered during the price formation proceeding and as discussed above, the Commission preliminarily determines that prices that result from a failure to trigger shortage pricing for any dispatch interval during which a shortage of energy or operating reserves occurs may be unjust and unreasonable.

3. Commission Proposal

51. In order to remedy the potentially unjust and unreasonable rates caused by restrictions on shortage pricing, the Commission proposes, pursuant to section 206 of the FPA,[76] to require that RTOs/ISOs trigger shortage pricing for any dispatch interval during which a shortage of energy or operating reserves occurs. The Commission seeks comments on this proposal.

52. The shortage pricing reform in this NOPR should ensure that a resource is compensated based on a price that reflects the value of the service the resource provides. Implementing the shortage pricing reform proposed in this NOPR would ensure that resources have appropriate incentives to address energy or reserve shortages. The Commission expects that if shortage pricing is triggered for all shortage events, then resources are expected to take actions to ensure that they are available to respond to high prices. Resources taking actions to ensure their availability should, in turn, alleviate shortages and avoid shortage pricing during subsequent dispatch intervals.

53. The shortage pricing reform proposed in this NOPR addresses the trigger for invoking shortage pricing, not the shortage price. While the Commission asked commenters to address the level of shortage pricing in the price formation proceeding,[77] the Commission is not at this time proposing to change the price paid by any RTO/ISO when it triggers shortage pricing.

54. The Commission expects that implementation of the shortage pricing reform proposed in this NOPR would not be as complex as implementing the proposed settlement interval reform. The Commission therefore proposes that the deadline for full implementation of the shortage pricing reform be effective within four months from the date of the compliance filing in response to a final rule in this proceeding. The Commission seeks comment on whether that proposed compliance and implementation timeline would provide sufficient time for RTOs/ISOs to develop and implement changes to technological systems and business processes in response to a final rule adopting the proposed shortage pricing reform.

III. Compliance

55. The Commission proposes to require that each RTO/ISO submit a compliance filing within four months of the effective date of the final Rule in this proceeding to demonstrate that it meets the proposed requirements set forth in the final Rule. While the Commission believes that four months is a reasonable deadline for RTOs/ISOs to submit compliance filings, the Commission understands that the proposed settlement interval reform could take more time to implement than the proposed shortage pricing reform due to the complexity of settlement systems. As discussed above, the Commission proposes (1) to allow twelve months from the date of the compliance filings for implementation of reforms to settlement systems to become effective and (2) to allow four months from the date of the compliance filings for implementation of reforms to shortage pricing to become effective.

56. The Commission seeks comment on the proposed deadline for RTOs/ISOs to submit the compliance filing four months following the effective date of the final rule in this proceeding. Specifically, the Commission seeks comment on whether the proposed compliance timeline would allow sufficient time for RTOs/ISOs to develop and implement changes to technological systems and business processes in response to a final rule.

57. To the extent that any RTO/ISO believes that it already complies with the settlement intervals and shortage pricing reforms proposed in this NOPR, the RTO/ISO would be required to demonstrate how it complies in the filing required four months after the effective date of the final rule in this proceeding. The proposed implementation deadlines would apply only to RTOs/ISOs to the extent they do not already comply with the reforms proposed in this NOPR.

[71] Order No. 719, FERC Stats. & Regs. ¶ 31,281 at P 192.

[72] *Id.*

[73] MISO Comments, Docket No. AD14–14–000, at 37 (Mar. 6, 2015); OMS Comments, Docket No. AD14–14–000, at 6 (Mar. 2, 2015); PG&E Comments, Docket No. AD14–14–000, at 6–7 (Mar. 6, 2015); PJM Comments, Docket No. AD14–14–000, at 22–23 (Mar. 6, 2015); SCE Comments, Docket No. AD14–14–000, at 7–8 (Mar. 6, 2015); TAPS Comments, Docket No. AD14–14–000, at 24 (Mar. 6, 2015).

[74] One panelist at the Scarcity and Shortage Pricing, Offer Mitigation and Offer Caps Workshop stated that a look-ahead process can position resources so that changing operating conditions do not lead to reserve shortages. *See* Scarcity and Shortage Pricing, Offer Mitigation and Offer Caps Workshop, Docket No. AD14–14–000, Tr. 43:23–45:3 (Oct. 28, 2014) (''One of the drivers of putting in our forward-looking dispatch tools, our dispatch tools are looking out 60 minutes in a time-link dispatch, so they see upcoming system events.'').

[75] *See, e.g.,* Scarcity and Shortage Pricing, Offer Mitigation and Offer Caps Workshop, Docket No. AD14–14–000, Tr. 40:1–42:12 (Oct. 28, 2014) (''So now in MISO, most of those scarce, transient events are really very small shortages against their total requirement produces a much smaller pricing impact, but we still think it's important. A shortage is a shortage. We should try and make some estimation of what the marginal value of that shortage is and include that in pricing.'').

[76] 16 U.S.C. 824e.

[77] Notice Inviting Post-Technical Workshop Comments, Docket No. AD14–14–000, at 9 (Jan. 16, 2015).

IV. Information Collection Statement

58. The Paperwork Reduction Act (PRA)[78] requires each federal agency to seek and obtain Office of Management and Budget (OMB) approval before undertaking a collection of information directed to ten or more persons or contained in a rule of general applicability. OMB's regulations,[79] in turn, require approval of certain information collection requirements imposed by agency rules. Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of a rule will not be penalized for failing to respond to these collection(s) of information unless the collection(s) of information display a valid OMB control number.

59. The reforms proposed in this NOPR would amend the Commission's regulations to improve the operation of organized wholesale electric power markets operated by RTOs and ISOs. The Commission proposes to require that each RTO/ISO (1) settle energy transactions in its real-time markets at the same time interval it dispatches energy and settle operating reserves transactions in its real-time markets at the same time interval it prices operating reserves and (2) trigger shortage pricing for any dispatch interval during which a shortage of energy or operating reserves occurs. The reforms proposed in this NOPR would require one-time filings of tariffs with the Commission and potential software and hardware upgrades to implement the reforms proposed in this NOPR. The Commission anticipates the reforms proposed in this NOPR, once implemented, would not significantly change currently existing burdens on an ongoing basis. With regard to those RTOs and ISOs that believe that they already comply with the reforms proposed in this NOPR, they could demonstrate their compliance in their compliance in the filing required four months after the effective date of the final rule in this proceeding. The Commission will submit the proposed reporting requirements to OMB for its review and approval under section 3507(d) of the Paperwork Reduction Act.[80]

60. While the Commission expects the adoption of the reforms proposed in this NOPR to provide significant benefits, the Commission understands that implementation and modifying settlement systems can be a complex and costly endeavor. The Commission solicits comments on the accuracy of provided burden and cost estimates and any suggested methods for minimizing the respondents' burdens, including the use of automated information techniques. Specifically, the Commission seeks detailed comments on the potential cost and time necessary to implement aspects of the reforms proposed in this NOPR, including (1) hardware, software, and business processes changes; (2) increased data storage and validation; (3) changes to market participant metering or other equipment; and (4) processes for RTOs and ISOs to vet proposed changes amongst their stakeholders.

61. The Commission also seeks comment on whether changes in settlement systems would disrupt existing contractual relationships and, if so, what burdens this might impose and how the Commission should address any potential issues resulting from such disruption.

Burden Estimate and Information Collection Costs: The Commission believes that the burden estimates below are representative of the average burden on respondents, including necessary communications with stakeholders. The estimated burden and cost[81] for the requirements contained in this NOPR follow.[82]

Data collection FERC 516 (modifications in NOPR in RM15–24–000)	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) × (2) = (3)	Average burden hours and cost per response (4)	Annual burden hours and total annual cost (3) × (4) = (5)
Tariff filings one-time in Year 1:					
For RTOs/ISOs that currently align real-time settlement with dispatch intervals.	3 RTOs or ISOs	1	3	80 hrs; $6,000	240 hrs; $18,000.
Tariff filings one-time in Year 1:					
For RTOs/ISOs that *do not* currently align real-time settlement with dispatch intervals.	3 RTOs or ISOs	1	3	160 hrs; $12,000.	480 hrs; $36,000.
Related Burden Hours for Implementation of changes each year in Years 1 & 2:					
For RTOs/ISOs that currently align real-time settlement with dispatch intervals.	3 RTOs or ISOs	1	3	550 hrs; $41,250	1,650 hrs; $123,750.

[78] 44 U.S.C. 3501–3520.

[79] 5 CFR 1320.

[80] 44 U.S.C. 3507(d).

[81] The estimated hourly cost (salary plus benefits) provided in this section are based on the salary figures for May 2014 posted by the Bureau of Labor Statistics for the Utilities sector (*available at http://www.bls.gov/oes/current/naics2_22.htm#13–0000*) and scaled to reflect benefits using the relative importance of employer costs in employee compensation from March 2015 (*available at http://www.bls.gov/news.release/ecec.nr0.htm*). The hourly estimates for salary plus benefits are:

- Legal (code 23–0000), $129.87
- Computer and mathematical (code 15–0000), $58.25
- Information systems manager (code 11–3021), $94.55
- IT security analyst (code 15–1122), $63.55
- Auditing and accounting (code 13–2011), $51.11
- Information and record clerk (code 43–4199), $37.50
- Electrical Engineer (code 17–2071), $66.45
- Economist (code 19–3011), $73.04
- Computer and Information Systems Manager (code 11–3021), $94.55
- Management (code 11–0000), $78.04

The average hourly cost (salary plus benefits), weighting all of these skill sets evenly, is $74.69. The Commission rounds it to $75 per hour.

[82] The RTOs and ISOs (CAISO, ISO–NE., MISO, NYISO, PJM, and SPP) are required to comply with the reforms proposed in this NOPR. Three RTOs/ISOs (CAISO, NYISO, and SPP) currently align real-time energy settlement with their dispatch intervals and thus likely would be burdened less by that aspect of the reforms proposed in this NOPR.

Data collection FERC 516 (modifications in NOPR in RM15–24–000)	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1)×(2)=(3)	Average burden hours and cost per response (4)	Annual burden hours and total annual cost (3)×(4)=(5)
Related Burden Hours for Implementation of changes each year in Years 1 & 2: For RTOs/ISOs that *do not* currently align real-time settlement with dispatch intervals.	3 RTOs or ISOs	1	3	1,600 hrs; $120,000	4,800 hrs; $360,000.

Cost to Comply: The Commission has projected the total cost of compliance as follows: [83]

- Year 1: $18,000 + $36,000 + $123,750 + $360,000 = $537,750
- Year 2: $123,750 + $360,000 = $483,750

After Year 2, the reforms proposed in this NOPR, once implemented, would not significantly change existing burdens on an ongoing basis.

The Commission notes that these estimates do not include costs for software and hardware. Based on comment from industry, current estimates of overall costs for software and hardware could be as high as $20,000,000, for market participants and RTOs/ISOs combined, for each RTO/ISO that does not yet comply with the settlement interval reform proposed in this NOPR.[84] As stated above, the Commission requests comment on the estimated costs for any additional software and hardware needed to comply with the reforms proposed in this NOPR.

Title: FERC–516, Electric Rate Schedules and Tariff Filings.

Action: Proposed revisions to an information collection.

OMB Control No. 1902–0096.

Respondents for this Rulemaking: RTOs and ISOs.

Frequency of Information: One-time during years one and two.

Necessity of Information: The Federal Energy Regulatory Commission proposes this rule to improve competitive wholesale electric markets in the RTO and ISO regions.

Internal Review: The Commission has reviewed the proposed changes and has determined that such changes are necessary. These requirements conform to the Commission's need for efficient information collection, communication, and management within the energy industry. The Commission has specific, objective support for the burden estimates associated with the information collection requirements.

62. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director], email: *DataClearance@ferc.gov,* Phone: (202) 502–8663, fax: (202) 273–0873. Comments concerning the collection of information and the associated burden estimate(s), may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–0710, fax (202) 395–7285]. Due to security concerns, comments should be sent electronically to the following email address: *oira_submission@omb.eop.gov.* Comments submitted to OMB should include FERC–516 and OMB Control No. 1902–0096.

V. Regulatory Flexibility Act Certification

63. The Regulatory Flexibility Act of 1980 (RFA) [85] generally requires a description and analysis of rules that will have significant economic impact on a substantial number of small entities. The RFA does not mandate any particular outcome in a rulemaking. It only requires consideration of alternatives that are less burdensome to small entities and an agency explanation of why alternatives were rejected.

64. This rule would apply to six RTOs and ISOs (all of which are transmission organizations). The average estimated annual cost to each of the RTOs/ISOs is $89,625 in year 1, and $80,625 in Year 2. This one-time cost of filing and implementing these changes is significant.[86] The RTOs and ISOs, however, are not small entities, as defined by the RFA.[87] This is because the relevant threshold between small and large entities is 500 employees and the Commission understands that each RTO and ISO has more than 500 employees. Furthermore, because of their pivotal roles in wholesale electric power markets in their regions, none of the RTOs/ISOs meet the last criterion of the two-part RFA definition a small entity: ''not dominant in its field of operation.'' As a result, the Commission certifies that the reforms proposed in this NOPR would not have a significant economic impact on a substantial number of small entities. The Commission does not expect other entities to incur compliance costs as a result of the reforms proposed in this NOPR, but seeks detailed comments on whether other entities, such as load-serving entities, would incur costs as a result of the reforms proposed in this NOPR.

VI. Environmental Analysis

65. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[88] The Commission concludes that neither an Environmental Assessment nor an Environmental Impact Statement is required for this NOPR under section 380.4(a)(15) of the Commission's

[83] The costs for year 1 would consist of filing proposed tariff changes to the Commission within four months of a Final Rule plus initial implementation. The costs for year 2 would consist of any remaining implementation within the twelve months after the tariff filing is required.

[84] ISO–NE Comments, Docket No. AD14–14–000, at 23 (Mar. 6, 2015); GDF SUEZ Comments, Docket No. AD14–14–000, at 10 (Mar. 6, 2015).

[85] 5 U.S.C. 601–12.

[86] This estimate does not include costs for hardware and software, for which the Commission requests comment.

[87] The RFA definition of ''small entity'' refers to the definition provided in the Small Business Act, which defines a ''small business concern'' as a business that is independently owned and operated and that is not dominant in its field of operation. The Small Business Administrations' regulations at 13 CFR 121.201 define the threshold for a small Electric Bulk Power Transmission and Control entity (NAICS code 221121) to be 500 employees. *See* 5 U.S.C. 601(3), citing to Section 3 of the Small Business Act, 15 U.S.C. 632.

[88] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, 52 FR 47,897 (Dec. 17, 1987), FERC Stats. & Regs., Regulations Preambles 1986–1990 ¶ 30,783 (1987).

regulations, which provides a categorical exemption for approval of actions under sections 205 and 206 of the FPA relating to the filing of schedules containing all rates and charges for the transmission or sale of electric energy subject to the Commission's jurisdiction, plus the classification, practices, contracts and regulations that affect rates, charges, classifications, and services.[89]

VII. Comment Procedures

66. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due November 30, 2015. Comments must refer to Docket Nos. RM15–24–000, and must include the commenter's name, the organization they represent, if applicable, and their address.

67. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

68. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

69. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VIII. Document Availability

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

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

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

List of Subjects in 18 CFR Part 35

Electric power rates, Electric utilities, Non-discriminatory open access transmission tariffs.

By direction of the Commission.

Dated: September 17, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

In consideration of the foregoing, the Commission proposes to amend part 35, chapter I, title 18, *Code of Federal Regulations,* as follows:

PART 35—FILING OF RATE SCHEDULES AND TARIFFS

■ 1. The authority citation for part 35 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

■ 2. Amend § 35.28 by revising paragraph (g)(1)(iv)(A) and adding paragraph (g)(1)(vi) to read as follows:

§ 35.28 Non-discriminatory open access transmission tariff.

* * * * *

(g) * * *

(1) * * *

(iv) * * *

(A) Each Commission-approved independent system operator and regional transmission organization must modify its market rules to allow the market-clearing price during periods of operating reserve shortage to reach a level that rebalances supply and demand so as to maintain reliability while providing sufficient provisions for mitigating market power. Each Commission-approved independent system operator and regional transmission organization must trigger shortage pricing for any dispatch interval during which a shortage of energy or operating reserves occurs.

* * * * *

(vi) *Settlement intervals.* Each Commission-approved independent system operator and regional transmission organization must settle energy transactions in its real-time markets at the same time interval it dispatches energy and must settle operating reserves transactions in its real-time markets at the same time interval it prices operating reserves.

* * * * *

Note: The following appendix will not appear in the Code of Federal Regulations.

APPENDIX A: List of Short Names/Acronyms of Commenters

Short name/acronym	Commenter
APPA and NRECA	American Public Power Association and National Rural Electric Cooperative Association.
ANGA	America's Natural Gas Alliance.
Brookfield	Brookfield Renewable Energy Marketing LP.
CAISO	California Independent System Operator Corporation.
Calpine	Calpine Corporation.
Direct Energy	Direct Energy Business Marketing, LLC, Direct Energy Business, LLC and affiliated companies.
EEI	Edison Electric Institute.
EPSA	Electric Power Supply Association.
Entergy Nuclear Power Marketing	Entergy Nuclear Power Marketing, LLC.
Exelon	Exelon Corporation.
GDF SUEZ	GDF SUEZ North America, Inc.
ISO–NE	ISO New England, Inc.
MISO	Midcontinent Independent System Operator, Inc.
NYISO	New York Independent System Operator, Inc.

[89] 18 CFR 380.4(a)(15).

Short name/acronym	Commenter
New York Transmission Owners	New York Transmission Owners (Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Power Supply of Long Island, New York Power Authority, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation).
OMS	Organization of MISO States.
PG&E	Pacific Gas and Electric Company.
PJM	PJM Interconnection, L.L.C.
PJM Utilities Coalition	PJM Utilities Coalition (American Electric Power Service Corporation, the Dayton Power and Light Company, FirstEnergy Service Company, Buckeye Power, Inc., and East Kentucky Power Cooperative).
Potomac Economics	Potomac Economics, Ltd.
PSEG Companies	PSEG Companies (Public Service Electric and Gas Company, PSEG Power LLC and PSEG Energy Resources & Trade LLC).
SCE	Southern California Edison Company.
SPP	Southwest Power Pool, Inc.
TAPS	Transmission Access Policy Study Group.
Wartsila	Wartsila North America, Inc.
Wisconsin Electric	Wisconsin Electric Power Company.
Xcel	Xcel Energy Services Inc.

[FR Doc. 2015–24283 Filed 9–28–15; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 39

[Docket No. RM15–25–000]

Availability of Certain North American Electric Reliability Corporation Databases to the Commission

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations to require the North American Electric Reliability Corporation (NERC) to provide the Commission, and Commission staff, with access, on a non-public and ongoing basis, to certain databases compiled and maintained by NERC. The Commission's proposal applies to the following NERC databases: The Transmission Availability Data System, the Generating Availability Data System, and the protection system misoperations database. Access to these databases, which will be limited to data regarding U.S. facilities, will provide the Commission with information necessary to determine the need for new or modified Reliability Standards and to better understand NERC's periodic reliability and adequacy assessments.

DATES: Comments are due November 30, 2015.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- Electronic Filing through *http://www.ferc.gov*. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- Mail/Hand Delivery: Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures Section of this document.

FOR FURTHER INFORMATION CONTACT:
Raymond Orocco-John (Technical Information), Office of Electric Reliability, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–6593, *Raymond.Orocco-John@ferc.gov*.
Matthew Vlissides (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–8408, *Matthew.Vlissides@ferc.gov*.

SUPPLEMENTARY INFORMATION:

1. The Commission proposes to amend its regulations, pursuant to section 215 of the Federal Power Act (FPA), to require the North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization (ERO), to provide the Commission, and Commission staff, with access (*i.e.,* view and download data), on a non-public and ongoing basis, to certain databases compiled and maintained by NERC. The Commission's proposal applies to the following three NERC databases: (1) The Transmission Availability Data System (TADS), (2) the Generating Availability Data System (GADS), and (3) the protection system misoperations database. Access to these databases, which will be limited to data regarding U.S. facilities, will provide the Commission with information necessary for the Commission to determine the need for new or modified Reliability Standards and to better understand NERC's periodic reliability and adequacy assessments.

I. Background

A. Section 215 and Order No. 672

1. 2. Section 215 of the FPA requires the ERO to develop mandatory and enforceable Reliability Standards, subject to Commission review and approval. Reliability Standards may be enforced by NERC, subject to Commission oversight, or by the Commission independently.[1] In addition, section 215(g) of the FPA requires the ERO to conduct periodic assessments of the reliability and adequacy of the Bulk-Power System in North America.[2] Pursuant to section 215 of the FPA, the Commission established a process to select and certify an ERO,[3] and subsequently certified NERC.[4]

3. Section 39.2(d) of the Commission's regulations requires NERC and each Regional Entity to ''provide the Commission such information as is necessary to implement section 215 of

[1] 16 U.S.C. 824o(e).

[2] *Id.* 824o(g).

[3] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards,* Order No. 672, FERC Stats. & Regs. ¶ 31,204, *order on reh'g,* Order No. 672–A, FERC Stats. & Regs. ¶ 31,212 (2006).

[4] *North American Electric Reliability Corp.,* 116 FERC ¶ 61,062, *order on reh'g and compliance,* 117 FERC ¶ 61,126 (2006), *aff'd sub nom. Alcoa, Inc.* v. *FERC,* 564 F.3d 1342 (D.C. Cir. 2009).

the Federal Power Act.'' [5] Section 39.2(d) of the Commission's regulations also requires each user, owner and operator of the Bulk-Power System within the United States (other than Alaska and Hawaii) to provide the Commission, NERC and each applicable Regional Entity with ''such information as is necessary to implement section 215 of the Federal Power Act as determined by the Commission and set out in the Rules of the Electric Reliability Organization and each applicable Regional Entity.'' [6]

4. The Commission promulgated section 39.2(d) of its regulations in Order No. 672.[7] The Commission explained in Order No. 672 that:

> The Commission agrees . . . that, to fulfill its obligations under this Final Rule, the ERO or a Regional Entity will need access to certain data from users, owners and operators of the Bulk-Power System. Further, the Commission will need access to such information as is necessary to fulfill its oversight and enforcement roles under the statute.[8]

B. NERC Databases

5. NERC conducts ongoing data collections from registered entities to populate databases for transmission outages through TADS, generation outages through GADS, and protection system misoperations through NERC's protection system misoperations database. Each of these NERC databases is discussed below.

1. TADS Database

6. NERC began collecting TADS data on a mandatory basis in 2007 by issuing a Phase I data request pursuant to section 1600 of the NERC Rules of Procedure.[9] The request required that, beginning in January 2008, applicable entities provide certain data for the TADS database based on a common template.[10] In 2010, NERC began collecting Phase II TADS data, which include additional fields of information on transmission outages.[11]

7. Currently, the TADS database compiles transmission outage data in a common format for: (1) Bulk electric system AC circuits (overhead and underground); (2) transmission transformers (except generator step-up units); (3) bulk electric system AC/DC back-to-back converters; and (4) bulk electric system DC circuits.[12] The TADS data collection template includes the following information fields: (1) Type of facilities, (2) outage start time and duration, (3) event type, (4) initiating cause code, and (5) sustained cause code (for sustained outages).[13] ''Cause codes'' for common causes of transmission outages include: (1) Lightning, (2) fire, (3) vandalism, (4) failed equipment (with multiple sub-listings), (5) vegetation, and (6) ''unknown.'' [14] There were 10,787 TADS events between 2012 and 2014.[15]

8. NERC uses TADS data to develop transmission metrics to analyze outage frequency, duration, causes, and other factors related to transmission outages.[16] NERC also provides individual transmission owners with TADS metrics for their facilities.[17] NERC issues an annual public report based on TADS data that shows aggregate metrics for each NERC Region, with the underlying data typically accorded confidential treatment.[18]

2. GADS Database

9. The collection of GADS data has been mandatory since 2012, pursuant to a data request issued in accordance with section 1600 of the NERC Rules of Procedure.[19] The GADS database collects, records, and retrieves operating information on power plant availability, including event, performance, and design data.[20] GADS data are used to support equipment reliability and availability analyses, as well as benchmarking studies.[21]

10. Currently, GADS collects outage data pertaining to ten types of conventional generating units with capacity of 20 MW and larger, including: (1) Fossil steam including fluidized bed design; (2) nuclear; (3) gas turbines/jet engines; (4) internal combustion engines (diesel engines); (5) hydro units/pumped storage; (6) combined cycle blocks and their related components; (7) cogeneration blocks and their related components; (8) multi-boiler/multi-turbine units; (9) geothermal units; and (10) other miscellaneous conventional generating units (*e.g.,* biomass, landfill gases).[22] The GADS data collection template includes the following design, event, and performance information: (1) Design records, (2) event records and (3) performance records.[23] Design records refer to the characteristics of each unit such as GADS utility code, GADS unit code, NERC Regional Entity where the unit is located, name of the unit, commercial operating date, and type of generating unit (fossil, combined cycle, etc.).[24] Event records include information about when and to what extent the generating unit could not generate power.[25] Performance records refer to monthly generation, unit-attempted starts, actual starts, summary event outage information, and fuels.[26] NERC has developed ''cause codes'' for the identification of common causes of unit outages based on the type of generating unit.[27] For example, the cause codes section for fossil steam units includes codes for the boiler, steam turbine, generator, balance of plant, pollution control equipment, external, regulatory, safety and environmental, personnel errors, and performance testing.[28] For 2011–2013,

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[5] 18 CFR 39.2(d).

[6] *Id.*

[7] Order No. 672, FERC Stats. & Regs. ¶ 31,204 at P 114.

[8] *Id.*

[9] *See generally* NERC, Summary of Phase I TADS Data Collection (November 9, 2007), *available at http://www.nerc.com/pa/RAPA/tads/TADSTF%20Archives%20DL/TADS_Data_Request_Summary.pdf.*

[10] *See generally* NERC, Transmission Availability Data System (TADS) Data Reporting Instruction Manual (November 20, 2007), *available at http://www.nerc.com/comm/PC/Transmission%20Availability%20Data%20System%20Working%20Grou/TADSTF%20Archives/Data_Reporting_Instr_Manual_11_20_07.pdf.*

[11] *See generally* NERC, Transmission Availability Data System Phase II Final Report (September 11, 2008), *available at http://www.nerc.com/pa/RAPA/tads/TransmissionAvailabilityDataSyatemRF/TADS_Phase_II_Final_Report_091108.pdf.*

[12] *See* NERC TADS Home Page, *available at http://www.nerc.com/pa/RAPA/tads/Pages/default.aspx.*

[13] *See* Transmission Availability Data System (TADS) Data Reporting Instruction Manual (August 1, 2014), *available at http://www.nerc.com/pa/RAPA/tads/Documents/2015_TADS_DRI.pdf.*

[14] *See* Transmission Availability Data System Definitions (August 1, 2014), *available at http://www.nerc.com/pa/RAPA/tads/Documents/2015_TADS_Appendix_7.pdf.*

[15] *See, e.g.,* NERC, State of Reliability 2015, Appendix A (Statistical Analysis for Risk Issue Identification and Transmission Outage Severity Analysis) at 86 (May 2015), *available at http://www.nerc.com/pa/RAPA/PA/Performance%20Analysis%20DL/2015%20State%20of%20Reliability.pdf.*

[16] *See* NERC TADS Home Page.

[17] *Id.*

[18] *Id.*

[19] *See* NERC, Generating Availability Data System Mandatory Reporting of Conventional Generation Performance Data at 2 (July 2011), *available at http://www.nerc.com/pa/RAPA/gads/Mandatory GADS/Revised_Final_Draft_GADSTF_Recommendation_Report.pdf; see also* NERC GADS Home Page, *available at http://www.nerc.com/pa/RAPA/gads/Pages/default.aspx.*

[20] *See* NERC GADS Home Page.

[21] *Id.*

[22] Generating Availability Data System Mandatory Reporting of Conventional Generation Performance Data at 15.

[23] *Id.,* Appendix V (Rules of Procedure Section 1600 Justification) at 35.

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] NERC, Generating Availability Data System Data Reporting Instructions (January1, 2015), Appendix B (Index to System/Component Cause Codes) at 1, *available at http://www.nerc.com/pa/RAPA/gads/DataReportingInstructions/Appendix_B1_Fossil_Steam_Unit_Cause_Codes.pdf.*

[28] *Id.*

the GADS database contains data from more than 5,000 units.[29]

11. NERC uses GADS data to measure generation reliability and publishes aggregate performance metrics for each NERC Region in publicly available annual state of reliability and reliability assessment reports.[30] The underlying data are typically accorded confidential treatment.

3. Protection System Misoperations Database

12. Protection system misoperations data have been reported by transmission owners, generator owners and distribution providers on a mandatory basis since 2011 pursuant to Reliability Standard PRC–004.[31] Following implementation of Reliability Standard PRC–004–4, the obligation to report misoperation data will be made mandatory through a data request pursuant to section 1600 of the NERC Rules of Procedure.[32]

13. Currently, the protection system misoperations database collects more than 20 fields for a reportable misoperation event, including: (1) Misoperation date; (2) event description; (3) protection systems/components that misoperated; (4) equipment removed from service (permanently or temporarily) as the result of the misoperation; (5) misoperation category; and (6) cause(s) of misoperation.[33] For 2014, the protection system misoperations database contains information on approximately 2,000 misoperation events.[34]

14. Protection system misoperations have exacerbated the severity of most cascading power outages, having played a significant role in the August 14, 2003 Northeast blackout, for example.[35] NERC uses protection system misoperations data to assess protection system performance and trends in protection system performance that may negatively impact reliability.[36] NERC publishes aggregate misoperation information for each NERC Region in annual public state of reliability reports, with the underlying data typically being accorded confidential treatment.[37]

II. Discussion

15. The Commission proposes to amend the Commission's regulations to require NERC to provide the Commission, and Commission staff, with access (*i.e.,* view and download data), on an ongoing and non-public basis, to the TADS, GADS, and protection system misoperations databases. As discussed below, the Commission believes that access to these three NERC databases, which will be limited to data regarding U.S. facilities, is necessary to carry out the Commission's obligations under section 215 of the FPA.

16. Under section 215 of the FPA, the Commission has jurisdiction over, and is responsible for oversight of, the activities and functions of the ERO and Regional Entities in the United States.[38] The development and maintenance of NERC databases such as TADS, GADS, and protection system misoperations are section 215 jurisdictional activities.[39] As explained in Order No. 672, access to relevant information, such as the information sought through this proposal, allows the Commission to fulfill its statutory obligations under section 215 of the FPA.[40] The Commission's proposed regulation would require the three NERC databases (*i.e.,* the TADS, GADS, and protection system misoperations databases) to be made available to the Commission on a non-public and ongoing basis. This proposal comports with our authority because, as discussed below, access to the NERC databases is necessary to implement section 215. Furthermore, the Commission's proposal is consistent with section 39.2(d) of the Commission's regulations because that provision already requires the ERO and Regional Entities to ''provide the Commission such information as is necessary to implement section 215 of the Federal Power Act.'' [41]

17. Access to data collected by NERC in the TADS, GADS, and protection system misoperations databases regarding U.S. facilities is necessary to carry out the Commission's statutory authority: (1) To evaluate the need to direct new or modified Reliability Standards under section 215(d)(5) of the FPA; and (2) to better understand NERC's periodic assessments and reports, including those that may be requested by the Commission, regarding the reliability and adequacy of the Bulk-Power System under section 215(g) of the FPA.

18. First, the proposed access would inform the Commission more quickly, directly and comprehensively about reliability trends or reliability gaps that might require the Commission to direct the ERO to develop new or modified Reliability Standards. Pursuant to section 215(d) of the FPA, the Commission has the responsibility of acting on proposed Reliability Standards developed by the ERO. In addition, as set forth in section 215(d)(5) of the FPA, the Commission has authority to direct the ERO ''to submit to the Commission a proposed

[29] State of Reliability 2015, Appendix B (Analysis of Generation Data) at 107.

[30] *See, e.g., id.,* Appendix B (Analysis of Generation Data).

[31] The Commission approved Reliability Standard PRC–004–1 (Analysis and Reporting of Transmission Protection System Misoperations) in Order No. 693. *Mandatory Reliability Standards for the Bulk-Power System,* Order No. 693, FERC Stats. & Regs. ¶ 31,242, at PP 1467–1469, *order on reh'g,* Order No. 693–A, 120 FERC ¶ 61,053 (2007). The Commission subsequently approved the following revisions and interpretations to Reliability Standard PRC–004, which was renamed Analysis and Mitigation of Transmission and Generation Protection System Misoperations: Reliability Standards PRC–004–1a, PRC–004–2, PRC–004–2a, PRC–004–2.1a, PRC–004–2.1(i)a, PRC–004–3, and PRC–004–4. *See North American Electric Reliability* Corporation, 136 FERC ¶ 61,208 (2011) (approving interpretation resulting in Reliability Standard PRC–004–1a and Reliability Standard PRC–004–2a); *North American Electric Reliability Corp.,* 134 FERC ¶ 61,015 (2011) (approving Reliability Standard PRC–004–2); *Generator Requirements at the Transmission Interface,* Order No. 785, 144 FERC ¶ 61,221 (2012) (approving Reliability Standard PRC–004–2.1a); *North American Electric Reliability Corp.,* 151 FERC ¶ 61,129 (2015) (approving Reliability Standard PRC–004–3); *North American Electric Reliability Corporation,* 151 FERC ¶ 61,186 (2015) (approving Reliability Standards PRC–004–2.1(i)a and PRC–004–4).

[32] *See generally* NERC, Request for Data or Information Protection System Misoperation Data Collection (August 14, 2014), *available at http://www.nerc.com/pa/RAPA/ProctectionSystemMisoperations/PRC–004–3%20Section%201600%20Data%20Request_20140729.pdf.* Reliability Standard PRC–004–4 will become enforceable on July 1, 2016.

[33] *Id.* at 13–14; *see also* NERC, Protection System Misoperations Home Page, *available at http://www.nerc.com/pa/RAPA/ri/Pages/ProtectionSystemMisoperations.aspx.*

[34] State of Reliability 2015 at 47.

[35] *See* Request for Data or Information Protection System Misoperation Data Collection at 5.

[36] *See id.* at 14.

[37] *See, e.g.,* State of Reliability 2015 at 45–48.

[38] 16 U.S.C. 824o(b) (''The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission . . . any regional entities, and all users, owners and operators of the bulk-power-system . . . for purposes of approving reliability standards established under this section and enforcing compliance with this section.'').

[39] *See North American Electric Reliability Corp.,* 143 FERC ¶ 61,052, at P 41 (2013) (addressing statutory funding for NERC's periodic assessments and monitoring of the Bulk-Power System); *see also North American Electric Reliability Corp.,* 149 FERC ¶ 61,028, at P 14 (2014) (approving FPA section 215 funding for NERC Reliability Assessment and Performance Analysis program (RAPA) as part of NERC's 2015 business plan and budget filing); *see also* NERC, Petition for Approval of 2015 Business Plan and Budget, Docket No. RR14–6–000, at 50–51 (filed Aug. 22, 2014) (identifying TADS, GADS and protection system misoperations as major activities of NERC's RAPA program).

[40] Order No. 672, FERC Stats. & Regs. ¶ 31,204 at P 114. *Cf. North American Electric Reliability Corp.,* 120 FERC ¶ 61,239, at P 12 (2007) (directing NERC to provide the Commission with advance copies of ''NERC alerts'' on an informational basis to ''allow the Commission to monitor for potential inconsistencies with the Reliability Standards and may inform the Commission where modifications to existing Reliability Standards or new Reliability Standards may be necessary'').

[41] 18 CFR 39.2(d).

reliability standard or modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standards appropriate to carry out [section 215].'' [42] Therefore, with respect to the development of new Reliability Standards or modification of existing Reliability Standards, section 215(d) of the FPA tasks both the Commission and the ERO (*i.e.,* NERC) with the responsibility to monitor reliability trends or reliability gaps that might warrant the development or modification of a Reliability Standard. As discussed below, the data contained in the TADS, GADS, and protection systems misoperations databases provide insights regarding reliability performance that bear on whether existing Reliability Standards are effective; whether they require modification; or whether new Reliability Standards should be developed. However, currently the Commission does not have access to these databases, which are maintained by NERC to support its Reliability Standards work pursuant to section 215(d), and we find it appropriate that the Commission also have access to them to support the Commission's assessment of the effectiveness of existing Reliability Standards.

19. The TADS, GADS, and protection system misoperations databases include important information regarding the need for new or modified Reliability Standards. For example, in describing the importance of mandatory TADS data collection, NERC stated that:

> Whether a new standard is needed or whether an existing standard needs to be modified, sound data is needed for this purpose. TADS data is intended to provide a basis for standards.[43]

Similarly, in justifying the need for mandatory GADS data reporting, NERC stated that GADS data ''is used to calculate important performance statistics and supports bulk power trend analysis by providing information on forced outages, maintenance outages, planned outages, and deratings . . . [the] GADS database is vital to support NERC in its assessment of bulk power system reliability.'' [44] With respect to protection system misoperations data, NERC described that data as ''providing several benefits to [bulk electric system] reliability and support[ing] NERC's mission of ensuring the reliability of the [Bulk-Power System] in North America.'' [45] Among other things, NERC stated that protection system misoperations data is used to ''[i]dentify trends in Protection System performance that negatively impact reliability.'' [46] Accordingly, just as the information in these databases supports NERC's Reliability Standards work under section 215(d) of the FPA, we find that the Commission's access to these databases will further our work under section 215(d)(5) of the FPA to identify reliability issues that might necessitate the development or modification of Reliability Standards.

20. Second, access to the TADS, GADS, and protection system misoperations databases will assist the Commission with its understanding of the reliability and adequacy assessments periodically submitted by NERC pursuant to section 215(g) of the FPA, as well as provide the Commission with data that could support requests by the Commission for additional assessments or reports from NERC under that section. The periodic reports, such as the annual state of reliability reports, currently submitted by NERC draw heavily from these databases and provide an overview of reliability issues and trends identified through the analysis of those databases. While the aggregated TADS, GADS, and protection system misoperations data provided in NERC's periodic reports afford the Commission some insight into the reliability and adequacy trends identified by NERC, we believe that having direct access to the underlying data will assist the Commission in its understanding of the periodic reports, thereby helping the Commission to monitor causes of outages and detect emerging reliability issues.

21. The Commission proposes to locate the proposed requirement within section 39.11 of the Commission's regulations, which governs the preparation and submission of reliability reports.[47] We propose to add a new paragraph (c) that establishes a formal requirement that the ERO provide the Commission with access, on a non-public and ongoing basis, to the ERO's TADS, GADS, and protection system misoperations databases, or any successor databases thereto.

22. We also recognize that the Commission's proposal might raise confidentiality issues regarding certain of the data contained in these databases. Should the Commission collect an entity's confidential information, the Commission will take appropriate steps, as provided for in our governing statutes and regulations,[48] in handling such information.

23. The Commission seeks comment from NERC and other interested entities on this proposal. Comments are due 60 days following publication of this notice of proposed rulemaking in the **Federal Register**.

III. Information Collection Statement

24. The Paperwork Reduction Act (PRA) [49] requires each federal agency to seek and obtain Office of Management and Budget (OMB) approval before undertaking a collection of information directed to ten or more persons, or contained in a rule of general applicability. The OMB regulations require the approval of certain information collection requirements imposed by agency rules.[50] Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of an agency rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

25. The Commission is submitting these reporting requirements to OMB for its review and approval under section 3507(d) of the PRA. Comments are solicited on the Commission's need for this information, the estimated burden and cost imposed on the ERO of providing the Commission with ongoing access to the three databases, whether the information will have practical utility, ways to enhance the quality, utility, and clarity of the information to be accessed, and any suggested methods for minimizing the respondent's burden.

26. The Commission's proposal would make TADS, GADS, and protection system misoperations data, currently collected by the ERO, available to the Commission, and its staff, on a non-public and ongoing basis. The proposal would not require the ERO to collect new information, compile information into any kind of report, or reformulate the raw data. The Commission also anticipates that it could be relatively straight-forward for the ERO to provide the Commission, and Commission staff, with access to TADS, GADS and misoperations data. Various entities currently have access to these data via an existing web interface. Providing the

[42] 16 U.S.C. 824o(d)(5).

[43] Summary of Phase I TADS Data Collection at 1.

[44] Generating Availability Data System Mandatory Reporting of Conventional Generation Performance Data at 1.

[45] Request for Data or Information Protection System Misoperation Data Collection at 5.

[46] *Id.* at 4.

[47] 18 CFR 39.11.

[48] *See, e.g.,* 5 U.S.C. 552; 18 CFR 388.112, 18 CFR 388.113.

[49] 44 U.S.C. 3501–3520.

[50] *See* 5 CFR 1320.

Commission, and Commission staff, with access may be as simple as creating log-on credentials for the Web interface. Accordingly, the Commission estimates that the one-time burden associated with compliance with this proposed rule is *de minimis* and is limited to the ERO reviewing the Commission's proposed regulation and providing Commission with access to the existing TADS, GADS, and protection system misoperations databases.

27. The requirements for the ERO to provide data to the Commission are included in the existing FERC–725, Certification of Electric Reliability Organization; Procedures for Electric Reliability Standards (OMB Control No. 1902–0225). FERC–725 includes information used by the Commission to implement the statutory provisions of section 215 of the FPA. FERC–725 includes the burden, reporting and recordkeeping requirements associated with: (a) Self Assessment and ERO Application, (b) Reliability Assessments, (c) Reliability Standards Development, (d) Reliability Compliance, (e) Stakeholder Survey, and (f) Other Reporting. This notice of proposed rulemaking will be submitted to OMB for review under the PRA.

28. *Internal review:* The Commission has reviewed the proposed regulation and has determined that the proposed regulation is necessary to ensure the reliability and integrity of the Nation's Bulk-Power System.

29. Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: *DataClearance@ferc.gov*, Phone: (202) 502–8663, fax: (202) 273–0873]. Comments on the requirements of this rule may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at *oira_submission@omb.eop.gov*. Please reference OMB Control No. 1902–0225 and FERC–725 in your submission.

IV. Environmental Analysis

30. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[51] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[52] The actions here fall within this categorical exclusion in the Commission's regulations.

V. Regulatory Flexibility Act

31. The Regulatory Flexibility Act of 1980 (RFA)[53] generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) revised its size standard (effective January 22, 2014) for electric utilities from a standard based on megawatt hours to a standard based on the number of employees, including affiliates.[54]

32. The Commission proposes to amend the Commission's regulations to require only the ERO (*i.e.,* NERC) to provide the Commission, and Commission staff, with access, on a non-public and ongoing basis, to the existing TADS, GADS, and protections system misoperations databases. As discussed above, we estimate that the costs to the ERO associated with the Commission's proposal will be *de minimis.* Accordingly, the Commission certifies that this proposal will not have a significant economic impact on a substantial number of small entities.

VI. Comment Procedures

33. The Commission invites interested persons to submit comments on the matters and issues proposed in this document to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due November 30, 2015. Comments must refer to Docket No. RM15–25–000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

34. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov*. The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

35. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

36. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VII. Document Availability

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

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

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

List of subjects in 18 CFR Part 39

Electric power, and reporting and recordkeeping requirements.

By direction of the Commission. Commissioner LaFleur is concurring with a separate statement attached.

Dated: September 17, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

In consideration of the foregoing, the Commission proposes to amend Chapter I, Title 18, Part 39 of the *Code of Federal Regulations,* as follows:

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[51] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs., Regulations Preambles 1986–1990 ¶ 30,783 (1987).

[52] 18 CFR 380.4(a)(2)(ii).

[53] 5 U.S.C. 601–612.

[54] SBA Final Rule on ''Small Business Size Standards: Utilities,'' 78 FR 77,343 (Dec. 23, 2013).

PART 39—RULES CONCERNING CERTIFICATION OF THE ELECTRIC RELIABILITY ORGANIZATION; AND PROCEDURES FOR THE ESTABLISHMENT, APPROVAL, AND ENFORCEMENT OF ELECTRIC RELIABILITY STANDARDS

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

Authority: 16 U.S.C. 824o.

■ 2. Amend § 39.11 by adding paragraph (c) as follows:

§ 39.11 Reliability reports.

* * * * *

(c) The Electric Reliability Organization shall make available to the Commission, on a non-public and ongoing basis, access to the Transmission Availability Data System, Generating Availability Data System, and protection system misoperations databases, or any successor databases thereto.

Note: The following text will not appear in the Code of Federal Regulations.

Availability of Certain North American Electric Reliability Corporation Databases to the Commission

(Issued September 17, 2015)

LaFLEUR, Commissioner, *concurring:* Today's order proposes to revise the Commission's regulations to provide the Commission and its staff with access, on a non-public and ongoing basis, to three databases maintained by the North American Electric Reliability Corporation (NERC): (1) The Transmission Availability Data System (TADS), (2) the Generating Availability Data System (GADS), and (3) the protection system misoperations database. As explained in the order, the Commission concludes that access to these databases would support its work under section 215(d)(5) of the Federal Power Act (FPA) to monitor reliability trends and issues that may warrant the development of new or modified reliability standards.

On rare occasions, the Commission has exercised its authority to direct NERC to develop new standards to address reliability risks not covered in existing standards, such as geomagnetic disturbances and physical security. While I do not expect the Commission to frequently invoke that authority going forward, I agree that the information in these databases would assist the Commission with its responsibilities under section 215(d)(5), as well as its understanding of NERC's assessments under section 215(g). Access to these databases could therefore support the Commission's oversight of several steps of the reliability cycle, including event analysis, establishment of metrics, setting reliability priorities, and improving the standards development and review process.

I recognize, however, that under section 215 of the FPA, NERC and the Commission have a unique relationship, since Congress vested a significant amount of authority over the standards process in the Electric Reliability Organization (*i.e.,* NERC) and clearly prescribed the Commission's oversight role. It is important that we recognize the distinction between that oversight role and NERC's primary responsibility to monitor reliability issues and propose standards to address them. Ultimately, I believe our efforts to sustain and improve the reliability of the bulk electric system are furthered by mutual trust and shared priorities between the Commission and NERC.

I understand that today's proposal might be controversial within the NERC community. I therefore welcome comment on the proposal, including any potential issues or concerns not identified in the NOPR, to provide a full record for the Commission to consider in deciding whether to proceed to a final rule.

Accordingly, I respectfully concur.

Cheryl A. LaFleur

Commissioner

[FR Doc. 2015–24282 Filed 9–28–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2015–0581; FRL–9934–69–Region 7]

Approval and Promulgation of Air Quality Implementation Plans; Missouri; Regional Haze Five-Year Progress Report State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of a revision to the Missouri State Implementation Plan (SIP) submitted by the State of Missouri on August 5, 2014. Missouri's SIP submission (''progress report SIP'') addresses requirements of the Clean Air Act (CAA or Act) and EPA's rules that require states to submit periodic reports describing progress toward reasonable progress goals (RPGs) established for regional haze and a determination of the adequacy of the state's existing SIP addressing regional haze (''regional haze SIP''). EPA is proposing approval of Missouri's progress report SIP submission on the basis that it addresses the progress report and adequacy determination requirements for the first implementation period for regional haze.

DATES: Comments must be received on or before October 29, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2015–0581 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *Email: krabbe.stephen@epa.gov.*

3. *Mail or Hand Delivery or Courier:* Stephen Krabbe, Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2015–0581. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.* The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your

comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket. All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Stephen Krabbe, Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7483 or by email at *krabbe.stephen@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' or ''our'' refer to EPA. This section provides additional information by addressing the following:

I. What is the background for EPA's Proposed action?
II. What are the requirements for the regional haze progress report SIPs and adequacy determinations?
A. Regional Haze Progress Report SIP
B. Adequacy Determination of the Current Regional Haze SIP
III. What is EPA's analysis of Missouri's progress report SIP and adequacy determination?
A. Regional Haze Progress Report SIPs
1. 40 CFR 51.308(g)(1)
2. 40 CFR 51.308(g)(2)
3. 40 CFR 51.308(g)(3)
4. 40 CFR 51.308(g)(4)
5. 40 CFR 51.308(g)(5)
6. 40 CFR 51.308(g)(6)
7. 40 CFR 51.308(g)(7)
B. Determination of Adequacy of Existing Regional Haze Plan
IV. Impact of CAIR and CSAPR on Missouri's Progress Report
V. What action is EPA proposing to take?

I. What is the background for EPA's Proposed action?

States are required to submit a progress report in the form of a SIP revision every five years that evaluates progress toward the RPGs for each mandatory Class I Federal area within the state and in each mandatory Class I Federal area outside the state which may be affected by emissions from within the state. 40 CFR 51.308(g). States are also required to submit, at the same time as the progress report, a determination of the adequacy of the state's existing regional haze SIP. 40 CFR 51.308(h). The first progress report SIP is due five years after submittal of the initial regional haze SIP. The Missouri Department of Natural Resources (MDNR) submitted the state's first regional haze SIP on August 5, 2009, and supplemented on January 30, 2012, in accordance with 40 CFR 51.308(b).[1]

On February 14, 2014, MDNR provided to the Federal Land Managers a revision to Missouri's SIP reporting on progress made during the first implementation period toward RPGs for Class I areas in the state and Class I areas outside the state that are affected by Missouri sources. Missouri has two Class I areas, Mingo National Wildlife Refuge (Mingo) and Hercules Glades Wilderness Area (Hercules Glades). Missouri also hosts an additional Interagency Monitoring of Protected Visual Environments (IMPROVE) monitoring site, located at El Dorado Springs.[2] Notification was published on MDNR's Air Pollution Control Program Web site on April 28, 2014. A public hearing was held on held at the St. Louis Regional Office on Thursday, May 29, 2014.

On August 5, 2014, MDNR submitted the five year progress report SIP to EPA. This progress report SIP and accompanying cover letter also included a determination that the state's existing regional haze SIP requires no substantive revision to achieve the established regional haze visibility improvement and emissions reduction goals for 2018. EPA is proposing to approve Missouri's progress report SIP on the basis that it satisfies the requirements of 40 CFR 51.308(g) and 51.308(h).

II. What are the requirements for the regional haze progress report SIPs and adequacy determinations?

A. Regional Haze Progress Report SIP

Under 40 CFR 51.308(g), states must submit a regional haze progress report as a SIP revision every five years and must address, at a minimum, the seven elements found in 40 CFR 51.308(g). As described in further detail in section III below, 40 CFR 51.308(g) requires a description of the status of measures in the approved regional haze SIP; a summary of emissions reductions achieved; an assessment of visibility conditions for each Class I area in the state; an analysis of changes in emissions from sources and activities within the state; an assessment of any significant changes in anthropogenic emissions within or outside the state that have limited or impeded progress in Class I areas impacted by the state's sources; an assessment of the sufficiency of the approved regional haze SIP; and a review of the state's visibility monitoring strategy.

B. Adequacy Determinations of the Current Regional Haze SIP

Under 40 CFR 51.308(h), states are required to submit, at the same time as the progress report SIP, a determination of the adequacy of their existing regional haze SIP and to take one of four possible actions based on information in the progress report. As described in further detail in section III below, 40 CFR 51.308(h) requires states to either: (1) Submit a negative declaration to EPA

[1] On June 26, 2012, EPA finalized a limited approval of Missouri's August 5, 2009, regional haze SIP to address the first implementation period for regional haze (77 FR 38007). In a separate action, published on June 7, 2012 (77 FR 33642), EPA finalized a limited disapproval of the Missouri regional haze SIP because of the State's reliance on the Clean Air Interstate Rule to meet certain regional haze requirements, which EPA replaced in August 2011 with the Cross-State Air Pollution Rule (CSAPR) (76 FR 48208 (Aug. 8, 2011)). In the aforementioned June 7, 2012, action, EPA finalized a Federal Implementation Plan (FIP) for Missouri to replace the State's reliance on CAIR with reliance on CSAPR. Following these EPA actions, the D.C.h Circuit issued a decision in *EME Homer City Generation, L.P.* v. *EPA* (''*EME Homer City*''), 696 F. 3d 7 (D.C. Cir. 2012), vacating CSAPR and keeping CAIR in place pending the promulgation of a valid replacement rule. On April 29, 2014, the U.S. Supreme Court reversed the D.C. Circuit opinion vacating CSAPR, and remanded the case for further proceedings. *EME Homer City,* 572 U.S. 134 S. Ct. 1584. In the interim, CAIR remained in place. On October 23, 2014, the D.C. Circuit granted EPA's motion to lift the stay on CSAPR. Order of October 23, 2014, in *EME Homer City,* D.C. Cir. No. 11–1302. EPA issued an interim final rule to clarify how EPA will implement CSAPR consistent with the D.C. Circuit's order. 79 FR 71663 (December 3, 2014) (interim final rulemaking). Subsequent to the interim final rulemaking, EPA began implementation of CSAPR on January 1, 2015. Section IV of this notice addresses the impact of CAIR and CSAPR on Missouri's progress toward RPGs for this five year progress report SIP.

[2] The El Dorado Springs IMPROVE monitoring site is a Protocol monitoring site that is maintained by MDNR to also measure visibility impairment in Missouri, but it is not located in a Federal Class I area. It was established to aid in determining impacts to portions of the country where no Class I areas exist.

that no further substantive revision to the state's existing regional haze SIP is needed; (2) provide notification to EPA (and other states(s) that participated in the regional planning process) if the state determines that its existing regional haze SIP is or may be inadequate to ensure reasonable progress at one or more Class I areas due to emissions from sources in other state(s) that participated in the regional planning process, and collaborate with these other state(s) to develop additional strategies to address deficiencies; (3) provide notification with supporting information to EPA if the state determines that its existing regional haze SIP is or may be inadequate to ensure reasonable progress at one or more Class I areas due to emissions from sources in another country; or (4) revise its regional haze SIP to address deficiencies within one year if the state determines that its existing regional haze SIP is or may be inadequate to ensure reasonable progress in one or more Class I areas due to emissions from sources within the state.

III. What is EPA's analysis of Missouri's regional haze progress report and adequacy determination?

On August 5, 2014, MDNR submitted a revision to Missouri's regional haze SIP to address progress made toward RPGs of Class I areas in the state and Class I areas outside the state that are affected by emissions from Missouri's sources. This progress report SIP also included a determination of the adequacy of the state's existing regional haze SIP. Missouri has two Class I areas within its borders, and maintains an additional IMPROVE monitoring site. MDNR utilized particulate matter source apportionment (PSAT) techniques for photochemical modeling conducted by the Central Regional Air Planning Association (CENRAP) to identify two Class I areas in nearby Arkansas potentially impacted by Missouri sources: Upper Buffalo Wilderness Area (UBWA) and Caney Creek Wilderness Area (CCWA). 77 FR 38007.

A. Regional Haze Progress Report SIPs

The following sections summarize: (1) Each of the seven elements that must be addressed by the progress report under 40 CFR 51.308(g); (2) how Missouri's progress report SIP addressed each element; and (3) EPA's analysis and proposed determination as to whether the state satisfied each element.

1. 40 CFR 51.308(g)(1)

40 CFR 51.308(g)(1) requires a description of the status of implementation of all measures included in the regional haze SIP for achieving RPGs for Class I areas both within and outside the state.

Missouri evaluated the status of all measures included in its 2009 regional haze SIP in accordance with 40 CFR 51.308(g)(1). Specifically, in its progress report SIP, Missouri summarizes the status of the emissions reduction measures that were included in the final iteration of the CENRAP regional haze emissions inventory and RPG modeling. Such control measures included the CAIR, BART, Tier 2 Federal emissions standards for passenger vehicles, EPA's Clean Air Nonroad Diesel Rule (Tier 4), and the NO_X SIP Call. Missouri found that these ongoing air pollution control programs are sufficient to meet the 2018 RPGs for Mingo and Hercules Glades Class I areas, and that programs such as CAIR, CSAPR, and BART were very cost-effective in reducing visibility impairment at Missouri's Class I areas.

Missouri also discusses the status of those measures that were not included in the final CENRAP emissions inventory and were not relied upon in the initial regional haze SIP to meet RPGs. The state notes that the emissions reductions from these measures could aid in reducing visibility impairment and in achieving the RPGs in Missouri's Class I areas. The measures include the 2010 SO_2 NAAQS Attainment Demonstrations, Illinois Multi-Pollutant Regulation, Federal Tier 3 vehicle emission and fuel standards, and the 2007 Federal Heavy-Duty Highway Rule.

In addition, Missouri addressed facilities with expected emission changes to occur between 2012 and 2017. These changes were not included in the 2009 initial regional haze SIP modeling, as they are not yet permanent and enforceable.

EPA proposes to find that Missouri's analysis adequately addresses 40 CFR 51.308(g)(1). The state documents the implementation status of measures from its regional haze SIP and describes significant measures resulting from EPA regulations other than the regional haze program as they pertain to the state's sources. The progress report SIP highlights the effect of several Federal control measures both nationally and in the CENRAP region, and when possible, in the state.

Regarding the status of BART and reasonable progress control requirements for sources in the state, Missouri's progress report SIP notes that of the twenty-six potential BART sources identified, only one source was subject to BART. This remaining source, Holcim (US) Inc. (Holcim-Clarksville), located in Clarksville, Missouri, entered into a consent agreement with MDNR, and set emissions limits for SO_2 and NO_X to be met as expeditiously as practicable, but no later than four years after approval of Missouri's regional haze plan. EPA approved their regional haze plan on June 26, 2012 (77 FR 38007), including the consent agreement with Holcim-Clarksville, therefore compliance must be achieved no later than June 26, 2016. Since the consent agreement was signed and initial regional haze plan approved, Holcim-Clarksville discontinued Portland cement manufacturing and hazardous waste fuel burning operations. Remaining operations at the facility include receiving, storing, and shipping. Thus the facility's new SO_2 and NO_X potential emissions are both zero tons per year, which is included in the state-issued operating permit. Because no other sources were found to be subject to BART, the state found that other emission controls or alternative measures in place of BART were not necessary, and no further discussion of the status of controls was necessary in the progress report SIP.

EPA proposes to conclude that Missouri has adequately addressed the status of control measures in its regional haze SIP as required by 40 CFR 51.308(g)(1). Missouri describes the implementation status of measures from its regional haze SIP, including the status of control measures to meet BART and reasonable progress requirements, the status of significant measures resulting from EPA regulations, as well as measures that came into effect since the CENRAP analyses for the regional haze SIP were completed.

2. 40 CFR 51.308(g)(2)

40 CFR 51.308(g)(2) requires a summary of the emissions reductions achieved in the state through the measures subject to 40 CFR 51.308(g)(1).

In its regional haze SIP and progress report SIP, Missouri focuses its assessment on NO_X and SO_2 emissions from electric generating units (EGUs) because available information from multiple sources (CENRAP, EPA's Clean Air Markets Division (CAMD), etc.) determined that these compounds accounted for the majority of the visibility-impairing pollution in the Central Region.

During the period from 2007–2012, SO_2 emissions decreased by 45.6% as a result of several factors, including installation of controls, units switching to cleaner fuels, load shifting from dirtier units to cleaner units, and an overall decrease in demand for

generation.[3] Missouri noted that the downward trend continued, even though demand increased during the period from 2009 through 2011. Additionally, there was a 43.4 percent decrease in pounds of SO_2 generated per MMBtu of energy produced. Missouri stated this decrease in emissions, while demand remained relatively steady, indicates that the reductions reflect cleaner generation and not decreased electricity demand.

During that same period, NO_X emissions generally decreased, as did the generation rate of NO_X. However, neither NO_X emissions nor NO_X generation trended downward every year.

Missouri noted that as additional controls are installed to meet the stringent requirements of CSAPR, the Industrial Boiler Maximum Achievable Control Technology (MACT) regulation, and the Mercury and Air Toxics Standard (MATS),[4] emission rates are expected to decrease even further. Missouri asserts that the current downward trend, particularly for SO_2 as the species of predominant concern to visibility impairment at Mingo and Hercules Glades, plus the imminent implementation of additional federal regulations, reinforces their determination that Missouri's Class I areas will meet the established RPGs in the required timeframe.

EPA proposes to conclude that Missouri has adequately addressed 40 CFR 51.308(g)(2). The state provides actual emissions reductions of NO_X and SO_2 from EGUs in Missouri that have occurred since Missouri submitted its regional haze SIP. Missouri appropriately focused on SO_2, and to a lesser extent, NO_X, emissions from its EGUs in its progress report SIP because it previously identified these emissions as the most significant contributors to visibility impairment at Missouri's Class I areas. Given the large SO_2 and NO_X reductions at EGUs that have actually occurred, further analysis of emissions from other sources or other pollutants was ultimately unnecessary in this first implementation period. Because no additional controls were found to be needed for reasonable progress for the first implementation period for evaluated sources in Missouri, EPA proposes to find that no further discussion of emissions reductions from controls was necessary in this progress report SIP.

3. 40 CFR 51.308(g)(3)

40 CFR 51.308(g)(3) requires that states with Class I areas provide the following information for the most impaired and least impaired days for each area, with values expressed in terms of five-year averages of these annual values: [5]

(i) Current visibility conditions;
(ii) the difference between current visibility conditions and baseline visibility conditions; and
(iii) the change in visibility impairment over the past five years.

Missouri provides figures with the latest supporting data available at the time that it developed the progress report SIP that address the three requirements of 40 CFR 51.308(g)(3) for Mingo and Hercules Glades. For the first regional haze SIPs, baseline conditions were represented by the 2000–2004 time period. 64 FR 35730. Baseline visibility conditions at Mingo are 28.02 deciviews (dv) for the most impaired (20 percent worst) days and 14.3 dv for the least impaired (20 percent best) days. Current visibility conditions (for the five year period from 2008–2012) are 25.7 dv for the 20 percent worst days and 13.1 dv for the 20 percent best days. The difference between current visibility and baseline visibility for the 20 percent worst days is 2.3 dv of improvement (*i.e.,* 28.0–25.7 dv). The difference between current visibility and baseline visibility conditions for the 20 percent best days is 1.2 dv of improvement (*i.e.,* 14.3–13.1 dv). Further, visibility impairment due to SO_2 has shown a downward trend (improved visibility) in terms of the 5-year rolling average for the worst 20 percent days for each of the five-year progress periods evaluated by Missouri. Visibility has also improved in nearly all of the five-year progress periods for SO_2 for the best 20 percent days. Missouri noted that the goal for the 20 percent best sampling days is to show no degradation in visibility conditions from the baseline; and available monitored data for the first planning period showed no degradation, and in fact showed improvement. Missouri noted that for the worst 20 percent days, the established 2018 RPG is 23.71 dv, and that based on the current rate of improvement, it is expected that this RPG will be met.

Hercules Glades has an established baseline condition of 26.75 dv for the most impaired days. Current visibility conditions (for the five year period from 2008–2012) are 23.5 dv for the 20 percent worst days, showing 3.25 dv of improvement. Baseline conditions for the least impaired days are 12.8 dv. Current visibility conditions are 11.3 dv for the 20 percent best days, showing 1.5 dv of improvement. Further, for both the most impaired days and the least impaired days, there has been a steady downward trend in the rolling average visibility, meaning visibility has improved since the baseline for both the worst and the best days. Looking at SO_2, there has been a steady downward trend in visibility impairment since the baseline for the worst 20 percent days, and a general downward trend in visibility impairment since the baseline for the best 20 percent days. Missouri noted that the goal was to show improvement in the worst visibility days, and show no further degradation on the best days; in fact, monitored data showed improvement in both. Missouri also noted that for the worst 20 percent days, the established 2018 RPG is 23.06 dv, and that based on the current rate of improvement, it is expected that this RPG will be met.

Missouri also has an IMPROVE Protocol monitoring site located in El Dorado Springs. This is not a Class I area, but does provide a more comprehensive data set in areas where Class I areas are spread out. Missouri established a baseline condition for the period from 2005–2007, with 26.97 dv for the 20 percent worst days. Missouri stated that the analysis and trends at El Dorado Springs help strengthen the argument that visibility conditions across the entire state, not just at the Class I areas, are improving and are expected to achieve the 2018 RPGs.

Nearby Class I areas in Arkansas were also reviewed in Missouri's progress report SIP. Upper Buffalo Wildlife Area and Caney Creek Wildlife Area both show a downward trend in visibility impairment for the worst 20 percent days. This downward trend is also seen in SO_2 measurements and total light extinction. Missouri notes that this trend at the Class I areas outside the state that are affected by Missouri's sources supports the claim that Missouri's current strategy is still adequate and that reductions achieved in Missouri have benefited areas both in and outside the state.

EPA proposes to conclude that Missouri has adequately addressed 40 CFR 51.308(g)(3). The state provides the information regarding visibility conditions and notes that no changes

[3] See also sections III.A.4 and III.A.6 of this action.

[4] Since the submission of the Regional Haze Progress SIP, the MATS rule was remanded to the D.C. Circuit by the Supreme Court on June 29, 2015, in *Michigan et al.* v. *Environmental Protection Agency et al.* (Slip. Op. 14–46, _____ U.S._____(2015)).

[5] The ''most impaired days'' and ''least impaired days'' in the regional haze rule refers to the average visibility impairment (measured in deciviews) for the twenty percent of monitored days in a calendar year with the highest and lowest amount of visibility impairment, respectively, averaged over a five-year period. 40 CFR 51.301.

are needed to meet the requirements of 40 CFR 51.308(g)(3). The progress report SIP includes current conditions based on the latest available IMPROVE monitoring data for the years 2008–2012, the difference between current visibility conditions and baseline visibility conditions, and the change in visibility impairment over the most recent five-year period for which data were available at the time of the progress report SIP development (*i.e.,* 2008–2012).

4. 40 CFR 51.308(g)(4)

40 CFR 51.308(g)(4) requires an analysis tracking emissions changes of visibility-impairing pollutants from the state's sources by type or category over the past five years based on the most recent updated emissions inventory.

In its progress report SIP, Missouri presents data from a statewide emissions inventories conducted in 2005, 2008, and 2011. This data was reported in the National Emissions Inventory (NEI) for each of those years. Pollutants inventoried include carbon oxides, ammonia, NO_X, coarse particulate matter, fine particulate matter ($PM_{2.5}$), SO_2, and volatile organic compounds. The emissions inventories from all three datasets include the following sources: Nonpoint, non-road/area, on-road, point, and biogenic sources. Missouri noted that changes in how data is reported under the NEI may impact certain species.

Missouri examined primarily point-source emissions, because control of point sources provides a higher level of reduction certainty than other source sectors, and therefore is the most relevant to visibility improvement. The state noted that the decreasing trend in point source emissions of SO_2 and NO_X are of greatest significance to visibility improvement. Other changes in emission levels that were noted include increases in CO levels and increases in $PM_{2.5}$. Missouri noted that increases in $PM_{2.5}$ emissions are due to updated stack test emission factors and increased activity at several sources. Missouri also noted that fire source emissions increased for all pollutants between 2008 and 2011, as explained in EPA's 2011 NEIv1 Technical Support Document (November 2013.) This document estimates about 30 percent more acres burned in 2011 than in 2008 due to several forest fires of over 1,000 acres within the Mark Twain National Forest in southern Missouri.

Biogenic emissions also changed between 2008 and 2011, with some pollutants increasing and some decreasing. Missouri notes that the Biogenic Emissions Inventory System (BEIS) version 3.14, developed by EPA to model the biogenic emissions for the NEI, did not address changes to vegetation or other factors between years, so the state cannot specifically address why some pollutants increased.

Missouri noted that the purpose at this point is to evaluate the paramount pollutants to visibility improvement, SO_2 and NO_X, and notes that both show a steady downward trend over the last five years, which can be linked to steadily improving visibility conditions.

EPA proposes to conclude that Missouri has adequately addressed 40 CFR 51.308(g)(4). While ideally the five-year period to be analyzed for emissions inventory changes is the time period since the current regional haze SIP was submitted, there is an inevitable time lag in developing and reporting complete emissions inventories once quality-assured emissions data becomes available. Therefore, EPA believes there is some flexibility in the five-year time period that states can select, Missouri tracked changes in emissions of visibility-impairing pollutants using the 2005, 2008, and 2011 National Emissions Inventory, the latter of which was the most recent updated inventory of actual emissions for the state at the time that it developed the progress report SIP. EPA believes that Missouri's use of the seven-year period from 2005–2011 reflects a conservative picture of the actual emissions realized between 2005–2014, because there is a general downward trend in both SO_2 and NO_X emissions.

5. 40 CFR 51.308(g)(5)

40 CFR 51.308(g)(5) requires an assessment of any significant changes in anthropogenic emissions within or outside the state that have occurred over the past five years that have limited or impeded progress in reducing pollutant emissions and improving visibility in Class I areas impacted by the state's sources.

In its progress report SIP, Missouri indicates that visibility and pollutant trends from the three monitoring sites have an overall downward trend in visibility impairment. The state noted that an anomalous peak appears in the data for 2010, especially at the El Dorado protocol site. Missouri notes that this can most likely be attributed to a fire event that occurred that year. Missouri State University in Springfield, Missouri, monitored an exceedance of $PM_{2.5}$ on March 6, 2010. Prior to March 6, 2010, there was a prescribed agricultural burn in the region. The state's current Smoke Management Plan (SMP) establishes a basic framework of procedures and requirements for managing smoke from fires managed for resource benefits. The intent is to mitigate nuisance and public safety hazards; to prevent deterioration of air quality and NAAQS violations; and to address visibility impacts in mandatory federal Class I areas. Missouri noted that if in the future there is a fire event that results in a NAAQS violation or other extreme case, the SMP may be re-evaluated.

EPA proposes to conclude that Missouri has adequately addressed 40 CFR 51.308(g)(5). Missouri demonstrated that there are no significant changes in anthropogenic emissions that have impeded progress in reducing emissions and improving visibility in Class I areas impacted by Missouri's sources. The state referenced its analyses in the progress report SIP identifying an overall downward trend from 2007 to 2012. Further, the progress report SIP shows that Missouri is on track to meet its 2018 emissions projections. Lastly, Missouri acknowledges that plans may be revised as necessary.

6. 40 CFR 51.308(g)(6)

40 CFR 51.308(g)(6) requires an assessment of whether the current regional haze SIP is sufficient to enable Missouri, or other states, to meet the RPGs for Class I areas affected by emissions from the state.

In its progress report, Missouri states that it believes that the elements and strategies outlined in its original regional haze SIP are sufficient to enable Missouri and other neighboring states to meet all the established RPGs. To support this, Missouri notes that based on available monitored data, the current trendline is below the glidepath from baseline conditions to the 2018 RPGs. Visibility is improving at both Class I areas in Missouri, at the El Dorado Springs IMPROVE protocol site, and at the two Class I areas in Arkansas affected by Missouri sources. Thus, Missouri concludes that the realized and planned controls and reductions that form the current strategy for this first implementation period are sufficient to meet the established RPGs.

EPA proposes to conclude that Missouri has adequately addressed 40 CFR 51.308(g)(6). EPA views this requirement as a qualitative assessment that should evaluate emissions and visibility trends and other readily available information, including expected emissions reductions associated with measures with compliance dates that have not yet become effective. Missouri referenced the improving visibility trends at affected Class I areas and the downward

emissions trends in the state, with a focus on SO_2 and NO_X emissions from Missouri's EGUs that support Missouri's determination that its regional haze SIP is sufficient to meet RPGs for Class I areas in Missouri and outside of Missouri impacted by Missouri sources. EPA believes that Missouri's conclusion regarding the sufficiency of the regional haze SIP is appropriate because of the calculated visibility improvement using the latest available data and the downward trend in SO_2 and NO_X emissions from EGUs in Missouri.

7. 40 CFR 51.308(g)(7)

40 CFR 51.308(g)(7) requires a review of the state's visibility monitoring strategy and an assessment of whether any modifications to the monitoring strategy are necessary. In its progress report SIP, Missouri summarizes the existing IMPROVE monitoring network and its intended continued reliance on IMPROVE for visibility planning. Missouri notes that it will continue IMPROVE monitoring at Hercules Glades and Mingo, consistent with the requirements of 40 CFR 51.308(d)(4)(iv). Missouri also notes that IMPROVE protocol monitoring will continue at El Dorado Springs, since the data can supplement potential data analysis projects which may be needed to address $PM_{2.5}$ NAAQS.

EPA proposes to conclude that Missouri has adequately addressed the sufficiency of its monitoring strategy as required by 40 CFR 51.308(g)(7). Missouri reaffirmed its continued reliance upon the IMPROVE monitoring network.

B. Determination of Adequacy of Existing Regional Haze Plan

Under 40 CFR 51.308(h), states are required to take one of four possible actions based on the information gathered and conclusions made in the progress report SIP.

In its progress report SIP, Missouri took the action provided for by 40 CFR 51.308(h)(1), which allows a state to submit a negative declaration to EPA if the state determines that the existing regional haze SIP requires no further substantive revision at this time to achieve the RPGs for Class I areas affected by the state's sources. The basis for Missouri's negative declaration is the findings from the progress report (as discussed in section III.A of this action), including the findings that: SO_2 and NO_X emissions from Missouri's sources have decreased below original projections, that visibility has improved at both Class I areas in Missouri, both Class I areas in Arkansas affected by Missouri's sources, and at the IMPROVE protocol site in Missouri, and that emissions reductions and visibility improvement are expected to continue over the next five years. Based on these findings, EPA proposes to agree with Missouri's conclusion under 40 CFR 51.308(h) that no further substantive changes to its regional haze SIP are required at this time.

IV. What is the impact of CAIR and CSAPR on Missouri's progress report?

Decisions by the Courts regarding EPA rules addressing interstate transport of pollutants have had a substantial impact on EPA's review of the regional haze SIPs of many states. In 2005, EPA issued regulations allowing states to rely on the Clean Air Interstate Rule (CAIR) to meet certain requirements of the Regional Haze Rule. *See* 70 FR 39104 (July 6, 2005).[6] A number of states, including Missouri, submitted regional haze SIPs consistent with these regulatory provisions. CAIR, however, was remanded to EPA in 2008, *North Carolina* v. *EPA,* 550 F. 3d 1176, 1178 (D.C. Cir. 2008), and replaced by CSAPR.[7] 76 FR 48208 (August 8, 2011). Implementation of CSAPR was scheduled to begin on January 1, 2012, when CSAPR would have superseded the CAIR program. However, numerous parties filed petitions for review of CSAPR, and at the end of 2011, the D.C. Circuit issued an order staying CSAPR pending resolution of the petitions and directing EPA to continue to administer CAIR. Order of December 30, 2011, in *EME Homer City Generation, L.P.* v. *EPA,* D.C. Cir. No. 11–1302.

EPA finalized a limited approval of Missouri's regional haze SIP on June 26, 2012. 77 FR 38007. In a separate action, published on June 7, 2012, EPA finalized a limited disapproval of the Missouri regional haze SIP because of the state's reliance on CAIR to meet certain regional haze requirements, and issued a Federal Implementation Plan (FIP) to address the deficiencies identified in the limited disapproval of Missouri and other states' regional haze plans. 77 FR 33642 (June 7, 2012). In our FIP, we relied on CSAPR to meet certain regional haze requirements notwithstanding that it was stayed at the time. As we explained, the determination that CSAPR will provide for greater reasonable progress than BART is based on a forward-looking projection of emissions and any year up to 2018 would have been an acceptable point of comparison. *Id.* At 33647. When we issued this FIP, we anticipated that the requirements of CSAPR would be implemented prior to 2018. *Id.* Following these EPA actions, however, the D.C. Circuit issued a decision in *EME Homer City* (696 F.3d 7 (D.C. Cir. 2012)), vacating CSAPR and ordering EPA to continue administering CAIR pending the promulgation of a valid replacement. On April 28, 2014, the Supreme Court reversed the D.C. Circuit's decision on CSAPR and remanded the case to the D.C. Circuit for further proceedings. *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584 (2014). After the Supreme Court decision, EPA filed a motion to lift the stay on CSAPR and asked the D.C. Circuit to toll CSAPR's compliance deadlines by three years, so that the Phase 1 emissions budgets apply in 2015 and 2016 (instead of 2012 and 2013), and the Phase 2 emissions budgets apply in 2017 and beyond (instead of 2014 and beyond). On October 23, 2014, the D.C. Circuit granted EPA's motion. Order of October 23, 2014, in *EME Homer City Generation, L.P.* v. *EPA,* D.C. Cir. No. 11–1302. EPA issued an interim final rule to clarify how EPA will implement CSAPR consistent with the D.C. Circuit's order granting EPA's motion requesting lifting the stay and tolling the rule's deadlines. 79 FR 71663 (December 3, 2014) (interim final rulemaking).[8]

Throughout the litigation described above, EPA has continued to implement CAIR. Thus, at the time that Missouri submitted its progress report SIP revision, CAIR was in effect, and the State included an assessment of the emission reductions from the implementation of CAIR in its report. The progress report discussed the status of litigation concerning CAIR and CSAPR, but because CSAPR was not at that time in effect, Missouri did not take emissions reductions from CSAPR into account in assessing its regional haze implementation plan. For the same reason, EPA is not assessing at this time the impact of CSAPR on our FIP on the ability of Missouri and its neighbors to meet their reasonable progress goals.

[6] CAIR required certain states like Missouri to reduce emissions of sulfur dioxide (SO_2) and nitrogen odixes (NO_X) that significantly contribute to downwind nonattainment of the 1997 National Ambient Air Quality Standard (NAAQS) for fine particulate matter ($PM_{2.5}$) and ozone. *See* 70 FR 25162 (May 12, 2005).

[7] CSAPR was issued by EPA to replace CAIR and to help states reduce air pollution and attain CAA standards. *See* 76 FR 48208 (August 8, 2011) (final rule). CSAPR requires substantial reductions of SO_2 and NO_X emissions from EGUs in 28 states in the Eastern United States that significantly contribute to downwind nonattainment of the 1997 $PM_{2.5}$ and ozone NAAQS and 2006 $PM_{2.5}$ NAAQS.

[8] Subsequent to the interim final rulemaking, EPA began implementation of CSAPR on January 1, 2015.

Given the complex background summarized above, EPA is proposing to determine that Missouri appropriately took CAIR into account in its progress report SIP in describing the status of the implementation of measures included in its regional haze SIP and in summarizing the emissions reductions achieved. CAIR was in effect during the 2008–2014 period addressed by Missouri's progress report. EPA approved Missouri's regulations implementing CAIR as part of the Missouri SIP in 2009, and neither Missouri nor EPA has taken any action to remove CAIR from the Missouri SIP. *See* 40 CFR 52.2520(c). Therefore, Missouri appropriately evaluated and relied on CAIR reductions to demonstrate the State's progress toward meeting its reasonable progress goals.[9] The State's progress report also demonstrated Class I areas in other states impacted by Missouri sources were on track to meet their reasonable progress goals. EPA's intention in requiring the progress reports pursuant to 40 CFR 51.308(g) was to ensure that emission management measures in the regional haze SIPs are being implemented on schedule and that visibility improvement appears to be consistent with the reasonable progress goals. 64 FR 35713, 35747 (July 1, 1999). As the D.C. Circuit only recently lifted the stay on CSAPR, CAIR was in effect in Missouri through 2014, providing the emission reductions relied upon in Missouri's regional haze SIP. Thus, Missouri appropriately took into account CAIR reductions in assessing the implementation of measures in the regional haze SIP for the 2008–2014 timeframe, and EPA believes that it is appropriate to rely on CAIR emission reductions for purposes of assessing the adequacy of Missouri's progress report demonstrating progress up to the end of 2014 as CAIR remained effective until that date, pursuant to 40 CFR 51.308(g) and (h).

In addition, EPA also believes reliance upon CAIR reductions to show Missouri's progress toward meeting its RPGs from 2008–2014 is consistent with our prior actions. During the continued implementation of CAIR per the direction of the D.C. Circuit through October 2014, EPA has approved redesignations of areas to attainment of the 1997 $PM_{2.5}$ NAAQS in which states relied on CAIR as an ''enforceable measure.'' *See* 77 FR 76415 (December 28, 2012) (redesignation of Huntington-Ashland, West Virginia); and similar examples. While EPA did previously state in a rulemaking action on the Florida regional haze SIP that a five year progress report may be the appropriate time to address changes, if necessary, for reasonable progress goal demonstrations and long term strategies, EPA does not believe the remanded status of CAIR or the implementation of its replacement CSAPR at this time impacts the adequacy of the Missouri regional haze SIP to address reasonable progress from 2008 through 2014 to meet requirements in 40 CFR 51.308(g) and (h) because CAIR was implemented during the time period evaluated by Missouri for its progress report. *See generally* 77 FR 73369, 73371 (December 10, 2012) (proposed action on Florida haze SIP).

EPA's December 3, 2014, interim final rule sunsets CAIR compliance requirements on a schedule coordinated with the implementation of CSAPR compliance requirements. 79 FR at 71655. As noted above, EPA's June 7, 2012, FIP replaced Missouri's reliance upon CAIR for regional haze requirements with reliance on CSAPR to meet those requirements for the long-term. Because CSAPR should result in greater emissions reductions of SO_2 and NO_X than CAIR throughout the affected region, including in Missouri and neighboring states, EPA expects Missouri to maintain and continue its progress toward its reasonable progress goals for 2018 through continued and additional SO_2 and NO_X reductions. *See generally* 76 FR 48208 (promulgating CSAPR).

At the present time, the requirements of CSAPR apply to sources in Missouri under the terms of a FIP, because Missouri to date has not incorporated the CSAPR requirements into its SIP. The Regional Haze Rule requires an assessment of whether the current ''implementation plan'' is sufficient to enable the states to meet all established reasonable progress goals. 40 CFR 51.308(g)(6). The term ''implementation plan'' is defined for purposes of the Regional Haze Rule to mean ''any [SIP], [FIP], or Tribal Implementation Plan.'' 40 CFR 51.301. EPA is, therefore, proposing to determine that we may consider measures in any issued FIP as well as those in a state's regional haze SIP in assessing the adequacy of the ''existing implementation plan'' under 40 CFR 51.308(g)(6) and (h). Because CSAPR will ensure the control of SO_2 and NO_X emissions reductions relied upon by Missouri and other states in setting their reasonable progress goals beginning in January 2015 at least through the remainder of the first implementation period in 2018, EPA is proposing to approve Missouri's finding that there is no need for revision of the existing implementation plan for Missouri to achieve the reasonable progress goals for the Class I areas in Missouri and for Class I areas in nearby states impacted by Missouri sources.

We note that the Regional Haze Rule provides for periodic evaluation and assessment of a state's reasonable progress toward achieving the national goal of natural visibility conditions by 2064 for CAA section 169A(b). The regional haze regulations at 40 CFR 51.308 required states to submit initial SIPs in 2007 providing for reasonable progress toward the national goal for the first implementation period from 2008 through 2018. 40 CFR 51.308(b). Pursuant to 40 CFR 51.308(f), SIP revisions reassessing each state's reasonable progress toward the national goal are due every five years after that time. For such subsequent regional haze SIPs, 40 CFR 51.308(f) requires each state to reassess its reasonable progress and all the elements of its regional haze SIP required by 40 CFR 51.308(d), taking into account improvements in monitors and control technology, assessing the state's actual progress and effectiveness of its long term strategy, and revising reasonable progress goals as necessary. 40 CFR 51.308(f)(1)–(3). Therefore, Missouri has the opportunity to reassess its reasonable progress goals and the adequacy of its regional haze SIP, including its reliance upon CAIR and CSAPR for emission reductions from EGUs, when it prepares and submits its second regional haze SIP to cover the implementation period from 2018 through 2028. As discussed previously in this notice, emissions of SO_2 and NO_X are below original trendline projections for the first implementation period, and in some cases, are below projections for 2018. In addition, the visibility data provided by Missouri shows that their Class I areas and Class I areas affected by Missouri sources are all currently on track to achieve their reasonable progress goals.

V. What action is EPA proposing to take?

EPA is proposing approval of a revision to the Missouri SIP, submitted by the State of Missouri on August 5, 2014, as meeting the applicable regional haze requirements as set forth in 40 CFR 51.308(g) and 51.308(h).

[9] EPA discussed earlier in this notice the significance of reductions in SO_2 and NO_X, as Missouri and the Central Regional Air Planning Association (CENRAP) identified SO_2 and NO_X as the largest contributor pollutants to visibility impairment at Missouri's Class I areas, as well as those Class I areas affected by Missouri's sources, specifically, and in the CENRAP region generally.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

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

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

List of Subjects in 40 CFR Part 52

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

Dated: September 14, 2015.

Mark Hague,

Acting Regional Administrator, Region 7.

[FR Doc. 2015–24461 Filed 9–28–15; 8:45 am]

BILLING CODE 6560–50–P

GULF COAST ECOSYSTEM RESTORATION COUNCIL

40 CFR Part 1800

[Docket Number: 109002015–1111–08]

RESTORE Act Spill Impact Component Allocation

AGENCY: Gulf Coast Ecosystem Restoration Council

ACTION: Notice of proposed rulemaking.

SUMMARY: The Gulf Coast Ecosystem Restoration Council (Council) is publishing for public and Tribal comment proposed regulations to implement the Spill Impact Component of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act). These regulations will establish the formula allocating funds made available from the Gulf Coast Restoration Trust Fund (Trust Fund) among the Gulf Coast States of Alabama, Florida, Louisiana, Mississippi and Texas (''State'' or ''States'') pursuant to Sec. 1603(3) of the RESTORE Act.

DATES: Comments are due October 29, 2015.

ADDRESSES: Comments may be submitted through one of these methods:

Electronic Submission of Comments: Interested persons may submit comments electronically by sending them to *frcomments@restorethegulf.gov.* Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt, and enables the Council to make them available to the public. In general, the Council will make such comments available for public inspection and copying on its Web site, *www.restorethegulf.gov,* without change, including any business or personal information provided, such as names, addresses, email addresses, or telephone numbers. All comments received, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. You should only submit information that you wish to make publicly available.

Mail: Send to Gulf Coast Ecosystem Restoration Council, 500 Poydras Street, Suite 1117, New Orleans, LA 70130.

FOR FURTHER INFORMATION CONTACT: Please send questions by email to *frcomments@restorethegulf.gov,* or contact Will Spoon at (504) 239–9814.

SUPPLEMENTARY INFORMATION:

Effective Date

This proposed rule, if and when final, would become effective on the date that the court enters a consent decree among the United States, the Gulf Coast States and BP with respect to the civil penalty and natural resource damages in MDL No. 2179 (United States District Court for the Eastern District of Louisiana).

Background

The Gulf Coast region is vital to our nation and our economy, providing valuable energy resources, abundant seafood, extraordinary beaches and recreational activities, and a rich natural and cultural heritage. Its waters and coasts are home to one of the most diverse natural environments in the world—including over 15,000 species of sea life and millions of migratory birds. The Gulf has endured many catastrophes, including major hurricanes such as Katrina, Rita, Gustav and Ike in the last ten years alone. The region has also experienced the loss of critical wetland habitats, erosion of barrier islands, imperiled fisheries, water quality degradation and significant coastal land loss. More recently, the health of the region's ecosystem was significantly affected by the *Deepwater Horizon* oil spill. As a result of the oil spill, the Council has been given the great responsibility of helping to address ecosystem challenges across the Gulf.

In 2010 the *Deepwater Horizon* oil spill caused extensive damage to the Gulf Coast's natural resources, devastating the economies and communities that rely on it. In an effort to help the region rebuild in the wake of the spill, Congress passed and the President signed the RESTORE Act, Public Law 112–141, Sec. 1601–1608, 126 Stat. 588 (Jul. 6, 2012), codified at 33 U.S.C. 1321(t) and *note.* The RESTORE Act created the Gulf Coast Restoration Trust Fund (Trust Fund) and dedicates to the Trust Fund eighty percent (80%) of any civil and administrative penalties paid under the

Clean Water Act, after enactment of the RESTORE Act, by parties responsible for the *Deepwater Horizon* oil spill.

Under the RESTORE Act, these funds will be made available through five components. The Department of the Treasury (Treasury) has issued regulations (79 FR 48,039 (Aug. 15, 2014), adopting interim final rule at 31 CFR part 34) (Treasury Regulations) applicable to all five components that generally describe the responsibilities of the Federal and State entities that administer RESTORE Act programs and carry out restoration activities in the Gulf Coast region.

Two of the five components, the Council-Selected Restoration Component and the Spill Impact Component, are administered by the Council, an independent Federal entity created by the RESTORE Act. Under the Spill Impact Component (33 U.S.C. 1321(t)(3)), the subject of this rule, 30 percent of funds in the Trust Fund will be disbursed to the States based on allocation criteria set forth in the RESTORE Act.[1] In order for funds to be disbursed to a State, the RESTORE Act requires each State to develop a State Expenditure Plan (SEP) and submit it to the Council for approval. The RESTORE Act specifies particular entities within the States to prepare these plans.

SEPs must meet the following four criteria set forth in the RESTORE Act: (1) All projects, programs and activities (activities) included in the SEP are eligible activities under the RESTORE Act (33 U.S.C. 1321(t)(3)(B)(i)(I)); (2) all activities included in the SEP contribute to the overall economic and ecological recovery of the Gulf Coast (33 U.S.C. 1321(t)(3)(B)(i)(II)); (3) the SEP takes the Council's Comprehensive Plan into consideration and is consistent with the goals and objectives of the Comprehensive Plan (33 U.S.C. 1321(t)(3)(B)(i)(III)); and (4) no more than 25 percent of the allotted funds are used for infrastructure projects unless the SEP contains certain certifications pursuant to 33 U.S.C. 1321(t)(3)(B)(ii). If the Council determines that an SEP meets the four criteria listed above and otherwise complies with the RESTORE Act and the applicable Treasury Regulations, the Council must approve the SEP based upon such determination within 60 days after a State submits an SEP to the Council. 33 U.S.C. 1321(t)(3)(B)(iv).

The funds the Council disburses to the States upon approval of an SEP will be in the form of grants. As required by Federal law, the Council will award a Federal grant or grants to each of the States and incorporate into the grant award(s) standard administrative terms on such topics as recordkeeping, reporting and auditing. The Council will establish and implement a compliance program to ensure that the grants it issues comply with the terms of the grant agreement.

The ultimate amount of administrative and civil penalties potentially available to the Trust Fund is not yet known. On January 3, 2013, the United States announced that Transocean Deepwater Inc. and related entities agreed to pay $1 billion in civil penalties for violating the Clean Water Act in relation to their conduct in the *Deepwater Horizon* oil spill. The settlement was approved by the court in February 2013, and pursuant to the RESTORE Act approximately $816 million (including interest) has been paid into the Trust Fund. On July 2, 2015, BP announced that it reached Agreements in Principle (AIPs) for settlement of civil claims arising from the *Deepwater Horizon* oil spill. According to the announcement, the AIPs provide for a payment to the United States of a civil penalty of $5.5 billion under the Clean Water Act, payable over 15 years. As discussed above, the RESTORE Act provides that 80% of civil penalties paid under the Clean Water Act arising out of the *Deepwater Horizon* oil spill are dedicated to the Trust Fund. There are, however, additional steps that must be completed before those funds become available. The terms of the proposed settlements are subject to a confidentiality order and will not become final until, among other things, a consent decree is negotiated, is made available for public review and comment, and is approved and entered by the court.

This Proposed Rule

This proposed rule establishes the formula for allocating among the five States funds made available through the Spill Impact Component of the Trust Fund (Spill Impact Component), as required by the RESTORE Act, and would supplement the Treasury Regulations. This rule, and the application of any determinations made hereunder, is limited to the Spill Impact Component and is promulgated solely for the purpose of establishing such allocation. The Council takes no position on what data or determinations may be appropriate for other uses, including for any other Component of the RESTORE Act or in connection with natural resource damage assessments, ongoing litigation, any other law or regulation or any rights or obligations in connection therewith.

The RESTORE Act mandates that funds made available from the Trust Fund for the Spill Impact Component be disbursed to each State based on a formula established by the Council by a regulation based on a weighted average of the following three criteria: (1) Forty (40) percent based on the proportionate number of miles of shoreline in each State that experienced oiling on or before April 10, 2011, compared to the total number of miles of shoreline throughout the Gulf Coast region that experienced oiling as a result of the *Deepwater Horizon* oil spill; (2) forty (40) percent based on the inverse proportion of the average distance from the mobile offshore drilling unit *Deepwater Horizon* at the time of the explosion to the nearest and farthest point of the shoreline that experienced oiling of each State; and (3) twenty (20) percent based on the average population in the 2010 Decennial Census of coastal counties bordering the Gulf of Mexico within each State. 33 U.S.C. 1321(t)(3)(A)(ii).

For the first criterion, the Council used Shoreline Cleanup and Assessment Technique (SCAT) and Rapid Assessment Technique (RAT) data supplied by the United States Coast Guard. SCAT and RAT represent the U.S. Government's official dataset for tracking and responding to oil spills and thus represent the most consistent, clear and reasonable currently available dataset to use for determining the first criterion, which calls for a determination of the proportionate number of miles of shoreline in each State that experienced oiling on or before April 10, 2011, compared to the total number of miles of shoreline throughout the Gulf Coast region that experienced oiling as a result of the *Deepwater Horizon* oil spill.

For the second criterion, the Council used the same SCAT and RAT data along with official latitude and longitudinal data supplied by the U.S. Coast Guard to determine the inverse proportion of the average distance from the location of the *Deepwater Horizon* mobile offshore drilling unit at the time of the explosion to the nearest and farthest point of the shoreline that experienced oiling of each State.

For the third criterion, the Council first had to determine what constituted ''coastal counties bordering the Gulf of

[1] 33 U.S.C. 1321(t)(3)(A)(ii). The Council previously promulgated a regulation permitting the States access to up to 5 percent of the total amount available in the Trust Fund to each State under the Spill Impact Component (the statutory minimum guaranteed to each State). These funds could be used for planning purposes associated with developing a State Expenditure Plan. 80 FR 1584 (Jan. 13, 2015); 40 CFR 1800.20.

Mexico within each Gulf Coast State'' before it could determine the average population based on the 2010 Decennial Census. The RESTORE Act and Treasury's implementing regulations define the relevant counties for the State of Florida. 33 U.S.C. 1321(t)(1)(C). The Treasury regulations implementing the RESTORE Act specify these counties as: Bay, Charlotte, Citrus, Collier, Dixie, Escambia, Franklin, Gulf, Hernando, Hillsborough, Jefferson, Lee, Levy, Manatee, Monroe, Okaloosa, Pasco, Pinellas, Santa Rosa, Sarasota, Taylor, Wakulla, and Walton. 31 CFR 34.2. For the purposes of this draft rule, the Council proposes to define the Florida counties listed in the Treasury regulations as ''coastal counties.''

However, the RESTORE Act does not specifically define the term ''coastal counties,'' nor does it identify specific counties in the States of Alabama, Louisiana, Mississippi or Texas that are ''coastal counties'' under the RESTORE Act. Nor does any other relevant Federal law or regulation define or identify these counties. Accordingly, the Council must itself determine which counties in those States qualify as ''coastal counties'' for the purposes of the Spill Impact Component.

For the States of Alabama, Louisiana, Mississippi and Texas, the Council proposes to interpret the term ''coastal counties'' as those counties that, according to a generally accessible geographic map of the states, physically touch the Gulf of Mexico. Using this interpretation, the Council proposes identifying the following counties as ''coastal counties'' for the purposes of the rule: Baldwin and Mobile Counties for Alabama; Cameron, Iberia, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Mary, St. Tammany, Terrebonne, and Vermilion Parishes for Louisiana; Hancock, Harrison, and Jackson Counties for Mississippi; and Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, and Willacy Counties for Texas.

Additionally, with respect to the State of Texas the Council considered the list of coastal counties used by the State of Texas Railroad Commission (TRC) (*http://www.rrc.state.tx.us/*), the Texas state agency responsible for regulating exploration, production and transportation of oil and natural gas in Texas as well as related pollution prevention measures—matters that are topically related to the purposes of the RESTORE Act. The counties identified in the TRC list are the same as those identified for Texas above.[2] The Council also considered other possible sources for determining the Texas coastal counties but has determined that they are insufficient for such purposes.

After determining the ''coastal counties,'' the RESTORE Act requires the Council to use the 2010 Decennial Census figures for those counties to determine the average population of the coastal counties bordering the Gulf of Mexico within each State.

Using the figures calculated based on the above assumptions and applying the criteria specified in the RESTORE Act, the Council proposes that the final allocation among the five States be: Alabama—20.40%; Florida—18.36%; Louisiana—34.59%; Mississippi—19.07%; and Texas—7.58%.[3]

After consideration of public comment on this proposed rule, the Council will respond to those comments and revise the rule as appropriate. Consistent with the requirements of the RESTORE Act, the Council will then publicly vote on whether to adopt a final rule and publish the final rule in the **Federal Register**. 33 U.S.C. 1321(t)(2)(C)(vi). Approval of the rule requires the affirmative vote of the Chairperson and a majority of the five State members. 33 U.S.C. 1321(t)(2)(C)(vi)(I).

Environmental Compliance

The Council does not regard promulgating this proposed rule, including the allocation formula and State allocation percentages set forth herein, as requiring National Environmental Policy Act (NEPA) review, because the Council has no discretion in either establishing such elements of the Spill Impact Component or weighting such elements, both of which are specified in the RESTORE Act.

NEPA review will apply to specific activities undertaken pursuant to Council-approved SEPs that require significant Federal action before they can commence. For example, an SEP project requiring a Federal permit would generally require NEPA review by the issuing Federal agency, and obtaining such a permit might also require other Federal environmental compliance. No SEP implementation funds for an activity will be disbursed by the Council to a State until all requisite permits and licenses have been obtained.

The Council invites public comment on whether the Council's approving and funding SEPs under the RESTORE Act will require NEPA review, as outlined in the following analysis:

The Council does not anticipate that its review or approval of SEPs, or the issuance of related grants under the Spill Impact Component of the RESTORE Act, will require NEPA review. The Council has a limited statutory role in the review of SEPs and administration of Spill Impact Component grants, and a limited timeframe for Council SEP review under the RESTORE Act.

Under the RESTORE Act the Council has no role in the creation of SEPs or the design or selection of Spill Impact Component activities; those activities are undertaken solely by the States. The RESTORE Act specifies the four criteria that SEPs must meet in order to be eligible for funding, and when an SEP meets these criteria the Council has no authority or discretion to reject an SEP, to select or designate alternative versions of an SEP, or to select or designate alternative activities within an SEP. Although the Council must determine whether an SEP has met these criteria, the RESTORE Act does not grant the Council discretion to separately consider external factors, such as environmental impacts, in its review.

NEPA is designed to help Federal agencies consider environmental consequences during their decision-making process, and to consider alternatives to a proposed action. Since the Council has no role in creating SEPs and lacks the discretion to separately consider environmental consequences or SEP alternatives, a NEPA review would have no bearing on the Council's decision to either approve or reject an SEP.

Moreover, under the RESTORE Act the Council is given 60 days after submission of an SEP to approve or disapprove it for funding. This timeframe would not allow the Council sufficient time to conduct meaningful NEPA review. NEPA reviews, even those concluding that environmental impacts are not significant, typically require several months at a minimum—certainly longer than the 60 days allowed for Council approval of an SEP. Nor could the Council require a completed NEPA analysis to accompany a proposed SEP before starting the 60-day review (*e.g.,* as part of or prior to an

[2] The Council proposes to use the TRC list only for purposes of the Spill Impact Component criterion set forth in 33 U.S.C. 1321(t)(3)(A)(ii)(III). For the avoidance of doubt, the Council's use of this list has no bearing or effect on (i) any other provision of the RESTORE Act, the laws of Texas or any other Federal or state laws; (ii) any other determination of coastal counties, areas, jurisdictions or political subdivisions; or (iii) any other determination of legal rights or obligations.

[3] The Council notes that the calculations resulting in the above allocation involved rounding.

SEP submission); this would in effect impose an additional criterion for approval of an SEP, which is beyond Council authority under the RESTORE Act.

NEPA would therefore not apply to Council approval or funding of an SEP.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

As an independent Federal entity that is composed of, in part, six Federal agencies, including the Departments of Agriculture, the Army, Commerce, and the Interior, and the Department in which the Coast Guard is operating, and the Environmental Protection Agency, the requirements of Executive Orders 12866 and 13563 are inapplicable to this rule.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires agencies to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule will not have a significant economic impact on a substantial number of small entities because the direct recipients of the funds allocated under this rule are the five States, and states are not small entities under the Regulatory Flexibility Act. Additionally, this rule does not place any economic burden on the ''coastal counties''; rather those counties will receive funds from their respective States' share of the allocated funds. Therefore, the Council has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule does not have a significant economic impact on a substantial number of small entities. Thus, an initial regulatory flexibility analysis is not required and has not been prepared. The Council invites comments on the rule's impact on small entities.

Paperwork Reduction Act

This rule is promulgated solely to establish an allocation formula and State allocation percentages. As such, there are no associated paperwork requirements. Any paperwork necessary to submit a SEP under the Spill Impact component of the RESTORE Act is a statutory requirement unaffected by this rule. 31 U.S.C. 1321(t)(3).

The Council requests public and Tribal comment on all aspects of this proposed rule.

List of Subjects in 40 CFR Part 1800

Coastal zone, Fisheries, Grant programs, Grants administration, Gulf Coast Restoration Trust Fund, Gulf RESTORE Program, Intergovernmental relations, Marine resources, Natural resources, Oil pollution, Research, Science and technology, Trusts, Wildlife.

For the reasons set forth in the preamble, the Gulf Coast Ecosystem Restoration Council proposes to amend 40 CFR part 1800 as follows:

PART 1800—SPILL IMPACT COMPONENT

■ 1. The authority citation for part 1800 continues to read as follows:

Authority: 33 U.S.C. 1321(t).

■ 2. Amend § 1800.1 by adding in alphabetical order the definitions for *Deepwater Horizon oil spill, Spill Impact Formula, Inverse proportion, Treasury,* and *Trust Fund* to read as follows:

§ 1800.1 Definitions.

* * * * *

Deepwater Horizon oil spill means the blowout and explosion of the mobile offshore drilling unit *Deepwater Horizon* that occurred on April 20, 2010, and resulting hydrocarbon releases into the environment.

Spill Impact Formula means the formula established by the Council in accordance with section 311(t)(3)(A)(ii) of the Federal Water Pollution Control Act, as added by section 1603 thereof.

* * * * *

Inverse proportion means a mathematical relation between two quantities such that one proportionally increases as the other decreases.

* * * * *

Treasury means the U.S. Department of the Treasury, the Secretary of the Treasury, or his/her designee.

Trust Fund means the Gulf Coast Restoration Trust Fund.

■ 3. Add subpart C to read as follows:

Subpart C—Spill Impact Formula

Sec.

1800.100 Purpose.
1800.101 General formula.
1800.200 Oiled shoreline.
1800.201 Miles of shoreline that experienced oiling as a result of the *Deepwater Horizon* oil spill.
1800.202 Proportionate number of miles of shoreline that experienced oiling as a result of the *Deepwater Horizon* oil spill.
1800.300 Inverse proportion of the average distance from *Deepwater Horizon* at the time of the explosion.
1800.301 Distances from the *Deepwater Horizon* at the time of the explosion.
1800.302 Inverse proportions.
1800.400 Coastal county populations.
1800.401 Decennial census data.
1800.402 Distribution based on average population.
1800.500 Allocation.

§ 1800.100 Purpose.

This subpart establishes the formula applicable to the Spill Impact Component authorized under the RESTORE Act (Pub. L. 112–141, 126 Stat. 405, 588–607).

§ 1800.101 General formula.

The RESTORE Act provides that thirty percent (30%) of the funds made available from the Trust Fund for the Oil Spill Impact Component be disbursed to each of the Gulf Coast States of Alabama, Florida, Louisiana, Mississippi and Texas based on a formula established by the Council (Spill Impact Formula), through a regulation, that is based on a weighted average of the following criteria:

(a) Forty percent (40%) based on the proportionate number of miles of shoreline in each Gulf Coast State that experienced oiling on or before April 10, 2011, compared to the total number of miles of shoreline that experienced oiling as a result of the *Deepwater Horizon* oil spill;

(b) Forty percent (40%) based on the inverse proportion of the average distance from the mobile offshore drilling unit *Deepwater Horizon* at the time of the explosion to the nearest and farthest point of the shoreline that experienced oiling of each Gulf Coast State; and

(c) Twenty percent (20%) based on the average population in the 2010 Decennial Census of coastal counties bordering the Gulf of Mexico within each Gulf Coast State.

§ 1800.200 Oiled shoreline.

Solely for the purpose of calculating the Spill Impact Formula, the following shall apply, rounded to one decimal place with respect to miles of shoreline:

§ 1800.201 Miles of shoreline that experienced oiling as a result of the *Deepwater Horizon* oil spill.

According to Shoreline Cleanup and Assessment Technique and Rapid Assessment Technique data provided by the United States Coast Guard, the miles of shoreline that experienced oiling on or before April 10, 2011 for each Gulf Coast State are:

(a) Alabama—89.8 miles.

(b) Florida—174.6 miles.

(c) Louisiana—658.3 miles.

(d) Mississippi—158.6 miles.

(e) Texas—36.0 miles.

§ 1800.202 Proportionate number of miles of shoreline that experienced oiling as a result of the *Deepwater Horizon* oil spill.

The proportionate number of miles for each Gulf Coast State is determined by dividing each Gulf Coast State's number of miles of oiled shoreline determined in 1800.201 by the total number of affected miles. This calculation yields the following:

(a) Alabama—8.04%.
(b) Florida—15.63%.
(c) Louisiana—58.92%.
(d) Mississippi—14.19%.
(e) Texas—3.22%.

§ 1800.300 Inverse proportion of the average distance from *Deepwater Horizon* at the time of the explosion.

Solely for the purpose of calculating the Spill Impact Formula, the following shall apply, rounded to one decimal place with respect to distance:

§ 1800.301 Distances from the *Deepwater Horizon* at the time of the explosion.

(a) Alabama—The distance from the nearest point of the Alabama shoreline that experienced oiling from the *Deepwater Horizon* oil spill was 89.2 miles. The distance from the farthest point of the Alabama shoreline that experienced oiling from the *Deepwater Horizon* oil spill was 103.7 miles. The average of these two distances is 96.5 miles.

(b) Florida—The distance from the nearest point of the Florida shoreline that experienced oiling from the *Deepwater Horizon* oil spill was 102.3 miles. The distance from the farthest point of the Florida shoreline that experienced oiling from the *Deepwater Horizon* oil spill was 207.6 miles. The average of these two distances is 154.9 miles.

(c) Louisiana—The distance from the nearest point of the Louisiana shoreline that experienced oiling from the *Deepwater Horizon* oil spill was 43.5 miles. The distance from the farthest point of the Louisiana shoreline that experienced oiling from the *Deepwater Horizon* oil spill was 213.7 miles. The average of these two distances is 128.6 miles.

(d) Mississippi—The distance from the nearest point of the Mississippi shoreline that experienced oiling from the *Deepwater Horizon* oil spill was 87.7 miles. The distance from the farthest point of the Mississippi shoreline that experienced oiling from the *Deepwater Horizon* oil spill was 107.9 miles. The average of these two distances is 97.8 miles.

(e) Texas—The distance from the nearest point of the Texas shoreline that experienced oiling from the *Deepwater Horizon* oil spill was 306.2 miles. The distance from the farthest point of the Texas shoreline that experienced oiling from the *Deepwater Horizon* oil spill was 356.5 miles. The average of these two distances is 331.3 miles.

§ 1800.302 Inverse proportions.

The inverse proportion for each Gulf Coast State is determined by summing the proportional average distances determined in 1800.301 and taking the inverse. This calculation yields the following:

(a) Alabama—27.39%.
(b) Florida—17.06%.
(c) Louisiana—20.55%.
(d) Mississippi—27.02%.
(e) Texas—7.98%.

§ 1800.400 Coastal county populations.

Solely for the purpose of calculating the Spill Impact Formula, the coastal political subdivisions bordering the Gulf of Mexico within each Gulf Coast State are:

(a) The Alabama Coastal Counties, consisting of Baldwin and Mobile counties;

(b) The Florida Coastal Counties, consisting of Bay, Charlotte, Citrus, Collier, Dixie, Escambia, Franklin, Gulf, Hernando, Hillsborough, Jefferson, Lee, Levy, Manatee, Monroe, Okaloosa, Pasco, Pinellas, Santa Rosa, Sarasota, Taylor, Wakulla, and Walton counties;

(c) The Louisiana Coastal Parishes, consisting of Cameron, Iberia, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Mary, St. Tammany, Terrebonne, and Vermilion parishes;

(d) The Mississippi Coastal Counties, consisting of Hancock, Harrison, and Jackson counties; and

(e) The Texas Coastal Counties, consisting of Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kennedy, Kleberg, Matagorda, Nueces, and Willacy counties.

§ 1800.401 Decennial census data.

The average populations in the 2010 decennial census for each Gulf Coast State, rounded to the nearest whole number, are:

(a) For the Alabama Coastal Counties, 297,629 persons;

(b) For the Florida Coastal Counties, 252,459 persons;

(c) For the Louisiana Coastal Parishes, 133,633 persons;

(d) For the Mississippi Coastal Counties,123,567 persons; and

(e) For the Texas Coastal Counties, 147,845 persons.

§ 1800.402 Distribution based on average population.

The distribution of funds based on average populations for each Gulf Coast State is determined by dividing the average population determined in 1800.401 by the sum of those average populations. This calculation yields the following results:

(a) Alabama—31.16%.
(b) Florida—26.43%.
(c) Louisiana—13.99%.
(d) Mississippi—12.94%.
(e) Texas—15.48%.

§ 1800.500 Allocation.

Using the data from sections 1800.200 through 1800.402 of this subpart in the formula provided in section 1800.101 of this subpart yields the following allocation for each Gulf Coast State:

(a) Alabama—20.40%.
(b) Florida—18.36%.
(c) Louisiana—34.59%.
(d) Mississippi—19.07%.
(e) Texas—7.58%.

Justin R. Ehrenwerth,

Executive Director, Gulf Coast Ecosystem Restoration Council.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PS Docket No. 15–199; FCC 15–105]

Enable Railroad Police Officers To Access Public Safety Interoperability and Mutual Aid Channels

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document seeks comment on proposals to amend the Commission's rules to provide railroad police with access to public safety interoperability and mutual aid channels. By this action, the Commission affords interested parties an opportunity to submit comments on these proposed rule changes.

DATES: Comments are due on or before November 13, 2015 and reply comments are due on or before November 30, 2015.

ADDRESSES: You may submit comments, identified by PS Docket No. 15–199, 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 FURTHER INFORMATION CONTACT: John Evanoff, Attorney-Advisor of the Public Safety and Homeland Security Bureau, Policy and Licensing Division, at (202) 418–0848, or by email to *john.evanoff@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, FCC 15–105, released on September 1, 2015. The document is available for download at *http://fjallfoss.fcc.gov/edocs-public/.* The complete text of this document is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. 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).

In the Notice of Proposed Rulemaking (NPRM) in PS Docket No. 15–199, the Commission initiates a new proceeding to amend the part 90 rules governing access to public safety interoperability and mutual aid channels. The Commission seeks comment on expanding eligibility to allow railroad police officers employed by Class I, Class II and Class III railroads as defined by the U.S. Department of Transportation's Surface Transportation Board (STB) and recognized by the Federal Railroad Administration (FRA) to operate on public safety interoperability and mutual aid channels. Further, the Commission seeks comment on alternatives for defining eligible railroad police officers, including expanding the definition to include part-time rail police and Amtrak. The Commission also seeks comment on requiring railroad police officers to obtain governmental authorization to operate on the 700 MHz interoperability channels as required by § 90.523 of the Commission's rules and Section 337(f)(1) of the Communications Act of 1934, as amended. Additionally, the Commission seeks comment on requiring railroad police officers seeking to license the interoperability channels to obtain frequency coordination and submit a license application, in the event that it is decided that railroads can operate base and control stations on interoperability channels.

Pursuant to §§ 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. 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.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty). Commenters who file information that they believe should be withheld from public inspection may request confidential treatment pursuant to § 0.459 of the Commission's rules. Commenters should file both their original comments for which they request confidentiality and redacted comments, along with their request for confidential treatment. Commenters should not file proprietary information electronically. See Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission, Report and Order, 13 FCC Rcd 24816 (1998), Order on Reconsideration, 14 FCC Rcd 20128 (1999). Even if the Commission grants confidential treatment, information that does not fall within a specific exemption pursuant to the Freedom of Information Act (FOIA) must be publicly disclosed pursuant to an appropriate request. See 47 CFR 0.461; 5 U.S.C. 552. We note that the Commission may grant requests for confidential treatment either conditionally or unconditionally. As such, we note that the Commission has the discretion to release information on public interest grounds that does fall within the scope of a FOIA exemption.

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 § 1.1206(b). In proceedings governed by § 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.

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA) the Commission prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this Notice of Proposed Rulemaking (NPRM). Written public comments are requested on this IRFA. Comments must be filed by the same dates as listed on the first page of the *NPRM* and must have a separate and distinct heading designating them as responses to this IRFA. The Commission will send a copy of the *NPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules

The NPRM is intended to determine whether it is in the public interest, convenience and necessity to amend the Part 90 rules to reduce regulatory barriers and facilitate railroad police access to public safety interoperability and mutual aid channels. Specifically, in response to a Petition for Rulemaking filed by the National Public Safety Telecommunications Council (NPSTC), the NPRM seeks comment on expanding eligibility to allow railroad police officers employed by a Class I, Class II and Class III railroad as defined by the U.S. Department of Transportation's Surface Transportation Board (STB) and recognized by the Federal Railroad Administration (FRA) to operate on public safety interoperability channels in the VHF and UHF bands below 512 MHz, 700 MHz narrowband and 800 MHz NPSPAC band. Commenters were uniformly supportive of the NPSTC proposal, which the Public Safety and Homeland Security Bureau placed on Public Notice. These commenters, including the U.S. Department of Transportation, cited the safety of life and property role that railroad police officers play in emergencies. In certain emergencies, such as accidents involving railroads or security incidents involving the U.S. rail network, public safety personnel may need to communicate with railroad police. Additionally, Congress enacted the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Recommendations Act), which provides that railroad grant funding may be used, *inter alia,* to acquire ''communications equipment, including equipment that is interoperable with Federal, State, and local agencies and tribal governments[.]'' Therefore, in light of the record and expression of Congressional intent, the NPRM seeks comment on amending the eligibility rules applicable to interoperability spectrum.

As discussed below, the Commission has endeavored to keep the burdens associated with this rule change as simple and minimal as possible. The NPRM seeks comment on requiring railroad police officers to obtain governmental authorization to operate on the 700 MHz interoperability channels as required by § 90.523 of the Commission's rules and Section 337(f)(1) of the Communications Act of 1934, as amended. Further, the NPRM seeks comment on requiring railroad police officers seeking to license the interoperability channels to obtain frequency coordination and submit a license application, in the event that it is decided that railroads can operate base and control stations on interoperability channels. Additionally, the NPRM seeks comment on alternatives to licensing on the interoperability channels in order to minimize the burden on railroad entities, as discussed below. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Finally, we propose to update § 90.20 of the Commission's rules to explicitly identify the nationwide interoperability channels to facilitate interoperability among Federal, State, Local, Tribal and Railroad Police entities. The Commission concludes that it is necessary to eliminate uncertainty and to codify the flexible licensing approach concerning the use of all the public safety interoperability channels.

Legal Basis

These proposed actions are taken under Sections 1, 2, 4(i), 4(j), 301, 303, 316, and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 301, 303, 316, 332 and 337.

Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' The official count of local governments in the United States for 2012 was 90,056, comprising 38,910 general-purpose governments and 51,146 special-purpose governments. General purpose governments include those classified as counties, municipalities, and townships. For this category, census data for 2012 show that there were approximately 37,132 counties, cities and towns that have populations of fewer than 50,000. In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Below, we describe and estimate the number of small entities that may be affected by the rules changes proposed in this *NPRM.*

Private Land Mobile Radio Licensees. PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories, and are often used in support of the licensee's primary (non-telecommunications) business operations. Because of the vast array of PLMR users, which includes railroads, the Commission has not developed a small business size standard specifically applicable to PLMR users. The SBA rules, however, contain a definition for Wireless Telecommunications Carriers (except Satellite) which encompasses business entities engaged in radiotelephone communications employing no more than 1,500 persons. For this category, census data for 2007 show that there were 11,163 establishments that operated for the entire year. Of this total, 10,791 establishments had employment of 999 or fewer employees and 372 had employment of 1000

employees or more. Under this category and the associated small business size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities. The Commission, however, does not require PLMR licensees to disclose information about number of employees, so the Commission does not have information that could be used to determine how many PLMR licensees constitute small entities under this definition. We note that PLMR licensees generally use the licensed facilities in support of other business activities, and therefore, it would also be helpful to assess PLMR licensees under the standards applied to the particular industry subsector to which the licensee belongs.

Public Safety Radio Pool Licensees. As a general matter, Public Safety Radio Pool licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. Spectrum in the 700 MHz band for public safety services is governed by 47 U.S.C. 337. Non-Federal governmental entities may be eligible licensees for these services. All governmental entities with populations of less than 50,000 fall within the definition of a small entity. According to the Commission's records, there were (1) 1,318 public safety licensees licensed on at least one of the VHF and UHF public safety interoperability channels; (2) 59 public safety licensees licensed on at least one of the narrowband interoperability channels in the public safety band between 764–776 MHz/794–806 MHz; and (3) 4,715 public safety licensees operating in the public safety band between 806–809/851–854 MHz (NPSPAC band). In total there are 6,092 public safety entities, including small governmental jurisdictions, licensed to operate on at least one of the interoperability and mutual aid channels.

Class I, Class II, and Class III Railroads. NPSTC proposes expanding eligibility to operate on the interoperability channels to include full-time railroad police employed by a Class I, II, or III railroad, as defined by the STB and recognized by the FRA. The SBA stipulates ''size standards'' for small entities. It provides that the largest a for-profit railroad business firm may be and still be classified as a ''small entity'' is 1,500 employees for ''Line-Haul'' railroads, and 500 employees for ''Short-Line'' railroads. SBA size standards may be altered by Federal agencies in consultation with SBA, and in conjunction with public comment. Pursuant to the authority provided to it by SBA, the FRA has published a final policy, which formally establishes small entities as railroads that meet the line haulage revenue requirements of a ''Class III railroad.'' This threshold is based on the STB's threshold for a Class III railroad carrier, which is adjusted by applying the railroad revenue deflator adjustment. Consistent with FRA's approach, we are using this definition for this rulemaking. Approximately 700 railroads meet the criteria for small entity. We are using this as our estimate of the universe of small entities that could be directly impacted by the proposed rule.

The NPRM seeks comment on expanding eligibility to operate on the interoperability channels. The primary beneficiaries of this increased flexibility would be railroads, including small railroads, and PLMR licensees, including small governmental jurisdictions, that have a need to interoperate with each other. The FCC notes that the requirement that railroads obtain governmental authorization to operate on the 700 MHz interoperability channels is statutorily required and the Commission is without authority to exempt railroads from this requirement. Additionally, railroad entities may be required to obtain frequency coordination and submit a license application on FCC Form 601 in order to license, construct and operate base and control stations on the interoperability channels. The NPRM seeks comment on additional flexibility that may reduce the impact on railroad police officers operating on the interoperability channels. Those alternatives are discussed below.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This NPRM contains modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. The NPRM seeks comment on whether railroad police officers who are certified and/or commissioned as a police officer under the laws of any state, in accordance with the regulations issued by the Secretary of the U.S. Department of Transportation and employed full time as a railroad police officer for a Class I, II, or III railroad, as defined by the U.S. Department of Transportation's Surface Transportation Board and recognized by the Federal Railroad Administration (FRA) should be eligible to operate on the nationwide interoperability and mutual aid channels specified in §§ 90.20 and 90.525 of the Commission's rules. The NPRM also seeks comment on alternatives for defining eligible railroad police officers, including expanding the definition to include part-time rail police and Amtrak consistent with FRA regulations. The NPRM seeks comment on its tentative conclusion that the definition of railroad police officers established by the Department of Transportation best captures the eligibility criteria for railroad police use of the interoperability and mutual aid channels.

The NPRM also seeks comment on requiring railroad police officers to obtain governmental authorization to operate on the 700 MHz interoperability channels as required by § 90.523 of the Commission's rules and Section 337(f)(1) of the Communications Act of 1934, as amended. In accordance with the Paperwork Reduction Act, the Office of Management and Budget (OMB) has already approved the collection of state and local government certifications from non-governmental organizations that seek to operate on the 700 MHz narrowband channels. See ICR Reference Number: 201403–3060–018, OMB Control No. 3060–0805. The nationwide interoperability and mutual aid channels are designed to meet a variety of public safety interoperability needs, but railroad entities have traditionally been licensed in the Industrial/Land Transportation/Business spectrum bands and thus have not been subject to the licensing requirements applicable to the interoperability and mutual aid channels. We do not propose to change the wording of the OMB-approved collection in any material or substantive manner, but we do seek to determine whether railroad police meet the statutory eligibility criteria to operate on the 700 MHz interoperability channels. If so, then only the number of respondents would change as we would expect that railroad police officers will comply with these existing statutory requirements and regulations, which are the minimum necessary to ensure effective use of the spectrum and to minimize interference potential to public safety entities, including State, local and tribal governments. Thus, requiring railroad police to obtain governmental authorization in order to operate on the 700 MHz interoperability channels would increase the number of respondents by approximately 763 entities. See ICR Reference Number: 201308–2130–009, OMB Control No. 2130–0537.

The NPRM also seeks comment on licensing base and control stations on the interoperability and mutual aid

channels. The NPRM notes that licensing base and controls stations would require frequency coordination (*e.g.* railroad police officers would be required to submit a license application on Form 601 demonstrating evidence of frequency coordination). Similarly, mobile-only authorizations require frequency coordination and submission of FCC form 601. Railroad entities seeking licenses in the Industrial Land Transportation and Business Pool are required to obtain coordination from certain frequency coordinators as specified in § 90.35 of the Commission's rules. However, the interoperability and mutual aid channels are subject to frequency coordination from the four certified public safety frequency coordinators as specified in § 90.20(c). OMB has already approved the information collection requirements, including frequency coordination requirement associated with Form 601. See ICR Reference Number: 201311–3060–018, OMB Control No. 3060–0798. We do not propose any substantive or material changes to the wording of the existing information collection. Instead, if we amend to rules to allow railroad police officers to license the interoperability and mutual aid channels, then the number of respondents subject to the existing information collections would increase by approximately 763 entities.

Additionally, the NPRM notes that the 700 MHz interoperability channels are administered by State entities and/or regional planning committees. OMB has already approved the information collections associated with obtaining State/RPC concurrence to operate on the 700 MHz interoperability channels. See ICR Reference Number: 201404–3060–023, OMB Control No. 3060–1198. We do not propose any substantive or material changes to the wording of this existing information collection but if we allow railroad police to operate on these interoperability channels, then the number of respondents subject to the existing information collections would increase by approximately 763 entities.

The NPRM also seeks comment on less burdensome alternatives to licensing, constructing and operating base stations on the interoperability and mutual aid channels. Specifically, the NPRM seeks comment on allowing railroad police officers to (1) operate mobile stations on these channels under a ''blanket'' licensing approach or (2) allowing public safety licensees to share their facilities with railroad police pursuant to a sharing agreement. With regard to blanket licensing, we would essentially clarify that Section 90.421 permits railroad police to operate mobile stations so long as their employer holds a PLMR license and therefore would not impose any new or modified information collections requirements. However, allowing public safety entities to ''share'' their facilities with railroad police would require reducing such an arrangement into writing as required by § 90.179. OMB has already approved the information collection requirements in § 90.179 and we do not propose any substantive or material changes to the wording of the existing information collection. See ICR Reference Number: 200111–3060–016, OMB Control No. 3060–0262. If we amend the eligibility rules, then the number of respondents would increase by approximately 763 entities.

The Commission believes that applying the same information collection rules equally to public safety and railroad police entities in this context will promote interoperability and advance Congressional objectives. The Commission does not believe that the costs and/or administrative burdens associated with the rules will unduly burden small entities. The rule revisions the Commission proposes should benefit public safety and railroad police entities by giving them more flexibility, and more options for gaining access to interoperability and mutual aid spectrum. As noted above, the FCC invites comment on these new or modified information collection requirements.

Finally, the rule amendment proposed relative to § 90.20(i) has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase burden hours imposed on the public.

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

The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof for small entities. We have evaluated our proposals in this NPRM in the context of small business entities and find no alternatives, to the benefit of small entities that would achieve our goals of facilitating interoperability between public safety entities and railroad police officers and efficient use of nationwide interoperability spectrum. Additionally, this NPRM proposes rules that are deregulatory in nature and consistent with Federal railroad interoperability mandates. Accordingly, the proposed rule changes minimize any significant economic impact on small entities.

The NPRM also seeks comment on four alternatives that may minimize the impact on small entities, including small railroads. First, the NPRM seeks comment on issuing a mobile-only license that would allow railroad police officers to operate mobiles on the interoperability channels without having to construct and operate base and control stations. Second, the NPRM seeks comment on ''blanket licensing'', an approach that would allow railroad police officers to operate on the interoperability channels provided their railroad employer already holds a license for PLMR spectrum. Third, the NPRM seeks comment on amending Section 90.421 of the Commission's rules to allow railroad police officers to operate mobiles under the license of public safety licensees. Fourth, the NPRM seeks comment on amending Section 90.179 to allow public safety entities to ''share'' their facilities with railroad police. Any significant alternative presented in the comments will be considered.

Finally, we propose to amend Section 90.20 of the Commission's rules to explicitly identify the nationwide interoperability channels *i.e.* the VHF, UHF and 700 MHz interoperability channels, and the 800 MHz mutual aid channels. We believe that flexible licensing policies are necessary to encourage the use of the most spectrally efficient technology to meet user-defined needs. Recognizing the budgetary constraints that small public safety entities face, we seek to make explicit in the Commission's rules the flexible licensing approach that the Commission previously adopted for all of the public safety interoperability channels.

Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

Ordering Clauses

Accordingly, IT IS ORDERED, pursuant to sections 1, 2, 4(i), 4(j), 301,

302, 303, 308, 309, 316, 324, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 301, 302a, 303, 308, 309, 324, 316, 332 and 337, that this Notice of Proposed Rulemaking is hereby ADOPTED.

It is further ordered that pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on the NPRM on or before November 13, 2015, and reply comments on or before November 30, 2015.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 90

Radio.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend CFR 47 part 90 as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

■ 1. The authority citation for Part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7) and Title VI of the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, 126 Stat. 156.

■ 2. Amend § 90.20 by adding paragraphs (a)(2)(xiv) and (i) as follows:

§ 90.20 Public Safety Pool.

(a) * * *

(2) * * *

(xiv) Railroad police officers are a class of users eligible to operate on the nationwide interoperability and mutual aid channels listed in paragraph (i) of this section. Eligible users include part time railroad police officers and Amtrak employees who qualify as railroad police officers under this subsection. Railroads and railroad police departments may obtain licenses for the nationwide interoperability and mutual aid channels of behalf of railroad police officers in their employ. Additionally, railroad police officers may be authorized to operate on interoperability and mutual aid channels if their employer holds a Private Land Mobile Radio (PLMR) license of any radio category, including Industrial/Business (I/B).

(A) Railroad police officer means peace officer who is commissioned in his or her state of legal residence or state of primary employment and employed by a railroad to enforce state laws for the protection of railroad property, personnel, passengers, and/or cargo.

(B) Commissioned means that a state official has certified or otherwise designated in writing a railroad employee as qualified under the licensing requirements of that state to act as a railroad police officer in that state.

(C) Property means rights-of-way, easements, appurtenant property, equipment, cargo, facilities, and buildings and other structures owned, leased, operated, maintained, or transported by a railroad.

* * * * *

(i) *Nationwide Interoperability Channels.* The nationwide interoperability channels are listed below for the VHF, UHF, 700 MHz and 800 MHz bands. (*See* §§ 90.20(d)(80), 90.531(b)(1), 90.617(a)(1) and 90.720). Any licensee holding a Part 90 public safety license may operate hand-held and vehicular mobile units on these channels without needing a separate authorization. Base stations or control stations operating on these channels must be licensed separately:

VHF Interoperability channel (MHz)	Purpose
151.1375 MHz (base/mobile).	Tactical.
154.4525 MHz (base/mobile).	Tactical.
155.7525 MHz (base/mobile).	Calling.
158.7375 MHz (base/mobile).	Tactical.
159.4725 MHz (base/mobile).	Tactical.

VHF Mutual aid channel (MHz)	Purpose
220.8025 MHz (base/mobile).	Tactical.
220.8075 MHz (base/mobile).	Tactical.
220.8125 MHz (base/mobile).	Tactical.
220.8175 MHz (base/mobile).	Tactical.
220.8225 MHz (base/mobile).	Tactical.
220.8275 MHz (base/mobile).	Tactical.
220.8325 MHz (base/mobile).	Tactical.
220.8375 MHz (base/mobile).	Tactical.
220.8425 MHz (base/mobile).	Tactical.
220.8475 MHz (base/mobile).	Tactical.

UHF Interoperability channel (MHz)	Purpose
453.2125 MHz (base/mobile).	Calling.
458.2125 MHz (mobile)	
453.4625 MHz (base/mobile).	Tactical.
458.4625 MHz (mobile)	
458.7125 MHz (mobile).	Tactical.
453.7125 MHz (base/mobile)	
453.8625 MHz (base/mobile).	Tactical.
458.8625 MHz (mobile)	

700 MHz Interoperability channel (MHz)	Purpose
769.14375 MHz (base/mobile).	Tactical.
799.14375 MHz (mobile)	
769.24375 MHz (base/mobile).	Calling.
799.24375 MHz (mobile)	
769.39375 MHz (base/mobile).	Tactical.
769.39375 MHz (mobile)	
769.49375 MHz (base/mobile).	Tactical.
799.49375 MHz (mobile)	
769.64375 MHz (base/mobile).	Tactical.
799.64375 MHz (mobile).	
769.74375 MHz (base/mobile).	Tactical.
799.74375 MHz (mobile)	
769.99375 MHz (base/mobile).	Tactical.
799.99375 MHz (mobile)	
770.14375 MHz (base/mobile).	Tactical.
800.14375 MHz (mobile)	
770.24375 MHz (base/mobile).	Tactical.
800.24375 MHz (mobile)	
770.39375 MHz (base/mobile).	Tactical.

700 MHz Interoperability channel (MHz)	Purpose
800.39375 MHz (mobile)	
770.49375 MHz (base/mobile).	Tactical.
800.49375 MHz (mobile)	
770.64375 MHz (base/mobile).	Tactical.
800.64375 MHz (mobile)	
770.89375 MHz (base/mobile).	Tactical.
800.89375 MHz (mobile)	
770.99375 MHz (base/mobile).	Tactical.
800.99375 MHz (mobile)	
773.00625 MHz (base/mobile).	Tactical.
803.00625 MHz (mobile)	
773.10625 MHz (base/mobile).	Tactical.
803.10625 MHz (mobile)	
773.25625 MHz (base/mobile).	Calling.
803.25625 MHz (mobile)	
773.35625 MHz (base/mobile).	Tactical.
803.35625 MHz (mobile)	
773.50625 MHz (base/mobile).	Tactical.
803.50625 MHz (mobile)	
773.60625 MHz (base/mobile).	Tactical.
803.60625 MHz (mobile)	
773.75625 MHz (base/mobile).	Tactical.
803.75625 MHz (mobile)	
773.85625 MHz (base/mobile).	Tactical.
803.85625 MHz (mobile)	
774.00625 MHz (base/mobile).	Tactical.
804.00625 MHz (mobile)	
774.10625 MHz (base/mobile).	Tactical.
804.10625 MHz (mobile)	
774.25625 MHz (base/mobile).	Tactical.
804.25625 MHz (mobile)	
774.35625 MHz (base/mobile).	Tactical.
804.35625 MHz (mobile)	
774.50625 MHz (base/mobile).	Tactical.
804.50625 MHz (mobile)	
774.60625 MHz (base/mobile).	Tactical.
804.60625 MHz (mobile)	
774.85625 MHz (base/mobile).	Tactical.
804.85625 MHz (mobile)	

800 MHz mutual aid channel (MHz)	Purpose
851.0125 MHz (base/mobile).	Calling.
806.0125 MHz (mobile)	
851.5125 MHz (base/mobile).	Tactical.
806.5125 MHz (mobile)	
852.0125 MHz (base/mobile).	Tactical.
807.0125 MHz (mobile)	
852.5125 MHz (base/mobile).	Tactical.
807.0125 MHz (mobile)	
853.0125 MHz (base/mobile).	Tactical.
808.0125 MHz (mobile)	

■ 3. Amend § 90.720 by revising paragraphs (a) introductory text, (a)(2) and (b) as follows:

§ 90.720 Channels available for public safety/mutual aid.

(a) Part 90 licensees who meet the eligibility criteria of §§ 90.20(a)(1), 90.20(a)(2)(i), 90.20(a)(2)(ii), 90.20(a)(2)(iii), 90.20(a)(2)(iv), 90.20(a)(2)(vii), 90.20(a)(2)(ix), 90.20(a)(2)(xiii) or 90.20(a)(2)(xiv) are authorized by this rule to use mobile and/or portable units on Channels 161–170 throughout the United States, its territories, and possessions to transmit:

* * * * *

(2) Communications to facilitate interoperability among entities eligible under §§ 90.20(a)(1), 90.20(a)(2)(i), 90.20(a)(2)(ii), 90.20(a)(2)(iii), 90.20(a)(2)(iv), 90.20(a)(2)(vii), 90.20(a)(2)(ix), 90.20(a)(2)(xiii) and 90.20(a)(2)(xiv); or

* * * * *

(b) Any Government entity and any non-Government entity eligible to obtain a license under §§ 90.20(a)(1), 90.20(a)(2)(i), 90.20(a)(2)(ii), 90.20(a)(2)(iii), 90.20(a)(2)(iv), 90.20(a)(2)(vii), 90.20(a)(2)(ix), 90.20(a)(2)(xiii) or 90.20(a)(2)(xiv) is also eligible to obtain a license for base/mobile operations on Channels 161 through 170. Base/mobile or base/portable communications on these channels that do not relate to the immediate safety of life or to communications interoperability among the above-specified entities, may only be conducted on a secondary non-interference basis to such communications.

[FR Doc. 2015–24441 Filed 9–28–15; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 150306230–5230–01]

RIN 0648–BE88

List of Fisheries for 2016

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: The National Marine Fisheries Service (NMFS) publishes its proposed List of Fisheries (LOF) for 2016, as required by the Marine Mammal Protection Act (MMPA). The proposed LOF for 2016 reflects new information on interactions between commercial fisheries and marine mammals. NMFS must classify each commercial fishery on the LOF into one of three categories under the MMPA based upon the level of mortality and serious injury of marine mammals that occurs incidental to each fishery. The classification of a fishery on the LOF determines whether participants in that fishery are subject to certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan (TRP) requirements. In addition, NMFS begins publishing online fact sheets for Category III fisheries.

DATES: Comments must be received by October 29, 2015.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2015–0055, by either of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal

1. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0055,*

2. Click the ''Comment Now!'' icon, complete the required fields

3. Enter or attach your comments.

• *Mail:* Submit written comments to Chief, Marine Mammal and Sea Turtle

Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Lisa White, Office of Protected Resources, 301–427–8494; Allison Rosner, Greater Atlantic Region, 978–281–9328; Jessica Powell, Southeast Region, 727–824–5312; Elizabeth Petras, West Coast Region (CA), 206–526–6155; Brent Norberg, West Coast Region (WA/OR), 206–526–6550; Bridget Mansfield, Alaska Region, 907–586–7642; Nancy Young, Pacific Islands Region, 808–725–5156. Individuals who use a telecommunications device for the hearing impaired may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 4 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

What is the list of fisheries?

Section 118 of the MMPA requires NMFS to place all U.S. commercial fisheries into one of three categories based on the level of incidental mortality and serious injury of marine mammals occurring in each fishery (16 U.S.C. 1387(c)(1)). The classification of a fishery on the LOF determines whether participants in that fishery may be required to comply with certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements. NMFS must reexamine the LOF annually, considering new information in the Marine Mammal Stock Assessment Reports (SARs) and other relevant sources, and publish in the **Federal Register** any necessary changes to the LOF after notice and opportunity for public comment (16 U.S.C. 1387 (c)(1)(C)).

How does NMFS determine in which category a fishery is placed?

The definitions for the fishery classification criteria can be found in the implementing regulations for section 118 of the MMPA (50 CFR 229.2). The criteria are also summarized here.

Fishery Classification Criteria

The fishery classification criteria consist of a two-tiered, stock-specific approach that first addresses the total impact of all fisheries on each marine mammal stock and then addresses the impact of individual fisheries on each stock. This approach is based on consideration of the rate, in numbers of animals per year, of incidental mortalities and serious injuries of marine mammals due to commercial fishing operations relative to the potential biological removal (PBR) level for each marine mammal stock. The MMPA (16 U.S.C. 1362 (20)) defines the PBR level as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. This definition can also be found in the implementing regulations for section 118 of the MMPA (50 CFR 229.2).

Tier 1: Tier 1 considers the cumulative fishery mortality and serious injury for a particular stock. If the total annual mortality and serious injury of a marine mammal stock, across all fisheries, is less than or equal to 10 percent of the PBR level of the stock, all fisheries interacting with the stock will be placed in Category III (unless those fisheries interact with other stock(s) in which total annual mortality and serious injury is greater than 10 percent of PBR). Otherwise, these fisheries are subject to the next tier (Tier 2) of analysis to determine their classification.

Tier 2: Tier 2 considers fishery-specific mortality and serious injury for a particular stock.

Category I: Annual mortality and serious injury of a stock in a given fishery is greater than or equal to 50 percent of the PBR level (*i.e.,* frequent incidental mortality and serious injury of marine mammals).

Category II: Annual mortality and serious injury of a stock in a given fishery is greater than 1 percent and less than 50 percent of the PBR level (*i.e.,* occasional incidental mortality and serious injury of marine mammals).

Category III: Annual mortality and serious injury of a stock in a given fishery is less than or equal to 1 percent of the PBR level (*i.e.,* a remote likelihood of or no known incidental mortality and serious injury of marine mammals).

Additional details regarding how the categories were determined are provided in the preamble to the final rule implementing section 118 of the MMPA (60 FR 45086, August 30, 1995).

Because fisheries are classified on a per-stock basis, a fishery may qualify as one Category for one marine mammal stock and another Category for a different marine mammal stock. A fishery is typically classified on the LOF at its highest level of classification (*e.g.,* a fishery qualifying for Category III for one marine mammal stock and for Category II for another marine mammal stock will be listed under Category II). Stocks driving a fishery's classification are denoted with a superscript ''1'' in Tables 1 and 2.

Other Criteria That May Be Considered

The tier analysis requires a minimum amount of data, and NMFS does not have sufficient data to perform a tier analysis on certain fisheries. Therefore, NMFS has classified certain fisheries by analogy to other Category I or II fisheries that use similar fishing techniques or gear that are known to cause mortality or serious injury of marine mammals, or according to factors discussed in the final LOF for 1996 (60 FR 67063, December 28, 1995) and listed in the regulatory definition of a Category II fishery: ''In the absence of reliable information indicating the frequency of incidental mortality and serious injury of marine mammals by a commercial fishery, NMFS will determine whether the incidental mortality or serious injury is 'frequent,' 'occasional,' or 'remote' by evaluating other factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, and the species and distribution of marine mammals in the area, or at the discretion of the Assistant Administrator for Fisheries'' (50 CFR 229.2).

Further, eligible commercial fisheries not specifically identified on the LOF are deemed to be Category II fisheries until the next LOF is published (50 CFR 229.2).

How does NMFS determine which species or stocks are included as incidentally killed or injured in a fishery?

The LOF includes a list of marine mammal species and/or stocks incidentally killed or injured in each commercial fishery. The list of species and/or stocks incidentally killed or injured includes ''serious'' and ''non-serious'' documented injuries as described later in the List of Species and/or Stocks Incidentally Killed or Injured in the Pacific Ocean and the

Atlantic Ocean, Gulf of Mexico, and Caribbean sections. To determine which species or stocks are included as incidentally killed or injured in a fishery, NMFS annually reviews the information presented in the current SARs and injury determination reports. The SARs are based upon the best available scientific information and provide the most current and inclusive information on each stock's PBR level and level of interaction with commercial fishing operations. The best available scientific information used in the SARs reviewed for the 2016 LOF generally summarizes data from 2008–2012. NMFS also reviews other sources of new information, including injury determination reports, bycatch estimation reports, observer data, logbook data, stranding data, disentanglement network data, fisher self-reports (*i.e.* MMPA reports), and anecdotal reports from that time period. In some cases, more recent information may be available, but in an effort to be consistent with the most recent SARs and across the LOF, NMFS typically restricts the analysis to data within the five-year time period summarized in the current SAR.

For fisheries with observer coverage, species or stocks are generally removed from the list of marine mammal species and/or stocks incidentally killed or injured if no interactions are documented in the five-year timeframe summarized in that year's LOF. For fisheries with no observer coverage and for observed fisheries with evidence indicating that undocumented interactions may be occurring (*e.g.,* fishery has low observer coverage and stranding network data include fisheries that cannot be attributed to a specific fishery) species and stocks may be retained for longer than five years. For these fisheries, NMFS will review the other sources of information listed above and use its discretion to decide when it is appropriate to remove a species or stock.

Where does NMFS obtain information on the level of observer coverage in a fishery on the LOF?

The best available information on the level of observer coverage and the spatial and temporal distribution of observed marine mammal interactions is presented in the SARs. Data obtained from the observer program and observer coverage levels are important tools in estimating the level of marine mammal mortality and serious injury in commercial fishing operations. Starting with the 2005 SARs, each SAR includes an appendix with detailed descriptions of each Category I and II fishery on the LOF, including the observer coverage in those fisheries. The SARs generally do not provide detailed information on observer coverage in Category III fisheries because, under the MMPA, Category III fisheries are generally not required to accommodate observers aboard vessels due to the remote likelihood of mortality and serious injury of marine mammals. Fishery information presented in the SARs' appendices and other resources referenced during the tier analysis may include: Level of observer coverage, target species, levels of fishing effort, spatial and temporal distribution of fishing effort, characteristics of fishing gear and operations, management and regulations, and interactions with marine mammals. Copies of the SARs are available on the NMFS Office of Protected Resources Web site at: *http://www.nmfs.noaa.gov/pr/sars/*. Information on observer coverage levels in Category I, II, and III fisheries can be found in the fishery fact sheets on the NMFS Office of Protected Resources' Web site: *http://www.nmfs.noaa.gov/pr/interactions/fisheries/lof.html*. Additional information on observer programs in commercial fisheries can be found on the NMFS National Observer Program's Web site: *http://www.st.nmfs.gov/st4/nop/*.

How do I find out if a specific fishery is in Category I, II, or III?

This rule includes three tables that list all U.S. commercial fisheries by LOF Category. Table 1 lists all of the commercial fisheries in the Pacific Ocean (including Alaska); Table 2 lists all of the commercial fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean; and Table 3 lists all U.S.-authorized commercial fisheries on the high seas. A fourth table, Table 4, lists all commercial fisheries managed under applicable take reduction plans (TRPs) or take reduction teams (TRTs).

Are high seas fisheries included on the LOF?

Beginning with the 2009 LOF, NMFS includes high seas fisheries in Table 3 of the LOF, along with the number of valid High Seas Fishing Compliance Act (HSFCA) permits in each fishery. As of 2004, NMFS issues HSFCA permits only for high seas fisheries analyzed in accordance with the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA). The authorized high seas fisheries are broad in scope and encompass multiple specific fisheries identified by gear type. For the purposes of the LOF, the high seas fisheries are subdivided based on gear type (*e.g.,* trawl, longline, purse seine, gillnet, troll, etc.) to provide more detail on composition of effort within these fisheries. Many fisheries operate in both U.S. waters and on the high seas, creating some overlap between the fisheries listed in Tables 1 and 2 and those in Table 3. In these cases, the high seas component of the fishery is not considered a separate fishery, but an extension of a fishery operating within U.S. waters (listed in Table 1 or 2). NMFS designates those fisheries in Tables 1, 2, and 3 by a ''*'' after the fishery's name. The number of HSFCA permits listed in Table 3 for the high seas components of these fisheries operating in U.S. waters does not necessarily represent additional effort that is not accounted for in Tables 1 and 2. Many vessels/participants holding HSFCA permits also fish within U.S. waters and are included in the number of vessels and participants operating within those fisheries in Tables 1 and 2.

HSFCA permits are valid for five years, during which time Fishery management plans (FMPs) can change. Therefore, some vessels/participants may possess valid HSFCA permits without the ability to fish under the permit because it was issued for a gear type that is no longer authorized under the most current FMP. For this reason, the number of HSFCA permits displayed in Table 3 is likely higher than the actual U.S. fishing effort on the high seas. For more information on how NMFS classifies high seas fisheries on the LOF, see the preamble text in the final 2009 LOF (73 FR 73032; December 1, 2008). Additional information about HSFCA permits can be found at: *http://www.nmfs.noaa.gov/ia/permits/highseas.html*.

Where can I find specific information on fisheries listed on the LOF?

Starting with the 2010 LOF, NMFS developed summary documents, or fishery fact sheets, for each Category I and II fishery on the LOF. These fishery fact sheets provide the full history of each Category I and II fishery, including: When the fishery was added to the LOF, the basis for the fishery's initial classification, classification changes to the fishery, changes to the list of species and/or stocks incidentally killed or injured in the fishery, fishery gear and methods used, observer coverage levels, fishery management and regulation, and applicable TRPs or TRTs, if any. These fishery fact sheets are updated after each final LOF and can be found under ''How Do I Find Out if a Specific Fishery is in Category I, II, or III?'' on the NMFS Office of Protected Resources' Web site: *http://www.nmfs.noaa.gov/pr/interactions/fisheries/lof.html,* linked to

the ''List of Fisheries by Year'' table. NMFS is developing similar fishery fact sheets for each Category III fishery on the LOF. However, due to the large number of Category III fisheries on the LOF and the lack of accessible and detailed information on many of these fisheries, the development of these fishery fact sheets is taking significant time to complete. NMFS will begin posting Category III fishery fact sheets online with the proposed 2016 LOF.

Am I required to register under the MMPA?

Owners of vessels or gear engaging in a Category I or II fishery are required under the MMPA (16 U.S.C. 1387(c)(2)), as described in 50 CFR 229.4, to register with NMFS and obtain a marine mammal authorization to lawfully take non-endangered and non-threatened marine mammals incidental to commercial fishing operations. Owners of vessels or gear engaged in a Category III fishery are not required to register with NMFS or obtain a marine mammal authorization.

How do I register and receive my MMAP authorization certificate?

NMFS has integrated the MMPA registration process, implemented through the Marine Mammal Authorization Program (MMAP), with existing state and Federal fishery license, registration, or permit systems for Category I and II fisheries on the LOF. Participants in these fisheries are automatically registered under the MMAP and are not required to submit registration or renewal materials. In the Pacific Islands, West Coast, and Alaska regions, NMFS will issue vessel or gear owners an authorization certificate via U.S. mail or with their state or Federal license or permit at the time of issuance or renewal. In the Greater Atlantic Region, NMFS will issue vessel or gear owners an authorization certificate via U.S. mail automatically at the beginning of each calendar year. Certificates may also be obtained by visiting the Greater Atlantic Regional Office Web site (*http://www.greateratlantic.fisheries.noaa.gov/Protected/mmp/mmap/*). In the Southeast Region, NMFS will issue vessel or gear owners notification of registry and vessel or gear owners may receive their authorization certificate by contacting the Southeast Regional Office at 727–209–5952 or by visiting the Southeast Regional Office Web site (*http://sero.nmfs.noaa.gov/protected_resources/marine_mammal_authorization_program/*) and following the instructions for printing the certificate.

The authorization certificate, or a copy, must be on board the vessel while it is operating in a Category I or II fishery, or for non-vessel fisheries, in the possession of the person in charge of the fishing operation (50 CFR 229.4(e)). Although efforts are made to limit the issuance of authorization certificates to only those vessel or gear owners that participate in Category I or II fisheries, not all state and Federal license or permit systems distinguish between fisheries as classified by the LOF. Therefore, some vessel or gear owners in Category III fisheries may receive authorization certificates even though they are not required for Category III fisheries. Individuals fishing in Category I and II fisheries for which no state or Federal license or permit is required must register with NMFS by contacting their appropriate Regional Office (see **ADDRESSES**).

How do I renew my registration under the MMAP?

In Alaska regional and Greater Atlantic regional fisheries, registrations of vessel or gear owners are automatically renewed and participants should receive an authorization certificate by January 1 of each new year. In Pacific Islands regional fisheries, vessel or gear owners receive an authorization certificate by January 1 for state fisheries and with their permit renewal for federal fisheries. In West Coast regional fisheries, vessel or gear owners receive authorization with each renewed state fishing license, the timing of which varies based on target species. Vessel or gear owners who participate in fisheries in these regions and have not received authorization certificates by January 1 or with renewed fishing licenses must contact the appropriate NMFS Regional Office (see **FOR FURTHER INFORMATION CONTACT**).

In Southeast regional fisheries, vessel or gear owners' registrations are automatically renewed and participants will receive a letter in the mail by January 1 instructing them to contact the Southeast Regional Office to have an authorization certificate mailed to them or to visit the Southeast Regional Office Web site (*http://sero.nmfs.noaa.gov/protected_resources/marine_mammal_authorization_program/*) to print their own certificate.

Am I required to submit reports when I kill or injure a marine mammal during the course of commercial fishing operations?

In accordance with the MMPA (16 U.S.C. 1387(e)) and 50 CFR 229.6, any vessel owner or operator, or gear owner or operator (in the case of non-vessel fisheries), participating in a fishery listed on the LOF must report to NMFS all incidental mortalities and injuries of marine mammals that occur during commercial fishing operations, regardless of the category in which the fishery is placed (I, II, or III) within 48 hours of the end of the fishing trip or, in the case of non-vessel fisheries, fishing activity. ''Injury'' is defined in 50 CFR 229.2 as a wound or other physical harm. In addition, any animal that ingests fishing gear or any animal that is released with fishing gear entangling, trailing, or perforating any part of the body is considered injured, regardless of the presence of any wound or other evidence of injury, and must be reported.

Mortality/injury reporting forms and instructions for submitting forms to NMFS can be found at: *http://www.nmfs.noaa.gov/pr/interactions/mmap/#form* or by contacting the appropriate Regional office (see **FOR FURTHER INFORMATION**). Forms may be submitted via any of the following means: (1) Online using the electronic form, (2) emailed as an attachment to *nmfs.mireport@noaa.gov,* (3) faxed to the NMFS Office of Protected Resources at 301–713–0376, or (4) mailed to the NMFS Office of Protected Resources (mailing address is provided on the postage-paid form that can be printed from the Web address listed above). Reporting requirements and procedures can be found in 50 CFR 229.6.

Am I required to take an observer aboard my vessel?

Individuals participating in a Category I or II fishery are required to accommodate an observer aboard their vessel(s) upon request from NMFS. MMPA section 118 states that the Secretary is not required to place an observer on a vessel if the facilities for quartering an observer or performing observer functions are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; thereby authorizing the exemption of vessels too small to accommodate an observer from this requirement. However, U.S. Atlantic Ocean, Caribbean, or Gulf of Mexico large pelagics longline vessels operating in special areas designated by the Pelagic Longline Take Reduction Plan implementing regulations (50 CFR 229.36(d)) will not be exempted from observer requirements, regardless of their size. Observer requirements can be found in 50 CFR 229.7.

Am I required to comply with any marine mammal take reduction plan regulations?

Table 4 in this rule provides a list of fisheries affected by TRPs and TRTs. TRP regulations can be found at 50 CFR 229.30 through 229.37. A description of each TRT and copies of each TRP can be found at: *http://www.nmfs.noaa.gov/pr/interactions/trt/teams.html.* It is the responsibility of fishery participants to comply with applicable take reduction regulations.

Where can I find more information about the LOF and the MMAP?

Information regarding the LOF and the Marine Mammal Authorization Program, including: registration procedures and forms; current and past LOFs; descriptions of each Category I and II fishery, and some Category III fisheries; observer requirements; and marine mammal mortality/injury reporting forms and submittal procedures; may be obtained at: *http://www.nmfs.noaa.gov/pr/interactions/fisheries/lof.html,* or from any NMFS Regional Office at the addresses listed below:

NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930–2298, Attn: Allison Rosner;

NMFS, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701, Attn: Jessica Powell;

NMFS, West Coast Region, Seattle Office, 7600 Sand Point Way NE., Seattle, WA 98115, Attn: Elizabeth Petras or Brent Norberg, Protected Resources Division;

NMFS, Alaska Region, Protected Resources, P.O. Box 22668, 709 West 9th Street, Juneau, AK 99802, Attn: Bridget Mansfield; or

NMFS, Pacific Islands Regional Office, Protected Resources Division, 1845 Wasp Blvd., Building 176, Honolulu, HI 96818, Attn: Nancy Young.

Sources of Information Reviewed for the 2016 LOF

NMFS reviewed the marine mammal incidental mortality and serious injury information presented in the SARs for all fisheries to determine whether changes in fishery classification are warranted. The SARs are based on the best scientific information available at the time of preparation, including the level of mortality and serious injury of marine mammals that occurs incidental to commercial fishery operations and the PBR levels of marine mammal stocks. The information contained in the SARs is reviewed by regional Scientific Review Groups (SRGs) representing Alaska, the Pacific (including Hawaii), and the U.S. Atlantic, Gulf of Mexico, and Caribbean. The SRGs were created by the MMPA to review the science that informs the SARs, and to advise NMFS on marine mammal population status, trends, and stock structure, uncertainties in the science, research needs, and other issues.

NMFS also reviewed other sources of new information, including marine mammal stranding data, observer program data, fisher self-reports through the Marine Mammal Authorization Program, reports to the SRGs, conference papers, FMPs, and ESA documents.

The LOF for 2016 was based on, among other things, stranding data; fisher self-reports; and SARs, primarily the 2014 SARs, which are generally based on data from 2008–2012. The final SARs referenced in this LOF include: 2013 (79 FR 49053, August 19, 2014) and 2014 (80 FR 50599, August 20, 2015). The SARs are available at: *http://www.nmfs.noaa.gov/pr/sars/*.

Summary of Changes to the LOF for 2016

The following summarizes proposed changes to the LOF for 2016, including the fisheries listed in the LOF, the estimated number of vessels/persons in a particular fishery, and the species and/or stocks that are incidentally killed or injured in a particular fishery. The proposed LOF for 2016 proposes three re-classifications of the fisheries provided in the LOF for 2015. NMFS proposes changes to the list of species and/or stocks killed or injured in certain fisheries and the estimated number of vessels/persons in certain fisheries, as well as certain administrative changes. Additionally, NMFS proposes adding two Category III fisheries to the LOF and removing six fisheries from the LOF. Most Category III fisheries on the LOF have never been described in the LOF. While detailed information describing each fishery in the LOF is included within the SARs, a Fishery Management Plan, or a TRP, or by state agencies, general descriptive information is important to include in the LOF for improved clarity. NMFS is developing Category III fishery fact sheets that will be available online at: *http://www.nmfs.noaa.gov/pr/interactions/fisheries/lof.html.* NMFS is requesting public comment on fact sheet content. The classifications and definitions of U.S. commercial fisheries for 2016 are identical to those provided in the LOF for 2015 with the proposed changes discussed below. State and regional abbreviations used in the following paragraphs include: AK (Alaska), BSAI (Bering Sea and Aleutian Islands), CA (California), DE (Delaware), FL (Florida), GMX (Gulf of Mexico), HI (Hawaii), MA (Massachusetts), ME (Maine), NC (North Carolina), NY (New York), OR (Oregon), RI (Rhode Island), SC (South Carolina), VA (Virginia), WA (Washington), and WNA (Western North Atlantic).

Commercial Fisheries in the Pacific Ocean

Classification of Fisheries

NMFS proposes to reclassify the Category III Alaska Bering Sea/Aleutian Island Pacific Cod Longline Fishery as Category II. Category II classification for this fishery is driven by a 2012 take of Gulf of Alaska, Bering Sea/Aleutian Islands transient stock of killer whales. Based on the most recent five years of available information, annual mortality and serious injury of the Gulf of Alaska, Bering Sea/Aleutian Islands transient stock of killer whales across all fisheries is 1 per year, which is 17 percent of the PBR of 5.87. Mortality and serious injury of this stock by this fishery is 0.2 per year, which is 3.41 percent of the PBR of 5.87 (Helker *et al.,* 2015). Mortality and serious injury levels greater than 1 percent and less than 50 percent of PBR meet the Category II threshold. Therefore, NMFS proposes to reclassify the Alaska Bering Sea/Aleutian Island Pacific Cod Longline Fishery as a Category II fishery.

NMFS proposes to reclassify the Category II Alaska Kodiak Salmon Purse Seine Fishery as Category III. No mortalities or serious injuries to marine mammal stocks by this fishery have been documented during the most recent five years of available information. Therefore, NMFS proposes to reclassify the Alaska Kodiak Salmon Purse Seine Fishery as a Category III fishery.

NMFS proposes to reclassify the Category II Alaska Cook Inlet Salmon Purse Seine Fishery as Category III. No mortalities or serious injuries to marine mammal stocks by this fishery have been documented during the most recent five years of available information. Therefore, NMFS proposes to reclassify the Alaska Cook Inlet Salmon Purse Seine Fishery as a Category III fishery.

Addition of Fisheries

NMFS proposes to add the CA sea cucumber trawl fishery to the LOF as Category III. NMFS reviewed the recently published Magnuson-Stevens Fishery Conservation and Management Act List of Authorized Fisheries and Gear (79 FR 76914, December 23, 2014)

and spoke with the California Department of Fish and Wildlife (CDF&W) and determined that this fishery was not included in the MMPA LOF. This is one of two gear types authorized by the state of California to commercially harvest sea cucumber. Most of the effort with trawls occurs in southern California. NMFS proposes to list this fishery as Category III analogous to the WA/OR/CA shrimp trawl fishery because the fisheries use similar fishing techniques, habitat, and gear. There were 16 permits issued for this fishery in 2013.

NMFS proposes to add the WA/OR Mainstem Columbia River eulachon gillnet fishery to the LOF as Category III. NMFS spoke with the Washington Department of Fish and Wildlife (WDF&W) and Oregon Department of Fish and Wildlife (OD&W) and determined this fishery was not previously on the LOF. Eulachon smelt were historically harvested in target fisheries in the Columbia River. As a result of the eulachon listing under the Endangered Species Act in 2010 commercial harvest was prohibited. The commercial fishery using dip net gear was closed in 2011 through 2013. In 2014 and 2015 a small-scale, research-based commercial eulachon fishery using gillnet gear was re-established to collect biological and catch per unit effort data. NMFS proposes to list this as Category III by analogy to other gillnet fisheries because the fisheries use similar fishing techniques, habitat, and gear. There are currently 15 participants in this fishery.

Removal of Fisheries

NMFS proposes to remove the Category III WA/OR herring, smelt, shad, sturgeon, bottom fish, mullet, perch, rockfish gillnet fishery from the LOF. NMFS spoke with WDF&W and ODF&W and was advised that gillnet is not legal for any ocean fishing off of Washington or Oregon.

NMFS proposes to remove the Category III WA/OR smelt, herring dip net fishery from the LOF. Harvesting smelt and herring off Oregon is allowed but this gear type is not utilized. Herring harvest off Washington is closed. Smelt can be harvested off Washington using dip net gear; however, there are currently no participants in the fishery.

Fishery Name and Organizational Changes and Clarification

NMFS proposes to rename the Category III ''WA (all species) beach seine or drag seine'' as the ''WA/OR Lower Columbia River salmon seine'' fishery. Drag seine is not an authorized gear in Oregon. While authorized in Washington, it is not active. In 2014, a pilot commercial seine fishery was implemented in the mainstem Columbia River downstream of Bonneville Dam. The pilot fishery was conducted to address research-related questions regarding use of this gear type in a new commercial fishery. A total of 10 fishers using seine gear (4 purse seine and 6 beach seine) were permitted for the 2014 pilot fishery.

NMFS proposes to split three fisheries from the Category III ''AK North Pacific halibut, AK bottom fish, WA/OR/CA albacore, groundfish, bottom fish, CA halibut non-salmonid troll'' fishery and rename them as: ''WA/OR/CA albacore surface hook and line/troll'' fishery, ''CA halibut hook and line/handline'' fishery, and ''CA White seabass hook and line/handline'' fishery and remove the remaining fisheries in the group. The WA/OR/CA albacore surface hook and line/troll fishery uses surface hook and line and/or troll gear and is managed under the Fishery Management Plan (FMP) of U.S. West Coast Fisheries for Highly Migratory Species. There is effort in this fishery along the entire coast and landings can be made in any of the three states. The number of vessels making landing in 2013 was 705. The CA halibut hook and line/handline fishery is managed by the CDF&W and is one of three gear types authorized by the state of California to commercially harvest CA halibut (along with gillnet and trawl). It is a not restrictive fishery and no special permits are required. Most landings occur in the San Francisco Bay area. The CA white seabass hook and line/handline fishery is managed by the CDF&W and is one of two gear types authorized by the state of California to commercially harvest CA white seabass (along with gillnets). There are no special permits required in this fishery. Most effort occurs in Southern California.

NMFS proposes to combine the Category III ''CA anchovy, mackerel, sardine purse seine'' and ''WA/OR sardine purse seine'' fisheries and name it the ''CA/OR/WA anchovy, mackerel, sardine purse seine'' fishery. These species are managed under the Coastal Pelagic Species FMP developed by the Pacific Fishery Management Council and can be harvested along the entire coast.

NMFS proposes to rename the Category III ''WA/OR salmon net pens'' fishery as the ''WA salmon net pen'' fishery. There are no commercial non-tribal salmon net pens in Oregon.

NMFS proposes to rename (by revising, separating, and combining) the Category III ''WA/OR sea urchin, other clam, octopus, oyster, sea cucumber, scallop, ghost shrimp, dive, hand/mechanical collection'' and ''CA sea urchin'' fisheries to become the ''WA/OR bait shrimp, clam hand, dive or mechanical collection'' and ''OR/CA sea urchin, sea cucumber dive, hand/mechanical collection'' fisheries. Some of the target species listed in the ''WA/OR sea urchin, other clam, octopus, oyster, sea cucumber, scallop, ghost shrimp, dive, hand/mechanical collection'' have changed, have been prohibited, or are no longer active so the new name reflects target species in the WA/OR fishery. NMFS is proposing to combine the OR and CA components of the sea urchin and sea cucumber dive, hand/mechanical collections because these fisheries are functionally equivalent.

NMFS proposes to rename the Category III ''WA shellfish aquaculture'' fishery as the ''WA/OR shellfish aquaculture'' fishery. There are a number of shellfish being raised in aquaculture facilities in Oregon and the fisheries are functionally equivalent. There are 23 companies engaged in shellfish aquaculture in Washington and Oregon.

Number of Vessels/Persons

NMFS proposes to update the estimated number of vessels/persons in the Pacific Ocean (Table 1) as follows. Fisheries are labeled with their name on the proposed 2016 LOF:

Category	Fishery	Number of vessels/persons (Final 2015 LOF)	Number of vessels/persons (Proposed 2016 LOF)
I	HI deep-set longline	128	135
I	CA thresher shark/swordfish drift gillnet (≥14 in mesh)	19	18
II	CA spot prawn trap	28	25

Category	Fishery	Number of vessels/persons (Final 2015 LOF)	Number of vessels/persons (Proposed 2016 LOF)
II	HI shallow-set longline	18	15
II	American Samoa longline	25	22
II	HI shortline	6	9
III	CA set gillnet (mesh size <3.5 in)	304	296
III	HI inshore gillnet	42	36
III	WA/OR Lower Columbia River salmon seine	235	10
III	HI lift net	21	17
III	HI throw net, cast net	20	23
III	HI seine net	21	24
III	American Samoa tuna troll	7	13
III	HI troll	1,755	2,117
III	HI rod and reel	221	322
III	HI kaka line	24	15
III	HI vertical line	6	3
III	CA halibut bottom trawl	53	47
III	CA/OR coonstripe shrimp pot	10	36
III	CA rock crab pot	150	124
III	CA spiny lobster	198	194
III	HI crab trap	7	5
III	HI fish trap	5	9
III	HI shrimp trap	6	10
III	HI Kona crab loop net	35	33
III	American Samoa bottomfish handline	14	17
III	HI bottomfish handline	578	496
III	HI inshore handline	376	357
III	HI pelagic handline	484	534
III	CA swordfish harpoon	30	6
III	HI bullpen trap	<3	3
III	HI handpick	58	46
III	HI lobster diving	23	19
III	HI spearfishing	159	163

List of Species and/or Stocks Incidentally Killed or Injured in the Pacific Ocean

NMFS proposes to add the southwest Alaska stock of northern sea otters to the list of species and/or stocks killed or injured in the Category II Alaska Peninsula/Aleutian Islands salmon set gillnet fishery. In 2014 a sea otter pup was documented injured by this fishery. The animal was rescued and rehabbed. This is the first reported take of northern sea otters in this fishery.

NMFS proposes to add the U.S. stock of California sea lions, unknown stock of harbor porpoise, unknown stock of harbor seals, California breeding stock of northern elephant seals, unknown stock of Steller sea lions to the species and/or stocks incidentally killed or injured by the Category III CA halibut bottom trawl fishery.

NMFS proposes to add the Northwestern Hawaiian Islands stock of false killer whales to the list of species and/or stocks killed or injured in the Category I Hawaii deep-set longline fishery. The Draft 2014 SAR indicates an average annual mortality and serious injury level of 0.4 per year from 2008–2012, which is 15.4 percent of the PBR of 2.6 (Carretta *et al.,* 2015).

NMFS proposes to remove the Palmyra Atoll stock of false killer whales from the list of species and/or stocks killed or injured in the Category I Hawaii deep-set longline fishery. The mortality and serious injury estimate in the fishery for 2008–2012 is zero (McCracken, 2014).

NMFS proposes to add notation ''[1]'' to indicate that the Main Hawaiian Islands (MHI) insular stock of false killer whales, along with the HI pelagic stock of false killer whales, is also driving the Hawaii deep-set longline fishery's Category I classification. The tier analysis is as follows: Tier 1: Data from the Draft 2014 SAR (2008–2012) indicate that total fishery-related mortality and serious injury of this stock is 300 percent of PBR (0.9/0.3) and because this exceeds 10 percent of the stock's PBR, we proceed to Tier 2. Tier 2: The Hawaii deep-set longline fishery's five-year average mortality and serious injury of this stock from 2008–2012 is 300 percent of the stock's PBR (0.9/0.3) (Carretta *et al.,* 2015). This exceeds 50 percent of the stock's PBR level, and a Category I classification is warranted. We note that the False Killer Whale Take Reduction Plan (77 FR 71260, November 29, 2012) was not in effect during the time period for which bycatch is estimated and reported here (2008–2012). Based on preliminary bycatch estimates for 2013, observer data for 2014, and a revision to the stock boundary that will be included in the draft 2015 SAR that reduces the spatial overlap between the stock and the fishery, we anticipate future impacts to the stock as discussed in the recent MMPA 101(a)(5)(E) permit (79 FR 62105, October 16, 2014) and supporting Negligible Impact Determination.

NMFS proposes to add the Gulf of Alaska, BSAI transient stock of killer whales to the list of species and/or stocks killed or injured in the proposed Category II Alaska BSAI Pacific cod longline fishery. A killer whale was injured by this fishery in 2012 (Helker *et. al.,* 2015). NMFS proposes to add notation ''[1]'' to indicate that this stock is driving the fishery's classification (see tier analysis in Classification of Fisheries section above).

NMFS proposes to remove notation ''[1]'' from the Central North Pacific stock of humpback whales under the proposed Category III fisheries: Alaska Cook Inlet salmon purse seine and Alaska Kodiak salmon purse seine. No mortalities or serious injuries of this stock by these fisheries have been

documented during the most recent five years of available information.

Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean

Fishery Name and Organizational Changes and Clarification

NMFS proposes to rename and change the geographic scope of the Category III ''U.S. Mid-Atlantic offshore surf clam/quahog dredge'' fishery. This fishery is proposed to be the ''New England and Mid-Atlantic offshore surf clam/quahog dredge'' fishery. The proposed fishery definition will include all offshore quahog and surf clam dredges operating from the Canada-Maine border through Cape Hatteras, to better reflect the full distribution of this fishery as detailed in the Surf Clam and Ocean Quahog FMP developed by the Mid-Atlantic Fisheries Management Council. This updated definition will also include quahog non-hydraulic dredges targeting mahogany quahog in Maine state waters, which are managed by the state of Maine. Based on similarity to the current Mid-Atlantic offshore surf clam/quahog dredge fishery and other Category III shellfish dredge fisheries (Gulf of Maine, U.S. Mid-Atlantic sea scallop dredge and Gulf of Maine mussel dredge), we propose to maintain the Category III designation with this geographic expansion and name change.

Number of Vessels/Persons

NMFS updates the estimated number of vessels/persons in the Atlantic Ocean, Gulf of Mexico, and Caribbean (Table 2) as follows:

Category	Fishery	Number of vessels/persons (Final 2015 LOF)	Number of vessels/persons (Proposed 2016 LOF)
I	Mid-Atlantic gillnet	5,509	4,063
I	Northeast sink gillnet	4,375	4,332
I	Northeast/Mid-Atlantic American lobster trap/pot	11,693	10,163
II	Chesapeake Bay inshore gillnet	1,126	272
II	Northeast anchored float gillnet	421	995
II	Northeast drift gillnet	311	1,567
II	Mid-Atlantic mid-water trawl (including pair trawl)	322	507
II	Mid-Atlantic bottom trawl	631	994
II	Northeast mid-water trawl	1,103	1,087
II	Northeast bottom trawl	2,987	3,132
II	Atlantic mixed-species trap pot	3,467	3,284
II	Mid-Atlantic menhaden purse seine	5	19
II	Mid-Atlantic haul/beach seine	565	243
II	Virginia pound net	67	47

List of Species and/or Stocks Incidentally Killed or Injured in the Atlantic Ocean, Gulf of Mexico, and Caribbean

NMFS proposes to add the Gulf of Maine/Bay of Fundy stock of harbor porpoise and the Gulf of Mexico stock of pygmy sperm whale to the list of marine mammal species and/or stocks incidentally killed or injured in the Category I Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline fishery. One harbor porpoise was observed killed by this fishery in 2013 in the Mid-Atlantic Bight (Garrison and Stokes, 2014). This is the first recorded harbor porpoise caught in this fishery; therefore, average annual mortality and injury estimates have not yet been calculated. One pygmy sperm whale was observed injured by this fishery in 2013 (Garrison and Stokes, 2014).

NMFS proposes to add the Western North Atlantic stock of Risso's dolphin to the list of marine mammal species and/or stocks incidentally killed or injured in the Category II Northeast bottom trawl fishery. One Risso's dolphin from the Western North Atlantic stock was observed injured by this fishery in 2010 (Waring, *et. al.,* 2015).

NMFS proposes to add the central Georgia estuarine system stock of bottlenose dolphin to the list of marine mammal species and/or stocks incidentally killed or injured in the Category II Atlantic blue crab trap/pot fishery. One bottlenose dolphin from the central Georgia estuarine system stock was observed injured by this fishery in 2011 (Waring, *et. al.,* 2015).

NMFS proposes to remove the Western North Atlantic stocks of Risso's dolphin and white-sided dolphin from the list of marine mammal species and/or stocks incidentally killed or injured in the Category I Mid-Atlantic gillnet fishery. The last documented takes of these species were in 2007. There have not been any observed takes of these species in this fishery in the most recent five-year period analyzed for this LOF. During 2008–2012, the estimated observer coverage was 3, 3, 4, 2, and 2 percent respectively.

NMFS proposes to remove the Western North Atlantic stocks of common dolphin, long-finned pilot whale, and short-finned pilot whale from the list of marine mammal species and/or stocks incidentally killed or injured in the Category II Mid-Atlantic mid-water trawl fishery. There have not been any observed takes of these species in this fishery in the most recent five-year period analyzed for this LOF. During 2008–2012, the estimated observer coverage (measured in trips) was 4, 13.2, 25, 41, and 21 percent respectively. Observer coverage for 2010–2012 includes both observers and at-sea monitors.

NMFS proposes to remove the Western North Atlantic stocks of white-sided dolphin, long-finned pilot whale, and short-finned pilot whale from the list of marine mammal species and/or stocks incidentally killed or injured in the Category II Mid-Atlantic bottom trawl fishery. There have not been any observed takes of these species in this fishery in the most recent five-year period analyzed for this LOF. During the years 2008–2012, estimated observer coverage (measured in trips) for each year was as follows: Targeting mixed groundfish species: 3, 5, 5, 7, and 5 percent respectively; targeting *Loligo* squid between: 2, 7, 8, 11, and 4 percent respectively; and domestic trips targeting Atlantic mackerel fishery: 0, 8, 11, 8, and 20 percent respectively.

NMFS proposes to remove the Western North Atlantic stocks of white-sided dolphin and short-finned pilot whale from the list of marine mammal species and/or stocks incidentally killed

or injured in the Category II Northeast mid-water trawl fishery. There have not been any observed takes of these species in this fishery in the most recent five-year period analyzed for this LOF. During 2008–2012, the estimated observer coverage (trips) was 19.92, 42, 53, 41, and 45 percent respectively.

NMFS proposes to remove the Western North Atlantic stock of short-finned pilot whale from the list of marine mammal species and/or stock incidentally killed or injured in the Category II Northeast bottom trawl fishery. There have not been any observed takes of this species in this fishery in the most recent five-year period analyzed for this LOF. During 2008–2012, the estimated observer coverage (measured in trips) was 8, 9, 16, 26, and 17 percent respectively. Observer coverage for 2010–2012 includes both observers and at-sea monitors.

Commercial Fisheries on the High Seas

Removal of Fisheries

NMFS proposes to remove the following Category II high seas fisheries from the List of Fisheries: (1) Western Pacific Pelagic Trawl, (2) Pacific Highly Migratory Species Liners, not elsewhere included (NEI), (3) South Pacific Albacore Troll Liners (NEI), and (4) Western Pacific Pelagic Liners (NEI). These fisheries categories are no longer authorized under the HSFCA.

Number of Vessels/Persons

NMFS proposes to update the estimated number of HSFCA permits in multiple high seas fisheries for multiple gear types (Table 3). The proposed updated numbers of HSFCA permits reflect the current number of permits in the NMFS National Permit System database, with the exception of the Western Pacific Pelagic HI deep-set and shallow-set component longline fisheries. The HSFCA permit does not distinguish between deep and shallow-set; therefore, the estimated number of participants from Table 1 for only these fisheries is used. NMFS proposes to update the estimated number of HSFCA permits as follows:

Category	Fishery	Number of HSFCA permits (Final 2015 LOF)	Number of HSFCA permits (Proposed 2016 LOF)
I	Atlantic Highly Migratory Species Longline	83	86
I	Western Pacific Pelagic (HI Deep-set component)	128	135
I	Pacific Highly Migratory Species Drift Gillnet	4	5
II	South Pacific Tuna Fisheries Purse Seine	38	39
II	South Pacific Albacore Troll Longline	13	15
II	Western Pacific Pelagic (HI Shallow-set component)	18	15
II	Atlantic Highly Migratory Species Handline/Pole and Line	2	3
II	Pacific Highly Migratory Species Handline/Pole and Line	41	50
II	South Pacific Albacore Troll Handline/Pole and Line	8	9
II	Western Pacific Pelagic Handline/Pole and Line	3	5
II	South Pacific Albacore Troll	35	38
II	South Pacific Tuna Fisheries Troll	3	5
II	Western Pacific Pelagic Troll	19	21
III	Pacific Highly Migratory Species Longline	100	126
III	Pacific Highly Migratory Species Troll	253	243

List of Fisheries

The following tables set forth the list of U.S. commercial fisheries according to their classification under section 118 of the MMPA. Table 1 lists commercial fisheries in the Pacific Ocean (including Alaska); Table 2 lists commercial fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean; Table 3 lists commercial fisheries on the high seas; and Table 4 lists fisheries affected by TRPs or TRTs.

In Tables 1 and 2, the estimated number of vessels or persons participating in fisheries operating within U.S. waters is expressed in terms of the number of active participants in the fishery, when possible. If this information is not available, the estimated number of vessels or persons licensed for a particular fishery is provided. If no recent information is available on the number of participants, vessels, or persons licensed in a fishery, then the number from the most recent LOF is used for the estimated number of vessels or persons in the fishery. NMFS acknowledges that, in some cases, these estimates may be inflations of actual effort. For example, the State of Hawaii does not issue fishery-specific licenses, and the number of participants reported in the LOF represents the number of commercial marine license holders who reported using a particular fishing gear type/method at least once in a given year, without considering how many times the gear was used. For these fisheries, effort by a single participant is counted the same whether the fisher used the gear only once or every day. In the Mid-Atlantic and New England fisheries, the numbers represent the potential effort for each fishery, given the multiple gear types for which several state permits may allow. Changes made to Mid-Atlantic and New England fishery participants will not affect observer coverage or bycatch estimates, as observer coverage and bycatch estimates are based on vessel trip reports and landings data. Tables 1 and 2 serve to provide a description of the fishery's potential effort (state and Federal). If NMFS is able to extract more accurate information on the gear types used by state permit holders in the future, the numbers will be updated to reflect this change. For additional information on fishing effort in fisheries found on Table 1 or 2, contact the relevant regional office (contact information included above in **SUPPLEMENTARY INFORMATION**).

For high seas fisheries, Table 3 lists the number of valid HSFCA permits currently held. Although this likely overestimates the number of active participants in many of these fisheries, the number of valid HSFCA permits is the most reliable data on the potential effort in high seas fisheries at this time. As noted previously in this rule, the number of HSFCA permits listed in Table 3 for the high seas components of fisheries that also operate within U.S. waters does not necessarily represent additional effort that is not accounted for in Tables 1 and 2. Many vessels holding HSFCA permits also fish within U.S. waters and are included in the

number of vessels and participants operating within those fisheries in Tables 1 and 2.

Tables 1, 2, and 3 also list the marine mammal species and/or stocks incidentally killed or injured (seriously or non-seriously) in each fishery based on SARs, injury determination reports, bycatch estimation reports, observer data, logbook data, stranding data, disentanglement network data, fisher self-reports (*i.e.* MMPA reports), and anecdotal reports. The best available scientific information included in these reports is based on data through 2012. This list includes all species and/or stocks known to be killed or injured in a given fishery but also includes species and/or stocks for which there are anecdotal records of a mortality or injury. Additionally, species identified by logbook entries, stranding data, or fishermen self-reports (*i.e.,* MMPA reports) may not be verified. In Tables 1 and 2, NMFS has designated those species/stocks driving a fishery's classification (*i.e.,* the fishery is classified based on mortalities and serious injuries of a marine mammal stock that are greater than or equal to 50 percent [Category I], or greater than 1 percent and less than 50 percent [Category II], of a stock's PBR) by a ''1'' after the stock's name.

In Tables 1 and 2, there are several fisheries classified as Category II that have no recent documented mortalities or serious injuries of marine mammals, or fisheries that did not result in a mortality or serious injury rate greater than 1 percent of a stock's PBR level based on known interactions. NMFS has classified these fisheries by analogy to other Category I or II fisheries that use similar fishing techniques or gear that are known to cause mortality or serious injury of marine mammals, as discussed in the final LOF for 1996 (60 FR 67063, December 28, 1995), and according to factors listed in the definition of a ''Category II fishery'' in 50 CFR 229.2 (*i.e.,* fishing techniques, gear types, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, and the species and distribution of marine mammals in the area). NMFS has designated those fisheries listed by analogy in Tables 1 and 2 by a ''2'' after the fishery's name.

There are several fisheries in Tables 1, 2, and 3 in which a portion of the fishing vessels cross the exclusive economic zone (EEZ) boundary and therefore operate both within U.S. waters and on the high seas. These fisheries, though listed separately between Table 1 or 2 and Table 3, are considered the same fisheries on either side of the EEZ boundary. NMFS has designated those fisheries in each table by a ''*'' after the fishery's name.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN

Fishery description	Estimated number of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
CATEGORY I		
LONGLINE/SET LINE FISHERIES:		
HI deep-set longline * ^	135	Bottlenose dolphin, HI Pelagic. False killer whale, MHI Insular.[1] False killer whale, HI Pelagic.[1] False killer whale, NWHI. Pantropical spotted dolphin, HI. Risso's dolphin, HI. Short-finned pilot whale, HI. Sperm whale, HI. Striped dolphin, HI.
GILLNET FISHERIES:		
CA thresher shark/swordfish drift gillnet (≥14 in mesh) *	18	Bottlenose dolphin, CA/OR/WA offshore. California sea lion, Humpback whale, CA/OR/WA. Long-beaked common dolphin, CA. Minke whale, CA/OR/WA. Northern elephant seal, CA breeding. Northern right-whale dolphin, CA/OR/WA. Pacific white-sided dolphin, CA/OR/WA. Risso's dolphin, CA/OR/WA. Short-beaked common dolphin, CA/OR/WA. Sperm Whale, CA/OR/WA.[1]
CATEGORY II		
GILLNET FISHERIES:		
CA halibut/white seabass and other species set gillnet (>3.5 in mesh).	50	California sea lion, U.S. Harbor seal, CA. Humpback whale, CA/OR/WA.[1] Long-beaked common dolphin, CA. Northern elephant seal, CA breeding. Sea otter, CA. Short-beaked common dolphin, CA/OR/WA.
CA yellowtail, barracuda, and white seabass drift gillnet (mesh size ≥3.5 in and <14 in) [2].	30	California sea lion, U.S. Long-beaked common dolphin, CA. Short-beaked common dolphin, CA/OR/WA.
AK Bristol Bay salmon drift gillnet [2]	1,862	Beluga whale, Bristol Bay. Gray whale, Eastern North Pacific. Harbor seal, Bering Sea. Northern fur seal, Eastern Pacific.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
		Pacific white-sided dolphin, North Pacific.
		Spotted seal, AK.
		Steller sea lion, Western U.S.
AK Bristol Bay salmon set gillnet[2]	979	Beluga whale, Bristol Bay.
		Gray whale, Eastern North Pacific.
		Harbor seal, Bering Sea.
		Northern fur seal, Eastern Pacific.
		Spotted seal, AK.
AK Kodiak salmon set gillnet	188	Harbor porpoise, GOA.[1]
		Harbor seal, GOA.
		Sea otter, Southwest AK.
		Steller sea lion, Western U.S.
AK Cook Inlet salmon set gillnet	736	Beluga whale, Cook Inlet.
		Dall's porpoise, AK.
		Harbor porpoise, GOA.
		Harbor seal, GOA.
		Humpback whale, Central North Pacific.[1]
		Sea otter, South Central AK.
		Steller sea lion, Western U.S.
AK Cook Inlet salmon drift gillnet	569	Beluga whale, Cook Inlet.
		Dall's porpoise, AK.
		Harbor porpoise, GOA.[1]
		Harbor seal, GOA.
		Steller sea lion, Western U.S.
AK Peninsula/Aleutian Islands salmon drift gillnet[2]	162	Dall's porpoise, AK.
		Harbor porpoise, GOA.
		Harbor seal, GOA.
		Northern fur seal, Eastern Pacific.
AK Peninsula/Aleutian Islands salmon set gillnet[2]	113	Harbor porpoise, Bering Sea.
		Northern sea otter, Southwest AK.
		Steller sea lion, Western U.S.
AK Prince William Sound salmon drift gillnet	537	Dall's porpoise, AK Harbor porpoise, GOA.[1] Harbor seal, GOA. Northern fur seal, Eastern Pacific. Pacific white-sided dolphin, North Pacific. Sea otter, South Central AK. Steller sea lion, Western U.S.[1]
AK Southeast salmon drift gillnet	474	Dall's porpoise, AK.
		Harbor porpoise, Southeast AK.
		Harbor seal, Southeast AK.
		Humpback whale, Central North Pacific.[1]
		Pacific white-sided dolphin, North Pacific.
		Steller sea lion, Eastern U.S.
AK Yakutat salmon set gillnet[2]	168	Gray whale, Eastern North Pacific.
		Harbor Porpoise, Southeastern AK.
		Harbor seal, Southeast AK.
		Humpback whale, Central North Pacific (Southeast AK).
WA Puget Sound Region salmon drift gillnet (includes all inland waters south of US-Canada border and eastward of the Bonilla-Tatoosh line-Treaty Indian fishing is excluded).	210	Dall's porpoise, CA/OR/WA. Harbor porpoise, inland WA.[1] Harbor seal, WA inland.
TRAWL FISHERIES:		
AK Bering Sea, Aleutian Islands flatfish trawl	32	Bearded seal, AK.
		Gray whale, Eastern North Pacific.
		Harbor porpoise, Bering Sea.
		Harbor seal, Bering Sea.
		Humpback whale, Western North Pacific.[1]
		Killer whale, AK resident.[1]
		Killer whale, GOA, AI, BS transient.[1]
		Northern fur seal, Eastern Pacific.
		Ringed seal, AK.
		Ribbon seal, AK.
		Spotted seal, AK.
		Steller sea lion, Western U.S.[1]
		Walrus, AK.
AK Bering Sea, Aleutian Islands pollock trawl	102	Bearded Seal, AK.
		Dall's porpoise, AK.
		Harbor seal, AK.
		Humpback whale, Central North Pacific.
		Humpback whale, Western North Pacific.
		Northern fur seal, Eastern Pacific.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
		Ribbon seal, AK.
		Ringed seal, AK.
		Spotted seal, AK.
		Steller sea lion, Western U.S.[1]
AK Bering Sea, Aleutian Islands rockfish trawl	17	Killer whale, ENP AK resident.[1] Killer whale, GOA, AI, BS transient.[1]
POT, RING NET, AND TRAP FISHERIES:		
CA spot prawn pot	25	Gray whale, Eastern North Pacific.
		Humpback whale, CA/OR/WA.[1]
CA Dungeness crab pot	570	Gray whale, Eastern North Pacific.
		Humpback whale, CA/OR/WA.[1]
OR Dungeness crab pot	433	Gray whale, Eastern North Pacific.
		Humpback whale, CA/OR/WA.[1]
WA/OR/CA sablefish pot	309	Humpback whale, CA/OR/WA.[1]
WA coastal Dungeness crab pot	228	Gray whale, Eastern North Pacific.
		Humpback whale, CA/OR/WA.[1]
LONGLINE/SET LINE FISHERIES:		
AK Bering Sea, Aleutian Islands Pacific cod longline	45	Dall's Porpoise, AK Killer whale, GOA, BSAI transient.[1] Northern fur seal, Eastern Pacific. Ringed seal, AK.
HI shallow-set longline *	15	Blainville's beaked whale, HI.
		Bottlenose dolphin, HI Pelagic.
		False killer whale, HI Pelagic.[1]
		Humpback whale, Central North Pacific.
		Kogia *spp.* whale (Pygmy or dwarf sperm whale), HI.
		Risso's dolphin, HI.
		Short-finned pilot whale, HI.
		Striped dolphin, HI.
American Samoa longline.[2]	22	Bottlenose dolphin, unknown.
		Cuvier's beaked whale, unknown.
		False killer whale, American Samoa.
		Rough-toothed dolphin, American Samoa.
		Short-finned pilot whale, unknown.
HI shortline [2]	9	None documented.
CATEGORY III		
GILLNET FISHERIES:.		
AK Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet.	1,778	Harbor porpoise, Bering Sea.
AK miscellaneous finfish set gillnet	54	Steller sea lion, Western U.S.
AK Prince William Sound salmon set gillnet	29	Harbor seal, GOA. Sea otter, South Central AK Steller sea lion, Western U.S.
AK roe herring and food/bait herring gillnet	920	None documented.
CA set gillnet (mesh size <3.5 in)	296	None documented.
HI inshore gillnet	36	Bottlenose dolphin, HI.
		Spinner dolphin, HI.
WA Grays Harbor salmon drift gillnet (excluding treaty Tribal fishing).	24	Harbor seal, OR/WA coast.
WA/OR Mainstem Columbia River eulchon gillnet	15	None documented.
WA/OR lower Columbia River (includes tributaries) drift gillnet.	110	California sea lion, U.S. Harbor seal, OR/WA coast.
WA Willapa Bay drift gillnet	82	Harbor seal, OR/WA coast.
		Northern elephant seal, CA breeding.
MISCELLANEOUS NET FISHERIES:.		
AK Cook Inlet salmon purse seine	83	Humpback whale, Central North Pacific.
AK Kodiak salmon purse seine	376	Humpback whale, Central North Pacific.
AK Southeast salmon purse seine	315	None documented in the most recent five years of data.
AK Metlakatla salmon purse seine	10	None documented.
AK miscellaneous finfish beach seine	2	None documented.
AK miscellaneous finfish purse seine	2	None documented.
AK octopus/squid purse seine	0	None documented.
AK roe herring and food/bait herring beach seine	10	None documented.
AK roe herring and food/bait herring purse seine	356	None documented.
AK salmon beach seine	31	None documented.
AK salmon purse seine (excluding salmon purse seine fisheries listed elsewhere).	936	Harbor seal, GOA Harbor seal, Prince William Sound.
CA/OR/WA anchovy, mackerel, sardine seine	107	California sea lion, U.S. Harbor seal, CA.
CA squid purse seine	80	Long-beaked common dolphin, CA.
		Short-beaked common dolphin, CA/OR/WA.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
CA tuna purse seine *	10	None documented.
WA/OR Lower Columbia River salmon seine	10	None documented.
WA/OR herring, smelt, squid purse seine or lampara	130	None documented.
WA salmon purse seine	75	None documented.
WA salmon reef net	11	None documented.
HI lift net	17	None documented.
HI inshore purse seine	<3	None documented.
HI throw net, cast net	23	None documented.
HI seine net	24	None documented..
DIP NET FISHERIES:.		
CA squid dip net	115	None documented..
MARINE AQUACULTURE FISHERIES:.		
CA marine shellfish aquaculture	unknown	None documented.
CA salmon enhancement rearing pen	>1	None documented.
CA white seabass enhancement net pens	13	California sea lion, U.S.
HI offshore pen culture	2	None documented.
WA salmon net pens	14	California sea lion, U.S. Harbor seal, WA inland waters.
WA/OR shellfish aquaculture	23	None documented..
TROLL FISHERIES:.		
WA/OR/CA albacore surface hook and line/troll	705	None documented.
CA halibut hook and line/handline	unknown	None documented.
CA white seabass hook and line/handline	unknown	None documented.
AK salmon troll	1,908	Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
American Samoa tuna troll	13	None documented.
CA/OR/WA salmon troll	4,300	None documented.
HI troll	2,117	Pantropical spotted dolphin, HI.
HI rod and reel	322	None documented.
Commonwealth of the Northern Mariana Islands tuna troll	40	None documented.
Guam tuna troll	432	None documented..
LONGLINE/SET LINE FISHERIES:.		
AK Bering Sea, Aleutian Islands rockfish longline	3	None documented.
AK Bering Sea, Aleutian Islands Greenland turbot longline	4	Killer whale, AK resident.
AK Bering Sea, Aleutian Islands sablefish longline	22	None documented.
AK Gulf of Alaska halibut longline	855	None documented.
AK Gulf of Alaska Pacific cod longline	92	Steller sea lion, Western U.S.
AK Gulf of Alaska rockfish longline	25	None documented.
AK Gulf of Alaska sablefish longline	295	Sperm whale, North Pacific.
AK halibut longline/set line (state and Federal waters)	2,197	None documented in the most recent five years of data.
AK octopus/squid longline	3	None documented.
AK state-managed waters longline/setline (including sablefish, rockfish, lingcod, and miscellaneous finfish).	464	None documented.
WA/OR/CA groundfish, bottomfish longline/set line	367	Bottlenose dolphin, CA/OR/WA offshore.
WA/OR Pacific halibut longline	350	None documented.
CA pelagic longline	1	None documented in the most recent five years of data.
HI kaka line	15	None documented.
HI vertical line	3	None documented..
TRAWL FISHERIES:.		
AK Bering Sea, Aleutian Islands Atka mackerel trawl	13	Ribbon seal, AK Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands Pacific cod trawl	72	Ringed seal, AK Steller sea lion, Western U.S.
AK Gulf of Alaska flatfish trawl	36	Northern elephant seal, North Pacific.
AK Gulf of Alaska Pacific cod trawl	55	Steller sea lion, Western U.S.
AK Gulf of Alaska pollock trawl	67	Dall's porpoise, AK. Fin whale, Northeast Pacific. Northern elephant seal, North Pacific. Steller sea lion, Western U.S.
AK Gulf of Alaska rockfish trawl	43	None documented.
AK food/bait herring trawl	4	None documented.
AK miscellaneous finfish otter/beam trawl	282	None documented.
AK shrimp otter trawl and beam trawl (statewide and Cook Inlet).	38	None documented.
AK state-managed waters of Cook Inlet, Kachemak Bay, Prince William Sound, Southeast AK groundfish trawl.	2	None documented.
CA halibut bottom trawl	47	California sea lion, U.S. Harbor porpoise, unknown. Harbor seal, unknown. Northern elephant seal, CA breeding. Steller sea lion, unknown.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
CA sea cucumber trawl	16	None documented.
WA/OR/CA shrimp trawl	300	None documented.
WA/OR/CA groundfish trawl	160–180	California sea lion, U.S. Dall's porpoise, CA/OR/WA. Harbor seal, OR/WA coast. Northern fur seal, Eastern Pacific. Pacific white-sided dolphin, CA/OR/WA Steller sea lion, Eastern U.S..
POT, RING NET, AND TRAP FISHERIES:.		
AK statewide miscellaneous finfish pot	4	None documented.
AK Aleutian Islands sablefish pot	4	None documented.
AK Bering Sea, Aleutian Islands Pacific cod pot	59	None documented.
AK Bering Sea, Aleutian Islands crab pot	540	Gray whale, Eastern North Pacific.
AK Bering Sea sablefish pot	2	None documented.
AK Gulf of Alaska crab pot	381	None documented.
AK Gulf of Alaska Pacific cod pot	128	Harbor seal, GOA.
AK Southeast Alaska crab pot	41	Humpback whale, Central North Pacific (Southeast AK).
AK Southeast Alaska shrimp pot	269	Humpback whale, Central North Pacific (Southeast AK).
AK shrimp pot, except Southeast	236	None documented.
AK octopus/squid pot	26	None documented.
AK snail pot	1	None documented.
CA/OR coonstripe shrimp pot	36	Gray whale, Eastern North Pacific. Harbor seal, CA.
CA rock crab pot	124	Gray whale, Eastern North Pacific. Harbor seal, CA.
CA spiny lobster	194	Gray whale, Eastern North Pacific.
WA/OR/CA hagfish pot	54	None documented.
WA/OR shrimp pot/trap	254	None documented.
WA Puget Sound Dungeness crab pot/trap	249	None documented.
HI crab trap	5	Humpback whale, Central North Pacific.
HI fish trap	9	None documented.
HI lobster trap	<3	None documented in recent years.
HI shrimp trap	10	None documented.
HI crab net	4	None documented.
HI Kona crab loop net	33	None documented..
HOOK-AND-LINE, HANDLINE, AND JIG FISHERIES:.		
AK miscellaneous finfish handline/hand troll and mechanical jig.	456	None documented.
AK North Pacific halibut handline/hand troll and mechanical jig.	180	None documented.
AK octopus/squid handline	7	None documented.
American Samoa bottomfish	17	None documented.
Commonwealth of the Northern Mariana Islands bottomfish.	28	None documented.
Guam bottomfish	>300	None documented.
HI aku boat, pole, and line	<3	None documented.
HI bottomfish handline	578	None documented in recent years.
HI inshore handline	357	None documented.
HI pelagic handline	534	None documented.
WA groundfish, bottomfish jig	679	None documented.
Western Pacific squid jig	0	None documented..
HARPOON FISHERIES:.		
CA swordfish harpoon	6	None documented..
POUND NET/WEIR FISHERIES:.		
AK herring spawn on kelp pound net	409	None documented.
AK Southeast herring roe/food/bait pound net	2	None documented.
HI bullpen trap	3	None documented..
BAIT PENS:.		
WA/OR/CA bait pens	13	California sea lion, U.S..
DREDGE FISHERIES:.		
Alaska scallop dredge	108 (5 AK)	None documented..
DIVE, HAND/MECHANICAL COLLECTION FISHERIES:.		
AK abalone	0	None documented.
AK clam	130	None documented.
AK Dungeness crab	2	None documented.
AK herring spawn on kelp	339	None documented.
AK urchin and other fish/shellfish	398	None documented.
HI black coral diving	<3	None documented.
HI fish pond	5	None documented.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
HI handpick	46	None documented.
HI lobster diving	19	None documented.
HI spearfishing	163	None documented.
WA/CA kelp	4	None documented.
WA/OR bait shrimp, clam hand, dive, or mechanical collection.	201	None documented.
OR/CA sea urchin, sea cucumber hand, dive, or mechanical collection.	10	None documented.
COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:		
AK/WA/OR/CA commercial passenger fishing vessel	>7,000 (2,702 AK)	Killer whale, unknown Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
LIVE FINFISH/SHELLFISH FISHERIES:		
CA nearshore finfish live trap/hook-and-line	93	None documented.
HI aquarium collecting	90	None documented.

List of Abbreviations and Symbols Used in Table 1: AI—Aleutian Islands; AK—Alaska; BS—Bering Sea; CA—California; ENP—Eastern North Pacific; GOA—Gulf of Alaska; HI—Hawaii; MHI—Main Hawaiian Islands; OR—Oregon; WA—Washington; [1] Fishery classified based on mortalities and serious injuries of this stock, which are greater than or equal to 50 percent (Category I) or greater than 1 percent and less than 50 percent (Category II) of the stock's PBR; [2] Fishery classified by analogy; * Fishery has an associated high seas component listed in Table 3; the list of marine mammal species and/or stocks killed or injured in this fishery is identical to the list of species and/or stocks killed or injured in high seas component of the fishery, minus species and/or stocks that have geographic ranges exclusively on the high seas. The species and/or stocks are found, and the fishery remains the same, on both sides of the EEZ boundary. Therefore, the EEZ components of these fisheries pose the same risk to marine mammals as the components operating on the high seas.

TABLE 2—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN

Fishery description	Estimated # of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
CATEGORY I		
GILLNET FISHERIES:		
Mid-Atlantic gillnet	4,063	Bottlenose dolphin, Northern Migratory coastal.[1] Bottlenose dolphin, Southern Migratory coastal.[1] Bottlenose dolphin, Northern NC estuarine system.[1] Bottlenose dolphin, Southern NC estuarine system.[1] Bottlenose dolphin, WNA offshore. Common dolphin, WNA. Gray seal, WNA. Harbor porpoise, GME/BF. Harbor seal, WNA. Harp seal, WNA. Humpback whale, Gulf of Maine. Minke whale, Canadian east coast. Risso's dolphin, WNA. White-sided dolphin, WNA.
Northeast sink gillnet	4,332	Bottlenose dolphin, WNA offshore. Common dolphin, WNA. Fin whale, WNA. Gray seal, WNA. Harbor porpoise, GME/BF.[1] Harbor seal, WNA. Harp seal, WNA. Hooded seal, WNA. Humpback whale, Gulf of Maine. Long-finned pilot whale, WNA. Minke whale, Canadian east coast. North Atlantic right whale, WNA. Risso's dolphin, WNA. Short-finned pilot whale, WNA. White-sided dolphin, WNA.
TRAP/POT FISHERIES:		
Northeast/Mid-Atlantic American lobster trap/pot	10,163	Harbor seal, WNA. Humpback whale, Gulf of Maine. Minke whale, Canadian east coast. North Atlantic right whale, WNA.[1]
LONGLINE FISHERIES:		
Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline*.	420	Atlantic spotted dolphin, GMX continental and oceanic.

TABLE 2—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery description	Estimated # of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
		Atlantic spotted dolphin, WNA. Bottlenose dolphin, Northern GMX oceanic. Bottlenose dolphin, WNA offshore. Common dolphin, WNA. Cuvier's beaked whale, WNA. False killer whale, WNA. Gervais beaked whale, GMX. Harbor porpoise, GME, BF. Killer whale, GMX oceanic. Kogia *spp.* (Pygmy or dwarf sperm whale), WNA. Long-finned pilot whale, WNA.[1] Mesoplodon beaked whale, WNA. Minke whale, Canadian East coast. Pantropical spotted dolphin, Northern GMX. Pantropical spotted dolphin, WNA. Pygmy sperm whale, GMX. Risso's dolphin, Northern GMX. Risso's dolphin, WNA. Short-finned pilot whale, Northern GMX. Short-finned pilot whale, WNA.[1] Sperm whale, GMX oceanic.
	CATEGORY II	
GILLNET FISHERIES:		
Chesapeake Bay inshore gillnet[2]	272	None documented in the most recent five years of data.
Gulf of Mexico gillnet[2]	724	Bottlenose dolphin, GMX bay, sound, and estuarine. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Western GMX coastal
NC inshore gillnet	1,323	Bottlenose dolphin, Northern NC estuarine system.[1] Bottlenose dolphin, Southern NC estuarine system.[1]
Northeast anchored float gillnet[2]	995	Harbor seal, WNA. Humpback whale, Gulf of Maine. White-sided dolphin, WNA.
Northeast drift gillnet[2]	1,567	None documented.
Southeast Atlantic gillnet[2]	357	Bottlenose dolphin, Central FL coastal. Bottlenose dolphin, Northern FL coastal. Bottlenose dolphin, SC/GA coastal. Bottlenose dolphin, Southern migratory coastal
Southeastern U.S. Atlantic shark gillnet	30	Bottlenose dolphin, unknown (Central FL, Northern FL, SC/GA coastal, or Southern migratory coastal). North Atlantic right whale, WNA.
TRAWL FISHERIES		
Mid-Atlantic mid-water trawl (including pair trawl)	507	Risso's dolphin, WNA. White-sided dolphin, WNA.[1]
Mid-Atlantic bottom trawl	994	Bottlenose dolphin, WNA offshore. Common dolphin, WNA.[1] Gray seal, WNA. Harbor seal, WNA. Risso's dolphin, WNA.[1]
Northeast mid-water trawl (including pair trawl)	1,087	Gray seal, WNA. Harbor seal, WNA. Long-finned pilot whale, WNA.[1] Common dolphin, WNA.
Northeast bottom trawl	3,132	Bottlenose dolphin, WNA offshore. Common dolphin, WNA. Gray seal, WNA. Harbor porpoise, GME/BF. Harbor seal, WNA. Harp seal, WNA. Long-finned pilot whale, WNA. Minke whale, Canadian East Coast. Risso's dolphin, WNA. White-sided dolphin, WNA.[1]
Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl	4,950	Atlantic spotted dolphin, GMX continental and oceanic. Bottlenose dolphin, Charleston estuarine system. Bottlenose dolphin, Eastern GMX coastal.[1] Bottlenose dolphin, GMX bay, sound, estuarine.[1] Bottlenose dolphin, GMX continental shelf.

TABLE 2—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery description	Estimated # of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
		Bottlenose dolphin, Northern GMX coastal.
		Bottlenose dolphin, SC/GA coastal.[1]
		Bottlenose dolphin, Southern migratory coastal.
		Bottlenose dolphin, Western GMX coastal.[1]
		West Indian manatee, Florida.
TRAP/POT FISHERIES:		
Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot[2]	1,282	Bottlenose dolphin, Biscayne Bay estuarine.
		Bottlenose dolphin, Central FL coastal.
		Bottlenose dolphin, Eastern GMX coastal.
		Bottlenose dolphin, FL Bay.
		Bottlenose dolphin, GMX bay, sound, estuarine (FL west coast portion).
		Bottlenose dolphin, Indian River Lagoon estuarine system.
		Bottlenose dolphin, Jacksonville estuarine system.
		Bottlenose dolphin, Northern GMX coastal
Atlantic mixed species trap/pot[2]	3,284	Fin whale, WNA.
		Humpback whale, Gulf of Maine.
Atlantic blue crab trap/pot	8,557	Bottlenose dolphin, Central FL coastal.[1]
		Bottlenose dolphin, Central GA estuarine system.
		Bottlenose dolphin, Charleston estuarine system.[1]
		Bottlenose dolphin, Indian River Lagoon estuarine system.[1]
		Bottlenose dolphin, Jacksonville estuarine system.[1]
		Bottlenose dolphin, Northern FL coastal.[1]
		Bottlenose dolphin, Northern GA/Southern SC estuarine system.[1]
		Bottlenose dolphin, Northern Migratory coastal.[1]
		Bottlenose dolphin, Northern NC estuarine system.[1]
		Bottlenose dolphin, Northern SC estuarine system.
		Bottlenose dolphin, SC/GA coastal.[1]
		Bottlenose dolphin, Southern GA estuarine system.[1]
		Bottlenose dolphin, Southern Migratory coastal.[1]
		Bottlenose dolphin, Southern NC estuarine system.[1]
		West Indian manatee, FL.[1]
PURSE SEINE FISHERIES:		
Gulf of Mexico menhaden purse seine	40–42	Bottlenose dolphin, GMX bay, sound, estuarine.
		Bottlenose dolphin, Northern GMX coastal.[1]
		Bottlenose dolphin, Western GMX coastal.[1]
Mid-Atlantic menhaden purse seine[2]	19	Bottlenose dolphin, Northern Migratory coastal.
		Bottlenose dolphin, Southern Migratory coastal.
HAUL/BEACH SEINE FISHERIES:		
Mid-Atlantic haul/beach seine	243	Bottlenose dolphin, Northern Migratory coastal.[1]
		Bottlenose dolphin, Northern NC estuarine system.[1]
		Bottlenose dolphin, Southern Migratory coastal.[1]
NC long haul seine	372	Bottlenose dolphin, Northern NC estuarine system.[1]
		Bottlenose dolphin, Southern NC estuarine system.
STOP NET FISHERIES:		
NC roe mullet stop net	13	Bottlenose dolphin, Northern NC estuarine system.
		Bottlenose dolphin, unknown (Southern migratory coastal or Southern NC estuarine system).
POUND NET FISHERIES:		
VA pound net	47	Bottlenose dolphin, Northern migratory coastal.
		Bottlenose dolphin, Northern NC estuarine system.
		Bottlenose dolphin, Southern Migratory coastal.[1]
CATEGORY III		
GILLNET FISHERIES:		
Caribbean gillnet	>991	None documented in the most recent five years of data.
DE River inshore gillnet	Unknown	None documented in the most recent five years of data.
Long Island Sound inshore gillnet	Unknown	None documented in the most recent five years of data.
RI, southern MA (to Monomoy Island), and NY Bight (Raritan and Lower NY Bays) inshore gillnet.	Unknown	None documented in the most recent five years of data.
Southeast Atlantic inshore gillnet	Unknown	Bottlenose dolphin, Northern SC estuarine system.
TRAWL FISHERIES:		
Atlantic shellfish bottom trawl	>58	None documented.
Gulf of Mexico butterfish trawl	2	Bottlenose dolphin, Northern GMX oceanic.
		Bottlenose dolphin, Northern GMX continental shelf.
Gulf of Mexico mixed species trawl	20	None documented.
GA cannonball jellyfish trawl	1	Bottlenose dolphin, SC/GA coastal.

TABLE 2—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery description	Estimated # of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
MARINE AQUACULTURE FISHERIES:		
Finfish aquaculture	48	Harbor seal, WNA.
Shellfish aquaculture	unknown	None documented.
PURSE SEINE FISHERIES:		
Gulf of Maine Atlantic herring purse seine	>7	Harbor seal, WNA. Gray seal, WNA.
Gulf of Maine menhaden purse seine	>2	None documented.
FL West Coast sardine purse seine	10	Bottlenose dolphin, Eastern GMX coastal.
U.S. Atlantic tuna purse seine *	5	Long-finned pilot whale, WNA. Short-finned pilot whale, WNA.
LONGLINE/HOOK-AND-LINE FISHERIES:		
Northeast/Mid-Atlantic bottom longline/hook-and-line	>1,207	None documented.
Gulf of Maine, U.S. Mid-Atlantic tuna, shark swordfish hook-and-line/harpoon.	428	Bottlenose dolphin, WNA offshore. Humpback whale, Gulf of Maine.
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean snapper-grouper and other reef fish bottom longline/ hook-and-line.	>5,000	Bottlenose dolphin, GMX continental shelf.
Southeastern U.S. Atlantic, Gulf of Mexico shark bottom longline/hook-and-line.	<125	Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, Northern GMX continental shelf.
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean pelagic hook-and-line/harpoon.	1,446	None documented.
U.S. Atlantic, Gulf of Mexico trotline	Unknown	None documented.
TRAP/POT FISHERIES		
Caribbean mixed species trap/pot	>501	None documented.
Caribbean spiny lobster trap/pot	>197	None documented.
FL spiny lobster trap/pot	1,268	Bottlenose dolphin, Biscayne Bay estuarine Bottlenose dolphin, Central FL coastal. Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, FL Bay estuarine.
Gulf of Mexico blue crab trap/pot	4,113	Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, GMX bay, sound, estuarine. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Western GMX coastal. West Indian manatee, FL.
Gulf of Mexico mixed species trap/pot	unknown	None documented.
Southeastern U.S. Atlantic, Gulf of Mexico golden crab trap/pot.	10	None documented.
U.S. Mid-Atlantic eel trap/pot	Unknown	None documented.
STOP SEINE/WEIR/POUND NET/FLOATING TRAP FISHERIES:		
Gulf of Maine herring and Atlantic mackerel stop seine/ weir.	>1	Harbor porpoise, GME/BF. Harbor seal, WNA. Minke whale, Canadian east coast. Atlantic white-sided dolphin, WNA.
U.S. Mid-Atlantic crab stop seine/weir	2,600	None documented.
U.S. Mid-Atlantic mixed species stop seine/weir/pound net (except the NC roe mullet stop net).	Unknown	Bottlenose dolphin, Northern NC estuarine system.
RI floating trap	9	None documented.
DREDGE FISHERIES:		
Gulf of Maine sea urchin dredge	Unknown	None documented.
Gulf of Maine mussel dredge	Unknown	None documented.
Gulf of Maine, U.S. Mid-Atlantic sea scallop dredge	>403	None documented.
Mid-Atlantic blue crab dredge	Unknown	None documented.
Mid-Atlantic soft-shell clam dredge	Unknown	None documented.
Mid-Atlantic whelk dredge	Unknown	None documented.
U.S. Mid-Atlantic/Gulf of Mexico oyster dredge	7,000	None documented.
New England and Mid-Atlantic offshore surf clam/quahog dredge.	Unknown	None documented.
HAUL/BEACH SEINE FISHERIES:		
Caribbean haul/beach seine	15	None documented in the most recent five years of data.
Gulf of Mexico haul/beach seine	unknown	None documented.
Southeastern U.S. Atlantic haul/beach seine	25	None documented.
DIVE, HAND/MECHANICAL COLLECTION FISHERIES:		
Atlantic Ocean, Gulf of Mexico, Caribbean shellfish dive, hand/mechanical collection.	20,000	None documented.
Gulf of Maine urchin dive, hand/mechanical collection	Unknown	None documented.

TABLE 2—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery description	Estimated # of vessels/ persons	Marine mammal species and/or stocks incidentally killed or injured
Gulf of Mexico, Southeast Atlantic, Mid-Atlantic, and Caribbean cast net.	Unknown	None documented.
COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:		
Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel.	4,000	Bottlenose dolphin, Biscayne Bay estuarine. Bottlenose dolphin, Central FL coastal. Bottlenose dolphin, Choctawhatchee Bay. Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, FL Bay. Bottlenose dolphin, GMX bay, sound, estuarine. Bottlenose dolphin, Indian River Lagoon estuarine system. Bottlenose dolphin, Jacksonville estuarine system. Bottlenose dolphin, Northern FL coastal. Bottlenose dolphin, Northern GA/Southern SC estuarine. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Northern migratory coastal. Bottlenose dolphin, Northern NC estuarine. Bottlenose dolphin, Southern migratory coastal. Bottlenose dolphin, Southern NC estuarine system. Bottlenose dolphin, Southern SC/GA coastal. Bottlenose dolphin, Western GMX coastal.

List of Abbreviations and Symbols Used in Table 2: DE—Delaware; FL—Florida; GA—Georgia; GME/BF—Gulf of Maine/Bay of Fundy; GMX—Gulf of Mexico; MA—Massachusetts; NC—North Carolina; NY—New York; RI—Rhode Island; SC—South Carolina; VA—Virginia; WNA—Western North Atlantic;

[1] Fishery classified based on mortalities and serious injuries of this stock, which are greater than or equal to 50 percent (Category I) or greater than 1 percent and less than 50 percent (Category II) of the stock's PBR;

[2] Fishery classified by analogy;

* Fishery has an associated high seas component listed in Table 3.

TABLE 3—LIST OF FISHERIES—COMMERCIAL FISHERIES ON THE HIGH SEAS

Fishery description	Number of HSFCA permits	Marine mammal species and/or stocks incidentally killed or injured
Category I		
LONGLINE FISHERIES:		
Atlantic Highly Migratory Species *	86	Atlantic spotted dolphin, WNA. Bottlenose dolphin, Northern GMX oceanic. Bottlenose dolphin, WNA offshore. Common dolphin, WNA. Cuvier's beaked whale, WNA. False killer whale, WNA. Killer whale, GMX oceanic. Kogia *spp.* whale (Pygmy or dwarf sperm whale), WNA. Long-finned pilot whale, WNA. Mesoplodon beaked whale, WNA. Minke whale, Canadian East coast. Pantropical spotted dolphin, WNA. Risso's dolphin, GMX. Risso's dolphin, WNA. Short-finned pilot whale, WNA.
Western Pacific Pelagic (HI Deep-set component) *∧	135	Bottlenose dolphin, HI Pelagic. False killer whale, HI Pelagic. Pantropical spotted dolphin, HI. Risso's dolphin, HI. Short-finned pilot whale, HI. Sperm whale, HI. Striped dolphin, HI
DRIFT GILLNET FISHERIES:		
Pacific Highly Migratory Species *∧	5	Long-beaked common dolphin, CA. Humpback whale, CA/OR/WA. Northern right-whale dolphin, CA/OR/WA. Pacific white-sided dolphin, CA/OR/WA. Risso's dolphin, CA/OR/WA. Short-beaked common dolphin, CA/OR/WA.

TABLE 3—LIST OF FISHERIES—COMMERCIAL FISHERIES ON THE HIGH SEAS—Continued

Fishery description	Number of HSFCA permits	Marine mammal species and/or stocks incidentally killed or injured
Category II		
DRIFT GILLNET FISHERIES:		
Atlantic Highly Migratory Species	1	Undetermined.
TRAWL FISHERIES:		
Atlantic Highly Migratory Species**	1	Undetermined.
CCAMLR	0	Antarctic fur seal.
PURSE SEINE FISHERIES:		
South Pacific Tuna Fisheries	39	Undetermined.
Western Pacific Pelagic	3	Undetermined.
LONGLINE FISHERIES:		
CCAMLR	0	None documented.
South Pacific Albacore Troll	15	Undetermined.
South Pacific Tuna Fisheries**	8	Undetermined.
Western Pacific Pelagic (HI Shallow-set component)*∧	15	Blainville's beaked whale, HI. Bottlenose dolphin, HI Pelagic. False killer whale, HI Pelagic. Humpback whale, Central North Pacific. Kogia *spp.* whale (Pygmy or dwarf sperm whale), HI. Risso's dolphin, HI. Short-beaked common dolphin, CA/OR/WA. Short-finned pilot whale, HI. Striped dolphin, HI
HANDLINE/POLE AND LINE FISHERIES:		
Atlantic Highly Migratory Species	3	Undetermined.
Pacific Highly Migratory Species	50	Undetermined.
South Pacific Albacore Troll	9	Undetermined.
Western Pacific Pelagic	5	Undetermined.
TROLL FISHERIES:		
Atlantic Highly Migratory Species	2	Undetermined.
South Pacific Albacore Troll	38	Undetermined.
South Pacific Tuna Fisheries**	5	Undetermined.
Western Pacific Pelagic	21	Undetermined.
Category III		
LONGLINE FISHERIES:		
Northwest Atlantic Bottom Longline	1	None documented.
Pacific Highly Migratory Species*	126	None documented in the most recent 5 years of data.
PURSE SEINE FISHERIES		
Pacific Highly Migratory Species*∧	8	None documented.
TRAWL FISHERIES:		
Northwest Atlantic	1	None documented.
TROLL FISHERIES:		
Pacific Highly Migratory Species*	243	None documented.

List of Terms, Abbreviations, and Symbols Used in Table 3: CA—California; GMX—Gulf of Mexico; HI—Hawaii; OR—Oregon; WA—Washington; WNA—Western North Atlantic.

*Fishery is an extension/component of an existing fishery operating within U.S. waters listed in Table 1 or 2. The number of permits listed in Table 3 represents only the number of permits for the high seas component of the fishery.

**These gear types are not authorized under the Pacific HMS FMP (2004), the Atlantic HMS FMP (2006), or without a South Pacific Tuna Treaty license (in the case of the South Pacific Tuna fisheries). Because HSFCA permits are valid for five years, permits obtained in past years exist in the HSFCA permit database for gear types that are now unauthorized. Therefore, while HSFCA permits exist for these gear types, it does not represent effort. In order to land fish species, fishers must be using an authorized gear type. Once these permits for unauthorized gear types expire, the permit-holder will be required to obtain a permit for an authorized gear type.

∧The list of marine mammal species and/or stocks killed or injured in this fishery is identical to the list of marine mammal species and/or stocks killed or injured in U.S. waters component of the fishery, minus species and/or stocks that have geographic ranges exclusively in coastal waters, because the marine mammal species and/or stocks are also found on the high seas and the fishery remains the same on both sides of the EEZ boundary. Therefore, the high seas components of these fisheries pose the same risk to marine mammals as the components of these fisheries operating in U.S. waters.

TABLE 4—FISHERIES AFFECTED BY TAKE REDUCTION TEAMS AND PLANS

Take reduction plans	Affected fisheries
Atlantic Large Whale Take Reduction Plan (ALWTRP)—50 CFR 229.32	*Category I* Mid-Atlantic gillnet. Northeast/Mid-Atlantic American lobster trap/pot. Northeast sink gillnet. *Category II* Atlantic blue crab trap/pot. Atlantic mixed species trap/pot.

TABLE 4—FISHERIES AFFECTED BY TAKE REDUCTION TEAMS AND PLANS—Continued

Take reduction plans	Affected fisheries
	Northeast anchored float gillnet.
	Northeast drift gillnet.
	Southeast Atlantic gillnet.
	Southeastern U.S. Atlantic shark gillnet.*
	Southeastern, U.S. Atlantic, Gulf of Mexico stone crab trap/pot.^
Bottlenose Dolphin Take Reduction Plan (BDTRP)—50 CFR 229.35	*Category I*
	Mid-Atlantic gillnet.
	Category II
	Atlantic blue crab trap/pot.
	Chesapeake Bay inshore gillnet fishery.
	Mid-Atlantic haul/beach seine.
	Mid-Atlantic menhaden purse seine.
	NC inshore gillnet.
	NC long haul seine.
	NC roe mullet stop net.
	Southeast Atlantic gillnet.
	Southeastern U.S. Atlantic shark gillnet.
	Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl.^
	Southeastern, U.S. Atlantic, Gulf of Mexico stone crab trap/pot.^
	VA pound net.
False Killer Whale Take Reduction Plan (FKWTRP)—50 CFR 229.37 ..	*Category I*
	HI deep-set longline.
	Category II
	HI shallow-set longline.
Harbor Porpoise Take Reduction Plan (HPTRP)—50 CFR 229.33 (New England) and 229.34 (Mid-Atlantic).	*Category I*
	Mid-Atlantic gillnet.
	Northeast sink gillnet.
Pelagic Longline Take Reduction Plan (PLTRP)—50 CFR 229.36	*Category I*
	Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline.
Pacific Offshore Cetacean Take Reduction Plan (POCTRP)—50 CFR 229.31.	*Category I*
	CA thresher shark/swordfish drift gillnet (≥14 in mesh).
Atlantic Trawl Gear Take Reduction Team (ATGTRT)	*Category II*
	Mid-Atlantic bottom trawl.
	Mid-Atlantic mid-water trawl (including pair trawl).
	Northeast bottom trawl.
	Northeast mid-water trawl (including pair trawl).

*Only applicable to the portion of the fishery operating in U.S. waters; ^Only applicable to the portion of the fishery operating in the Atlantic Ocean.

Classification

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this rule would not have a significant economic impact on a substantial number of small entities. On June 12, 2014, the Small Business Administration (SBA) issued a final rule revising the small business size standards for several industries effective July 14, 2014 (79 FR 33647). The rule increased the size standard for Finfish Fishing from $19.0 to $20.5 million, Shellfish Fishing from $5.0 to $5.5 million, and Other Marine Fishing from $7.0 to $7.5 million. NMFS has reviewed the analyses prepared for this action in light of the new size standards. Under the former, lower size standards, all entities subject to this action were considered small entities, thus they all would continue to be considered small under the new standards. The factual basis leading to the certification is set forth below.

Under existing regulations, all individuals participating in Category I or II fisheries must register under the MMPA and obtain an Authorization Certificate. The Authorization Certificate authorizes the taking of non-endangered and non-threatened marine mammals incidental to commercial fishing operations. Additionally, individuals may be subject to a TRP and requested to carry an observer. NMFS has estimated that up to approximately 58,500 fishing vessels, most with annual revenues below the SBA's small entity thresholds, may operate in Category I or II fisheries. As fishing vessels operating in Category I or II fisheries, they are required to register with NMFS. Forty-five fishing vessels are new to Category II as a result of this proposed rule. The MMPA registration process is integrated with existing state and Federal licensing, permitting, and registration programs. Therefore, individuals who have a state or Federal fishing permit or landing license, or who are authorized through another related state or Federal fishery registration program, are currently not required to register separately under the MMPA or pay the $25 registration fee. Therefore, this proposed rule would not impose any direct costs on small entities. Record keeping and reporting costs associated with this rulemaking are minimal and would not have a significant impact on a substantial number of small entities.

If a vessel is requested to carry an observer, vessels will not incur any direct economic costs associated with carrying that observer. In addition, section 118 of the MMPA states that an observer is not required to be placed on a vessel if the facilities for quartering an observer or performing observer functions are inadequate or unsafe, thereby exempting vessels too small to accommodate an observer from this requirement. As a result of this certification, an initial regulatory

flexibility analysis is not required and has not been prepared. In the event that reclassification of a fishery to Category I or II results in a TRP, economic analyses of the effects of that TRP would be summarized in subsequent rulemaking actions.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act. The collection of information for the registration of individuals under the MMPA has been approved by the Office of Management and Budget (OMB) under OMB control number 0648–0293 (0.15 hours per report for new registrants and 0.09 hours per report for renewals). The requirement for reporting marine mammal mortalities or injuries has been approved by OMB under OMB control number 0648–0292 (0.15 hours per report). These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these reporting burden estimates or any other aspect of the collections of information, including suggestions for reducing burden, to NMFS and OMB (see **ADDRESSES** and **SUPPLEMENTARY INFORMATION**).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

An environmental assessment (EA) was prepared under the National Environmental Policy Act (NEPA) in 1995 and 2005. The 1995 EA examined the effects of regulations implementing section 118 of the 1994 Amendments of the MMPA on the affected environment. The 2005 EA analyzed the environmental impacts of continuing the existing scheme (as described in the 1995 EA) for classifying fisheries on the LOF. The 1995 EA and the 2005 EA concluded that implementation of MMPA section 118 regulations would not have a significant impact on the human environment. NMFS reviewed the 2005 EA in 2009. NMFS concluded that because there were no changes to the process used to develop the LOF and implement section 118 of the MMPA, there was no need to update the 2005 EA. This rule would not change NMFS' current process for classifying fisheries on the LOF; therefore, this rule is not expected to change the analysis or conclusion of the 2005 EA and FONSI, and no update is needed. If NMFS takes a management action, for example, through the development of a TRP, NMFS would first prepare an environmental document, as required under NEPA, specific to that action.

This proposed rule would not affect species listed as threatened or endangered under the Endangered Species Act (ESA) or their associated critical habitat. The impacts of numerous fisheries have been analyzed in various biological opinions, and this rule will not affect the conclusions of those opinions. The classification of fisheries on the LOF is not considered to be a management action that would adversely affect threatened or endangered species. If NMFS takes a management action, for example, through the development of a TRP, NMFS would consult under ESA section 7 on that action.

This proposed rule would have no adverse impacts on marine mammals and may have a positive impact on marine mammals by improving knowledge of marine mammals and the fisheries interacting with marine mammals through information collected from observer programs, stranding and sighting data, or take reduction teams.

This proposed rule would not affect the land or water uses or natural resources of the coastal zone, as specified under section 307 of the Coastal Zone Management Act.

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Dated: September 17, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 140819686–5840–01]

RIN 0648–BE38

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery and Golden Crab Fishery of the South Atlantic, and Dolphin and Wahoo Fishery of the Atlantic

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in Amendment 34 to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region, Amendment 9 to the FMP for the Golden Crab Fishery of the South Atlantic Region, and Amendment 8 to the FMP for the Dolphin and Wahoo Fishery of the Atlantic; collectively referred to as the Generic Accountability Measures (AM) and Dolphin Allocation Amendment (Generic AM Amendment), as prepared and submitted by the South Atlantic Fishery Management Council (Council). If implemented, this proposed rule would revise the commercial and recreational AMs for numerous snapper-grouper species and golden crab. This proposed rule would also revise commercial and recreational sector allocations for dolphin in the Atlantic. The proposed actions are intended to make the AMs consistent for snapper-grouper species addressed in this proposed rule and for golden crab, and revise the allocations between the commercial and recreational sectors for dolphin.

DATES: Written comments must be received on or before October 29, 2015.

ADDRESSES: You may submit comments on the proposed rule, identified by

''NOAA–NMFS–2013–0181'' by either of the following methods:

• *Electronic Submission:* Submit all electronic comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0181,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit all written comments to Mary Janine Vara, NMFS Southeast Regional Office (SERO), 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of the Generic AM Amendment, which includes an environmental assessment, initial regulatory flexibility analysis (IRFA), regulatory impact review, and fishery impact statement, may be obtained from *www.regulations.gov* or the SERO Web site at *http://sero.nmfs.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Mary Janine Vara, NMFS SERO, telephone: 727–824–5305, or email: *mary.vara@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery in the South Atlantic is managed under the FMP for the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP). The golden crab fishery in the South Atlantic is managed under the FMP for the Golden Crab Fishery of the South Atlantic Region (Golden Crab FMP). The dolphin and wahoo fishery in the Atlantic is managed under the FMP for the Dolphin and Wahoo Fishery of the Atlantic (Dolphin Wahoo FMP). The FMPs were prepared by the Council and implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

The Magnuson-Stevens Act requires that NMFS and regional fishery management councils prevent overfishing and achieve, on a continuing basis, the optimum yield from federally managed fish stocks. These mandates are intended to ensure that fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems. To further this goal, the Magnuson-Stevens Act requires fishery managers to minimize bycatch and bycatch mortality to the extent practicable.

Management Measures Contained in This Proposed Rule

Modifications to Commercial and Recreational AMs for Snapper-Grouper Species and Golden Crab

This proposed rule would revise the AMs for golden tilefish, snowy grouper, gag, red grouper, black grouper, scamp, the other shallow-water grouper complex (SASWG: red hind, rock hind, yellowmouth grouper, yellowfin grouper, coney, and graysby), greater amberjack, the other jacks complex (lesser amberjack, almaco jack, and banded rudderfish), bar jack, yellowtail snapper, mutton snapper, the other snappers complex (cubera snapper, gray snapper, lane snapper, dog snapper, and mahogany snapper), gray triggerfish, wreckfish (recreational sector), Atlantic spadefish, hogfish, red porgy, the other porgies complex (jolthead porgy, knobbed porgy, whitebone porgy, scup, and saucereye porgy), and golden crab (commercial sector).

Currently, the snapper-grouper species and golden crab addressed in this proposed rule have slightly different AMs in place compared to other snapper-grouper species. This proposed rule would modify the AMs for these species, including those identified in the species complexes, to make them consistent with the majority of the AMs already in place for other snapper-grouper species. Specifically, the proposed rule would update the recreational AMs to allow NMFS to close recreational sectors when the recreational annual catch limits (ACLs) are met or are projected to be met, unless NMFS determines that no closure is necessary based on the best scientific information available. The proposed rule would also modify the AMs to trigger post-season ACL reductions in the commercial and recreational sectors in the year following an ACL overage under certain situations.

If the recreational sector exceeds its ACL, NMFS would monitor the recreational sector for persistence in increased landings during the following fishing year. In the following fishing year, if the best scientific information available determines it necessary, NMFS would publish a notice in the **Federal Register** to reduce the length of fishing season and the recreational ACL by the amount of the recreational ACL overage if the species, or one or more species in a species complex, is overfished and if the total ACL (commercial ACL and recreational ACL) was exceeded in the prior fishing year.

If the commercial sector exceeds its ACL, NMFS would publish a notice in the **Federal Register** to reduce the commercial ACL in the following fishing year by the amount of the commercial ACL overage if the species, or one or more species in a species complex, is overfished and if the total ACL (commercial ACL and recreational ACL) was exceeded in the prior fishing year.

Modifying the AMs in this manner would create regulatory consistency among the majority of federally managed species in the South Atlantic region.

Modifications to Commercial and Recreational Sector Allocations for Dolphin

The Council has expressed concern that the variability in commercial annual landings of dolphin could result in the commercial ACL being exceeded in the future, and that the recreational sector for dolphin has not come close to reaching its ACL in recent years. Therefore, in the Generic AM Amendment, the Council assessed allocation methods for revising the fishing sector allocations for dolphin.

The current sector allocations for dolphin are 7.54 percent for the commercial sector and 92.46 percent for the recreational sector. The Council chose these allocations using a sector allocation formula where 50 percent of the sector allocations are based on a longer-term landings series (1999–2008) and 50 percent of the sector allocations are based on a shorter time series (2006–2008). This results in the current ACL of 1,157,001 lb (524,807 kg), round weight, for the commercial sector and 14,187,845 lb (6,435,498 kg), round weight, for the recreational sector.

In the Generic AM Amendment, the Council chose a sector allocation formula for dolphin based on the average of the percentages of the total catch from 2008–2012. Thus, this proposed rule would revise the commercial sector allocation to be 10 percent with an ACL of 1,534,485 lb (696,031 kg), round weight, and the recreational sector allocation for dolphin to be 90 percent with an ACL

of 13,810,361 lb (6,264,274 kg), round weight. This change in sector allocation would constitute an ACL increase for the commercial sector and an ACL decrease for the recreational sector of 377,484 lb (171,224 kg), round weight.

Other Changes to the Codified Text

This proposed rule would clarify the AM provisions in § 622.193 (the ACLs/AMs section of the regulations for South Atlantic snapper-grouper species) that would reduce a season length in the following recreational fishing year. These clarifications would aid law enforcement efforts. For those snapper-grouper species that have a post-season AM if a recreational ACL is exceeded, under certain conditions NMFS would reduce the season length (*i.e.,* implement a closure) for that species or species complex in the following fishing year by publishing an AM notification and closure date for the recreational sector for that species or species complex in the **Federal Register**. In this proposed rule, NMFS would add a closure provision to the regulations for these situations. Specifically, the provision states that when the closure becomes effective, the bag and possession limits for the applicable species or species complex in or from the South Atlantic EEZ would be reduced to zero.

In addition, this proposed rule would remove and consolidate language in § 622.190(a)(6) for the red porgy commercial quota from past fishing years that is no longer applicable.

Finally, this proposed rule would fix an error in § 622.280 for Atlantic dolphin and wahoo. Atlantic dolphin and wahoo are managed off the Atlantic states (Maine through the east coast of Florida) via the Dolphin Wahoo FMP; however, in the AMs section of the codified text, the closure provisions currently apply in the South Atlantic EEZ only. This inadvertent error was implemented in the rulemaking for the Comprehensive ACL Amendment (77 FR 15916, March 16, 2011). This proposed rule would change ''South Atlantic EEZ'' to ''Atlantic EEZ'' in the AMs for dolphin and wahoo in paragraphs (a)(1)(i) and (b)(1)(i) of § 622.280, which is consistent with the FMP for management of these species from Maine through the east coast of Florida.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 34 to the FMP for the Snapper-Grouper Fishery, Amendment 9 to the FMP for the Golden Crab Fishery, Amendment 8 to the FMP for the Dolphin and Wahoo Fishery, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act, for this proposed rule. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, the objectives of, and legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A copy of the full analysis is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows.

The Magnuson-Stevens Act provides the statutory basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this proposed rule. Accordingly, this proposed rule does not implicate the Paperwork Reduction Act.

NMFS expects this proposed rule, if implemented, to directly affect federally permitted commercial fishermen harvesting snapper-grouper species or golden crab in the South Atlantic. NMFS also expects this proposed rule to affect federally permitted commercial fishermen harvesting dolphin in the South Atlantic and off states north of North Carolina (northeastern states). The Small Business Administration established size criteria for all major industry sectors in the U.S. including fish harvesters and for-hire operations. A business involved in fish harvesting is classified as a small business if independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of $20.5 million (NAICS code 114111, finfish fishing) for all of its affiliated operations worldwide.

Charter vessels and headboats (for-hire vessels) sell fishing services, which include the harvest of any species considered in this proposed rule, to recreational anglers. These vessels provide a platform for the opportunity to fish and not a guarantee to catch or harvest any species, though expectations of successful fishing, however defined, likely factor into the decision to purchase these services. Changing the allowable harvest of a species, including in-season closures and post-season ACL overage adjustments, only defines what can be kept and does not explicitly prevent the continued offer of for-hire fishing services. In response to a change in the allowable harvest, including a zero-fish limit or fishery closure, fishing for other species could continue. Because the changes considered in this proposed rule would not directly alter the service sold by these vessels, this proposed rule would not directly apply to or regulate their operations. For-hire vessels would continue to be able to offer their core product, which is an attempt to ''put anglers on fish,'' provide the opportunity for anglers to catch whatever their skills enable them to catch, and keep those fish that they desire to keep and are legal to keep. Any change in demand for these fishing services and associated economic affects as a result of changing a quota or fishery closures would be a consequence of behavioral change by anglers, secondary to any direct effect on anglers and, therefore, an indirect effect of the proposed regulatory action. Because the effects on for-hire vessels would be indirect, they fall outside the scope of the RFA. Recreational anglers, who may be directly affected by the changes in this proposed rule, are not small entities under the RFA.

NMFS has not identified any other small entities that would be expected to be directly affected by this proposed rule.

The snapper-grouper fishery is a multi-species fishery and vessels generally land many species on the same trips. Vessels in the dolphin fishery also catch other species jointly with dolphin. The golden crab fishery is more specialized than either the snapper-grouper or dolphin fishery. Because of the possibility that some vessels land only species not affected by this proposed rule, the following provides a description of vessels and their revenues by focusing on the key species (black grouper, mutton snapper, yellowtail snapper, greater amberjack, red porgy, gag, golden tilefish, red grouper, snowy grouper, wreckfish, golden crab, and dolphin) addressed in this proposed rule. Hogfish, a recently assessed species, is not included here as a key species for this analysis as it is being addressed by the Council in Amendment 37. However, revenue approximations for vessels landing hogfish are noted below. The number of vessels and revenues (2013 dollars) are annual averages for the period 2009 through 2013, unless otherwise noted. Data for the years 2009 through 2013

were the latest complete five-year data available when the Council considered the actions in this proposed rule. Approximately 188 vessels landing at least 1 lb (0.45 kg) of black grouper generated approximately $54,000 in revenues from black grouper and other species; 266 vessels landing at least 1 lb (0.45 kg) of mutton snapper had revenues of approximately $51,000 from mutton snapper and other species; 252 vessels landing at least 1 lb (0.45 kg) yellowtail snapper had revenues of approximately $38,000 from yellowtail snapper and other species; 295 vessels landing at least 1 lb (0.45 kg) of greater amberjack had revenues of approximately $53,000 from greater amberjack and other species; 191 vessels landing at least 1 lb (0.45 kg) of red porgy had revenues of approximately $60,000 from red porgy and other species; 273 vessels landing at least 1 lb (0.45 kg) of gag had revenues of approximately $49,000 from gag and other species; 63 vessels landing at least 1 lb (0.45 kg) of golden tilefish had revenues of approximately $68,000 from golden tilefish and other species; 278 vessels landing at least 1 lb (0.45 kg) of red grouper had revenues of approximately $50,000 from red grouper and other species; 95 vessels landing at least 1 lb (0.45 kg) of red snapper had revenues of approximately $57,000 from red snapper and other species; 138 vessels landing at least 1 lb (0.45 kg) of snowy grouper had revenues of approximately $78,000 from snowy grouper and other species; and 488 vessels landing at least 1 lb (0.45 kg) of dolphin had revenues of approximately $64,000 from dolphin and other species. Revenues for vessels landing at least 1 lb (0.45 kg) of wreckfish or golden crab can be approximated based on total revenues from landings of those species and the number of permits. As of August 6, 2015, there were five wreckfish permits and 11 golden crab permits. For fishing years 2009/2010 through 2013/2014, annual revenues from wreckfish landings averaged $752,881, implying average annual revenue per wreckfish vessel of approximately $188,000. From 2009 through 2013, annual revenues from golden crab landings averaged $1,419,843, implying average annual revenue per golden crab vessel of approximately $142,000. Most of the unassessed species (almaco jack, banded rudderfish, lesser amberjack, gray snapper, lane snapper, cubera snapper, dog snapper, mahogany snapper, white grunt, sailors choice, tomtate, margate, red hind, rock hind, yellowmouth grouper, yellowfin grouper, coney, graysby, jolthead porgy, knobbed porgy, saucereye porgy, scup, whitebone porgy, Atlantic spadefish, bar jack, scamp, and gray triggerfish), and hogfish had lower dockside revenues than many of the key species. In fact, the highest dockside values of an unassessed species (scamp) were much lower than those of at least one assessed species (yellowtail snapper). Therefore, NMFS expects that revenues of vessels landing at least one pound of an unassessed species or hogfish would fall within the range of vessel revenues described above.

Some vessels, other than those in the golden crab fishery, may have caught and landed a combination of the 12 key species, hogfish, and unassessed species, and revenues therefrom are included in the foregoing estimates. Vessels that caught and landed any of the species addressed in this proposed rule may also operate in other fisheries, the revenues of which are not known and are not reflected in these totals. Based on the revenue information provided above, all commercial vessels expected to be affected by this proposed rule are assumed to be small entities.

Because all entities expected to be affected by this proposed rule are assumed to be small entities, NMFS has determined that this proposed rule would affect a substantial number of small entities. However, the issue of disproportionate effects on small versus large entities does not arise in the present case.

Designating a species to be overfished presupposes a stock assessment has been completed, implying that the payback action, *i.e.,* a reduction in the following year's catch limit or quota by the amount of an overage, in the proposed rule would not apply to unassessed species. Therefore, the harvest of unassessed species and attendant economic benefits would remain unaffected by the proposed rule. NMFS notes that a stock assessment underway for gray triggerfish, an unassessed species, is expected to be completed in 2016. Of the assessed species subject to the AM action in this proposed rule, only red porgy and snowy grouper are considered overfished. The recent stock assessment for hogfish defined three separate stocks, one of which is considered overfished and undergoing overfishing. Amendment 37 will address issues specifically related to hogfish. Since 2009, the commercial sector exceeded its allocation for red porgy in 2011 and 2013 by less than 3 percent each year. On the other hand, recreational landings of red porgy have been well below the sector's allocation. Recreational landings of red porgy were 51 percent in 2012 and 48 percent in 2013 of the recreational sector's ACL. Based on past and recent landings history, it is unlikely that the total red porgy ACL (sum of commercial and recreational sector ACLs) would be reached in the near future, so the payback action in this proposed rule would not be expected to affect harvesters of red porgy in the short term. The case with snowy grouper is slightly different from the other overfished species. The commercial ACL was exceeded by less than 10 percent in 2012, 2013, and 2014 while the recreational ACL was exceeded by more than 200 percent in 2012 and 2013. For the 2014 fishing season, recreational harvest of snowy grouper was closed on June 7, 2014. Based on landings history, it is likely that the payback action for snowy grouper in this proposed rule would adversely affect the profits of commercial vessels. The amount of payback for overages and resulting profit loss to the commercial vessels cannot be estimated. However, current regulations enable NMFS to implement a snowy grouper in-season closure for the commercial sector and in-season monitoring and possible closure for the recreational sector if the respective sector's ACL is reached or projected to be reached. In addition, this rule proposes to implement an in-season closure for the snowy grouper recreational sector once the sector's ACL is reached or projected to be reached. These current or proposed measures would be expected to limit the amount of overage, meaning that the resulting loss in profits to commercial vessels due to the payback provision should be small. The proposed commercial and recreational sector re-allocation of the ACL for dolphin would increase the share of the commercial sector at the expense of the recreational sector. In theory, this would tend to increase the revenues or profits of commercial vessels and potentially reduce the revenues or profits of for-hire vessels. In practice, commercial vessels are not expected to experience any profit changes in the near-term based on historical landings for the sector from 2009 through 2013. Relative to the proposed new sector allocations, based on applying the proposed allocation ratios to the current total ACL, commercial landings of dolphin (based on 2009–2013 commercial landings) would range from 33 percent to 80 percent of the sector's ACL. In the years 2009 through 2013, the highest landings occurred in 2009 and the lowest in 2013. However, commercial fishing for dolphin closed on June 30, 2015, when

the commercial sector reached its ACL. If future commercial landings of dolphin were equal to or greater than they were in 2015, the proposed allocation ratio would be expected to increase the revenues, and possibly profits, of commercial vessels. As noted earlier, for-hire vessels would only be affected indirectly by the proposed rule.

The following discussion describes the alternatives that were not selected as preferred by the Council.

Four alternatives, including the preferred alternative (as described in the preamble), were considered for reducing the following year's commercial ACL by the amount of the commercial overage. The first alternative, the no-action alternative, would not impose a payback provision for gag, golden tilefish, red snapper, snowy grouper, wreckfish, and golden crab while retaining the payback provision for the other species addressed in this action. This alternative would not address the need to create a consistent regulatory environment while preventing unnecessary negative socio-economic impacts, and ensure overfishing does not occur in accordance with the provisions set forth in the Magnuson-Stevens Act. The second alternative would require a payback for overages only if the species is overfished, and the third alternative would require a payback only if the combined total of commercial and recreational ACLs is exceeded. These two alternatives are more restrictive than the preferred alternative and, therefore, would be expected to have potentially larger adverse short-term economic effects on commercial entities than the preferred alternative.

Because the commercial and recreational sector re-allocation of the ACL for dolphin would not be expected to result in any negative effects on any directly affected entities, the issue of significant alternatives to reduce any significant negative effects is not relevant.

List of Subjects in 50 CFR Part 622

Accountability measure, Annual catch limit, Dolphin, Fisheries, Fishing, Golden crab, Snapper-grouper, South Atlantic.

Dated: September 17, 2015.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 622.190, revise paragraph (a)(6) to read as follows:

§ 622.190 Quotas.

* * * * *

(a) * * *

(6) *Red porgy*—157,692 lb (71,528 kg), gutted weight; 164,000 lb (74,389 kg), round weight.

* * * * *

■ 3. In § 622.193, revise paragraphs (a) through (d), (g), (i), (j) through (r), and (t) through (x) to read as follows:

§ 622.193 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

(a) *Golden tilefish*—(1) *Commercial sector*—(i) *Hook-and-line component.* If commercial landings for golden tilefish, as estimated by the SRD, reach or are projected to reach the commercial ACL (commercial quota) specified in § 622.190(a)(2)(ii), the AA will file a notification with the Office of the Federal Register to close the hook-and-line component of the commercial sector for the remainder of the fishing year. Applicable restrictions after a commercial quota closure are specified in § 622.190(c).

(ii) *Longline component.* If commercial landings for golden tilefish, as estimated by the SRD, reach or are projected to reach the commercial ACL (commercial quota) specified in § 622.190(a)(2)(iii), the AA will file a notification with the Office of the Federal Register to close the longline component of the commercial sector for the remainder of the fishing year. After the commercial ACL for the longline component is reached or projected to be reached, golden tilefish may not be fished for or possessed by a vessel with a golden tilefish longline endorsement. Applicable restrictions after a commercial quota closure are specified in § 622.190(c).

(iii) If commercial landings for golden tilefish, as estimated by the SRD, exceed the commercial ACL (including both the hook-and-line and longline component ACLs) specified in § 622.190(a)(2)(i), and the combined commercial and recreational ACL of 558,036 lb (253,121 kg), gutted weight, 625,000 lb (283,495 kg), round weight, is exceeded during the same fishing year, and golden tilefish are overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector*—(i) If recreational landings for golden tilefish, as estimated by the SRD, reach or are projected to reach the recreational ACL of 3,019 fish, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for golden tilefish in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for golden tilefish, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 558,036 lb (253,121 kg), gutted weight, 625,000 lb (285,495 kg), round weight, is exceeded during the same fishing year. The AA will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for golden tilefish in or from the South Atlantic EEZ are zero.

(b) *Snowy grouper*—(1) *Commercial sector*—(i) If commercial landings for snowy grouper, as estimated by the SRD, reach or are projected to reach the commercial ACL (commercial quota) specified in § 622.190(a)(1), the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. Applicable restrictions after a commercial quota closure are specified in § 622.190(c).

(ii) If commercial landings for snowy grouper, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL specified in § 622.193(b)(1)(iii) is exceeded, and snowy grouper are overfished based on the most recent

Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(iii) The combined commercial and recreational ACL for snowy grouper is 139,098 lb (63,094 kg), gutted weight, 164,136 lb (74,451 kg), round weight, for 2015; 151,518 lb (68,727 kg), gutted weight, 178,791 lb (81,098 kg), round weight, for 2016; 163,109 lb (73,985 kg), gutted weight, 192,469 lb (87,302 kg), round weight, for 2017; 173,873 lb (78,867 kg), gutted weight, 205,170 lb (93,064 kg), round weight, for 2018; 185,464 lb (84,125 kg), gutted weight, 218,848 lb (99,268 kg), round weight, for 2019 and subsequent years.

(2) *Recreational sector*—(i) If recreational landings for snowy grouper, as estimated by the SRD, reach or are projected to reach the recreational ACL, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such notification, the bag and possession limits for snowy grouper in or from the South Atlantic EEZ are zero. The recreational ACL for snowy grouper is 4,152 fish for 2015; 4,483 fish for 2016; 4,819 fish for 2017, 4,983 fish for 2018; 5,315 fish for 2019 and subsequent fishing years.

(ii) If recreational landings for snowy grouper, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if snowy grouper are overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL specified in § 622.193(b)(1)(iii) is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for snowy grouper in or from the South Atlantic EEZ are zero.

(c) *Gag*—(1) *Commercial sector*—(i) If commercial landings for gag, as estimated by the SRD, reach or are projected to reach the commercial quota specified in § 622.190(a)(7), the AA will file a notification with the Office of the Federal Register to close the commercial sector for gag for the remainder of the fishing year. Applicable restrictions after a commercial quota closure are specified in § 622.190(c).

(ii) If the commercial landings for gag, as estimated by the SRD, exceed the commercial ACL specified in § 622.193(c)(1)(iii), and the combined commercial and recreational ACL specified in § 622.193(c)(1)(iv), is exceeded during the same fishing year, and gag are overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(iii) The commercial ACL for gag is 322,677 lb (146,364 kg), gutted weight, 380,759 lb (172,709 kg), round weight, for 2015; 325,100 lb (147,463 kg), gutted weight, 383,618 lb (174,006 kg), round weight, for 2016; 345,449 lb (197,516 kg), gutted weight, 407,630 lb (184,898 kg), round weight, for 2017; 362,406 lb (164,385 kg), gutted weight, 427,639 lb (193,974 kg), round weight, for 2018; and 374,519 lb (169,879 kg), gutted weight, 441,932 lb (200,457 kg), round weight, for 2019 and subsequent fishing years.

(iv) The combined commercial and recreational ACL for gag is 632,700 lb (286,988 kg), gutted weight, 746,586 lb (338,646 kg), round weight, for 2015; 637,451 lb (289,143 kg), gutted weight, 752,192 lb (341,189 kg), round weight, for 2016; 677,351 lb (307,241 kg), gutted weight, 799,274 lb (362,545 kg), round weight, for 2017; 710,600 lb (322,323 kg), gutted weight, 838,508 lb (380,341 kg), round weight, for 2018; and 734,351 lb (333,096 kg), gutted weight, 866,534 lb (393,053 kg), round weight, for 2019 and subsequent fishing years.

(2) *Recreational sector*—(i) If recreational landings for gag, as estimated by the SRD, reach or are projected to reach the recreational ACL, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such notification, the bag and possession limits for gag in or from the South Atlantic EEZ are zero. The recreational ACL for gag is 310,023 lb (148,025 kg), gutted weight, 365,827 (165,936 kg), round weight, for 2015; 312,351 lb (149,137 kg), gutted weight, 368,574 lb (175,981 kg), round weight, for 2016; 331,902 lb (158,472 kg), gutted weight, 391,644 lb (186,997 kg), round weight, for 2017; 348,194 lb (166,251 kg), gutted weight, 410,869 lb (196,176 kg), round weight, for 2018; and 359,832 lb (171,807 kg), gutted weight, 424,602 lb (202,733 kg), round weight, for 2019 and subsequent fishing years.

(ii) If recreational landings for gag, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL specified in § 622.193(c)(1)(iv) is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for gag in or from the South Atlantic EEZ are zero.

(d) *Red grouper*—(1) *Commercial sector*—(i) If commercial landings for red grouper, as estimated by the SRD, reach or are projected to reach the commercial ACL of 343,200 lb (155,673 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of red grouper is prohibited and harvest or possession of red grouper in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If the commercial landings for red grouper, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 780,000 lb (353,802 kg), round

weight, is exceeded during the same fishing year, and the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL in the following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector*—(i) If recreational landings for red grouper, as estimated by the SRD, are projected to reach the recreational ACL of 436,800 lb (198,129 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for red grouper in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for red grouper, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 780,000 lb (353,802 kg), round weight, is exceeded during the same fishing year. The AA will use the best scientific information available to determine if reducing the length of the recreational season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for red grouper in or from the South Atlantic EEZ are zero.

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(g) *Black grouper*—(1) *Commercial sector*—(i) If commercial landings for black grouper, as estimated by the SRD, reach or are projected to reach the commercial ACL of 96,844 lb (43,928 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of black grouper is prohibited and harvest or possession of black grouper in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for black grouper, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 262,594 lb (119,111 kg), round weight, is exceeded during the same fishing year, and the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector*—(i) If recreational landings for black grouper, as estimated by the SRD, reach or are projected to reach the recreational ACL of 165,750 lb (75,183 kg), round weight, and the AA determines that a closure is necessary by using the best scientific information available, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for black grouper in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for black grouper, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if black grouper are overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 262,594 lb (119,111 kg), round weight, is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for black grouper in or from the South Atlantic EEZ are zero.

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(i) *Scamp*—(1) *Commercial sector*—(i) If commercial landings for scamp, as estimated by the SRD, reach or are projected to reach the commercial ACL of 219,375 lb (99,507 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of scamp is prohibited and harvest or possession of scamp in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for scamp, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 335,744 lb (152,291 kg), round weight, is exceeded, and scamp are overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector*—(i) If recreational landings for scamp, as estimated by the SRD, reach or are projected to reach the recreational ACL of 116,369 lb (52,784 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for scamp in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for scamp, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if scamp are overfished based

on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 335,744 lb (152,291 kg), round weight, is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for scamp in or from the South Atlantic EEZ are zero.

(j) *Other SASWG combined (including red hind, rock hind, yellowmouth grouper, yellowfin grouper, coney, and graysby)*—(1) *Commercial sector*—(i) If commercial landings for other SASWG combined, as estimated by the SRD, reach or are projected to reach the commercial ACL of 55,542 lb (25,193 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for this complex for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of red hind, rock hind, yellowmouth grouper, yellowfin grouper, coney, and graysby is prohibited, and harvest or possession of any of these species in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for other SASWG combined, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 104,190 lb (47,260 kg), round weight, is exceeded, and at least one of the species in other SASWG combined is overfished based on the most recent status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector*—(i) If recreational landings for other SASWG combined, as estimated by the SRD, reach or are projected to reach the recreational ACL of 48,648 lb (22,066 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if any stock in other SASWG combined is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for any species in the other SASWG combined in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for other SASWG combined, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if at least one of the species in other SASWG combined is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 104,190 lb (47,260 kg) is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for any species in the other SASWG combined in or from the South Atlantic EEZ are zero.

(k) *Greater amberjack*—(1) *Commercial sector*—(i) If commercial landings for greater amberjack, as estimated by the SRD, reach or are projected to reach the commercial ACL (commercial quota) specified in § 622.190(a)(3), the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. Applicable restrictions after a commercial quota closure are specified in § 622.190(c).

(ii) If commercial landings for greater amberjack, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 1,968,001 lb (892,670 kg), round weight, is exceeded during the same fishing year, and the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL in the following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector*—(i) If recreational landings for greater amberjack, as estimated by the SRD, reach or are projected to reach the recreational ACL of 1,167,837 lb (529,722 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for greater amberjack in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for greater amberjack, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and recreational ACL by the amount of the recreational ACL overage, if the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 1,968,001 lb (892,670 kg), round weight, is exceeded during the same fishing year. The AA will use the best scientific information available to determine if reducing the length of the recreational season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for greater amberjack in or from the South Atlantic EEZ are zero.

(l) *Other jacks complex (including lesser amberjack, almaco jack, and banded rudderfish, combined)*—(1) *Commercial sector*—(i) If commercial landings for the other jacks complex, as estimated by the SRD, reach or are projected to reach the commercial ACL of 189,422 lb (85,920 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the other jacks complex for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of lesser amberjack, almaco jack, and banded rudderfish is prohibited, and harvest or possession of any of these species in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-

grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for the other jacks complex, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 457,221 lb (207,392 kg), round weight, is exceeded, and at least one of the species in the other jacks complex is overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector*—(i) If recreational landings for the other jacks complex, as estimated by the SRD, reach or are projected to reach the recreational ACL of 267,799 lb (121,472 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if any stock in the other jacks complex is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for any species in the other jacks complex in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for the other jacks complex, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if at least one of the species in the other jacks complex is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 457,221 lb (207,392 kg), round weight, is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for any species in the other jacks complex in or from the South Atlantic EEZ are zero.

(m) *Bar jack*—(1) *Commercial sector*—(i) If commercial landings for bar jack, as estimated by the SRD, reach or are projected to reach the commercial ACL of 13,228 lb (6,000 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of bar jack is prohibited and harvest or possession of bar jack in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for bar jack, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 62,249 lb (28,236 kg), round weight, is exceeded, and bar jack are overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector*—(i) If recreational landings for bar jack, as estimated by the SRD, reach or are projected to reach the recreational ACL of 49,021 lb (22,236 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for bar jack in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for bar jack, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if bar jack are overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 62,249 lb (28,236 kg), round weight, is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for bar jack in or from the South Atlantic EEZ are zero.

(n) *Yellowtail snapper*—(1) *Commercial sector*—(i) If commercial landings for yellowtail snapper, as estimated by the SRD, reach or are projected to reach the commercial ACL of 1,596,510 lb (724,165 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of yellowtail snapper is prohibited and harvest or possession of yellowtail snapper in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for yellowtail snapper, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 3,037,500 lb (1,377,787 kg), round weight, is exceeded during the same fishing year, and yellowtail snapper are overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector*—(i) If recreational landings for yellowtail snapper, as estimated by the SRD, reach or are projected to reach the recreational ACL of 1,440,990 lb (653,622 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for yellowtail snapper in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for yellowtail snapper, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year

recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 3,037,500 lb (1,377,787 kg), round weight, is exceeded during the same fishing year. The AA will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for yellowtail snapper in or from the South Atlantic EEZ are zero.

(o) *Mutton snapper*—(1) *Commercial sector*—(i) If commercial landings for mutton snapper, as estimated by the SRD, reach or are projected to reach the commercial ACL of 157,743 lb (71,551 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of mutton snapper is prohibited and harvest or possession of mutton snapper in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for mutton snapper, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 926,600 lb (420,299 kg), round weight, is exceeded during the same fishing year, and the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL in the following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector*—(i) If recreational landings for mutton snapper, as estimated by the SRD, reach or are projected to reach the recreational ACL of 768,857 lb (348,748 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for mutton snapper in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for mutton snapper, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 926,600 lb (420,299 kg), round weight, is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for mutton snapper in or from the South Atlantic EEZ are zero.

(p) *Other snappers complex (including cubera snapper, gray snapper, lane snapper, dog snapper, and mahogany snapper)*—(1) *Commercial sector*—(i) If commercial landings for the other snappers complex, as estimated by the SRD, reach or are projected to reach the complex commercial ACL of 344,884 lb (156,437 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for this complex for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of cubera snapper, gray snapper, lane snapper, dog snapper, and mahogany snapper is prohibited, and harvest or possession of any of these species in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for the other snappers complex, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 1,517,716 lb (688,424 kg), round weight, is exceeded, and at least one of the species in the other snappers complex is overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector*—(i) If recreational landings for the other snappers complex, as estimated by the SRD, reach or are projected to reach the recreational ACL of 1,172,832 lb (531,988 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if any stock in the other snappers complex is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for any species in the other snappers complex in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for the other snappers complex, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if at least one of the species in the other snappers complex is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and the combined commercial and recreational ACL of 1,517,716 lb (688,424 kg), round weight, is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for any species in the other snappers complex in or from the South Atlantic EEZ are zero.

(q) *Gray triggerfish*—(1) *Commercial sector*—(i) If commercial landings for gray triggerfish, as estimated by the SRD, reach or are projected to reach the

commercial ACL (commercial quota) specified in § 622.190(a)(8)(i) or (ii), the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. Applicable restrictions after a commercial quota closure are specified in § 622.190(c).

(ii) If commercial landings for gray triggerfish, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 716,999 lb (325,225 kg), round weight, is exceeded, and gray triggerfish are overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector*—(i) If recreational landings for gray triggerfish, as estimated by the SRD, reach or are projected to reach the recreational ACL of 404,675 lb (183,557 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for gray triggerfish in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for gray triggerfish, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if gray triggerfish are overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 716,999 lb (325,225 kg), round weight, is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for gray triggerfish in or from the South Atlantic EEZ are zero.

(r) *Wreckfish*—(1) *Commercial sector*—(i) The ITQ program for wreckfish in the South Atlantic serves as the accountability measures for commercial wreckfish. The commercial ACL for wreckfish is equal to the commercial quota specified in § 622.190(b). Applicable restrictions after a commercial quota closure are specified in § 622.190(c).

(ii) The combined commercial and recreational ACL for wreckfish is 433,000 lb (196,405 kg), round weight, for 2015; 423,700 lb (192,187 kg), round weight, for 2016; 414,200 lb (187,878 kg), round weight, for 2017; 406,300 lb (184,295 kg), round weight, for 2018; 396,800 lb (179,985 kg), round weight, for 2019; and 389,100 lb (176,493 kg), round weight, for 2020 and subsequent fishing years.

(2) *Recreational sector*—(i) If recreational landings for wreckfish, as estimated by the SRD, reach or are projected to reach the recreational ACL specified in § 622.193(r)(2)(iii), the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for wreckfish in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for wreckfish, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL specified in § 622.193(r)(1)(ii) is exceeded during the same fishing year. The AA will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for wreckfish in or from the South Atlantic EEZ are zero.

(iii) The recreational ACL for wreckfish is 21,650 lb (9,820 kg), round weight, for 2015; 21,185 lb (9,609 kg), round weight, for 2016; 20,710 lb (9,394 kg), round weight, for 2017; 20,315 lb (9,215 kg), round weight, for 2018; 19,840 lb (8,999 kg), round weight, for 2019; and 19,455 lb (8,825 kg), round weight, for 2020 and subsequent fishing years.

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(t) *Atlantic spadefish*—(1) *Commercial sector*—(i) If commercial landings for Atlantic spadefish, as estimated by the SRD, reach or are projected to reach the commercial ACL of 150,552 lb (68,289 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of Atlantic spadefish is prohibited and harvest or possession of Atlantic spadefish in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for Atlantic spadefish, as estimated by the SRD, exceed the ACL, and the combined commercial and recreational ACL of 812,478 lb (368,534 kg), round weight, is exceeded, and Atlantic spadefish are overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector*—(i) If recreational landings for Atlantic spadefish, as estimated by the SRD, reach or are projected to reach the recreational ACL of 661,926 lb (300,245 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for Atlantic spadefish in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for Atlantic spadefish, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of

the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if Atlantic spadefish are overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 812,478 lb (368,534 kg), round weight, is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for Atlantic spadefish in or from the South Atlantic EEZ are zero.

(u) *Hogfish*—(1) *Commercial sector*—(i) If commercial landings for hogfish, as estimated by the SRD, reach or are projected to reach the commercial ACL of 49,469 lb (22,439 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of hogfish is prohibited and harvest or possession of hogfish in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for hogfish, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 134,824 lb (61,155 kg), round weight, is exceeded, and hogfish are overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector*—(i) If recreational landings for hogfish, as estimated by the SRD, reach or are projected to reach the recreational ACL of 85,355 lb (38,716 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for hogfish in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for hogfish, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if hogfish are overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 134,824 lb (61,155 kg), round weight, is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for hogfish in or from the South Atlantic EEZ are zero.

(v) *Red porgy*—(1) *Commercial sector*—(i) If commercial landings for red porgy, as estimated by the SRD, reach or are projected to reach the commercial ACL (commercial quota) specified in § 622.190(a)(6), the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. Applicable restrictions after a commercial quota closure are specified in § 622.190(c).

(ii) If commercial landings for red porgy, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 315,384 lb (143,056 kg), gutted weight, 328,000 lb (148,778 kg), round weight, is exceeded during the same fishing year, and red porgy are overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL in the following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector*—(i) If recreational landings for red porgy, as estimated by the SRD, reach or are projected to reach the recreational ACL of 157,692 lb (71,528 kg), gutted weight, 164,000 lb (74,389 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for red porgy in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for red porgy, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 315,384 lb (143,056 kg), gutted weight, 328,000 lb (148,778 kg), round weight, is exceeded during the same fishing year. The AA will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for red porgy in or from the South Atlantic EEZ are zero.

(w) *Other porgies complex (including jolthead porgy, knobbed porgy, whitebone porgy, scup, and saucereye porgy)*—(1) *Commercial sector*—(i) If commercial landings for the other porgies complex, as estimated by the SRD, reach or are projected to reach the commercial ACL of 36,348 lb (16,487 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the other porgies complex for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of jolthead porgy, knobbed porgy, whitebone porgy, scup, and saucereye porgy is prohibited, and harvest or possession of any of these species in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for the other porgies complex, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 143,262 lb (64,983

kg), round weight, is exceeded, and at least one of the species in the complex is overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector*—(i) If recreational landings for the other porgies complex, as estimated by the SRD, reach or are projected to reach the recreational ACL of 106,914 lb (48,495 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if any stock in the other porgies complex is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for any species in the other porgies complex in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for the other porgies complex, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if one of the species in the complex is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 143,262 lb (64,983 kg), round weight, is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for any species in the other porgies complex in or from the South Atlantic EEZ are zero.

(x) *Grunts complex (including white grunt, sailor's choice, tomtate, and margate)*—(1) *Commercial sector*—(i) If commercial landings for the grunts complex, as estimated by the SRD, reach or are projected to reach the commercial ACL of 217,903 lb (98,839 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for this complex for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of white grunt, sailor's choice, tomtate, and margate is prohibited, and harvest or possession of these species in or from the South Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(ii) If commercial landings for the grunts complex, as estimated by the SRD, exceed the commercial ACL, and the combined commercial and recreational ACL of 836,025 lb (379,215 kg), round weight, and at least one of the species in the complex is overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

(2) *Recreational sector*—(i) If recreational landings for the grunts complex, as estimated by the SRD, reach or are projected to reach the recreational ACL of 618,122 lb (280,375 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if any stock in the grunts complex is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for any species in the grunts complex in or from the South Atlantic EEZ are zero.

(ii) If recreational landings for the grunts complex, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if at least one of the species in the grunts complex is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 836,025 lb (379,215 kg), round weight, is exceeded during the same fishing year. NMFS will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for any species in the grunts complex in or from the South Atlantic EEZ are zero.

* * * * *

■ 4. In § 622.251, revise paragraph (a) to read as follows:

§ 622.251 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

(a) *Commercial sector*—(1) If commercial landings for golden crab, as estimated by the SRD, reach or are projected to reach the ACL of 2 million lb (907,185 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the golden crab fishery for the remainder of the fishing year. On and after the effective date of such a notification, all harvest, possession, sale, or purchase of golden crab in or from the South Atlantic EEZ is prohibited.

(2) If commercial landings for golden crab, as estimated by the SRD, exceed the ACL, and the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the ACL in the following fishing year by the amount of the ACL overage in the prior fishing year.

* * * * *

■ 5. In § 622.280, revise paragraphs (a)(1)(i) and (a)(2)(i) and the last two sentences in paragraph (b)(1)(i) to read as follows:

§ 622.280 Annual catch limits (ACLs) and accountability measures (AMs).

(a) * * *

(1) * * *

(i) If commercial landings for Atlantic dolphin, as estimated by the SRD, reach or are projected to reach the commercial ACL of 1,534,485 lb (696,031 kg), round weight, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year. On and after the effective date of such a notification, all sale or purchase of Atlantic dolphin is prohibited and harvest or possession of Atlantic dolphin in or from the Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for Atlantic dolphin and wahoo has been issued, without regard to where such

species were harvested, *i.e.,* in state or Federal waters.

* * * * *

(2) * * *

(i) If recreational landings for Atlantic dolphin, as estimated by the SRD, exceed the recreational ACL of 13,810,361 lb (6,264,274 kg), round weight, then during the following fishing year recreational landings will be monitored for a persistence in increased landings.

* * * * *

(b) * * *

(1) * * *

(i) * * * On and after the effective date of such a notification, all sale or purchase of Atlantic wahoo is prohibited and harvest or possession of Atlantic wahoo in or from the Atlantic EEZ is limited to the bag and possession limits. These bag and possession limits apply in the Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for Atlantic dolphin and wahoo has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

* * * * *

[FR Doc. 2015–24576 Filed 9–28–15; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 80, No. 188
Tuesday, September 29, 2015

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Plumas National Forest; California; Plumas National Forest Over-Snow Vehicle (OSV) Use Designation Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service, U.S. Department of Agriculture will prepare an Environmental Impact Statement (EIS) on a proposal to designate over-snow vehicle (OSV) use on National Forest System roads, National Forest System trails, and Areas on National Forest System lands within the Plumas National Forest; and to identify snow trails for grooming within the Plumas National Forest. In addition, the Forest Service proposes to:

1. Formally adopt California State Parks' OSV snow grooming standards requiring a minimum of 12 inches of snow depth before grooming can occur;

2. Implement a forest-wide snow depth requirement for OSV use that would provide for public safety and natural and cultural resource protection by allowing OSV use, both on-trail and off-trail in designated Areas, when unpacked snow depths equal or exceed 12 inches. Exceptions would be allowed in order for OSVs to access higher terrain and deeper snow when snow depths are less than 12 inches, as long as this use does not cause visible damage to the underlying surface. Most groomed snow trails are co-located on underlying paved, dirt, and gravel National Forest System roads and trails;

3. Identify snow trails for grooming on the Plumas National Forest for OSV use;

4. Restrict OSV use to designated snow trails in specified areas;

5. Enact OSV prohibitions in certain areas.

This proposal would be implemented on all of the Plumas National Forest.

DATES: Comments concerning the scope of the analysis must be received by October 29, 2015. The draft environmental impact statement is expected in February 2017 and the final environmental impact statement is expected in August 2017.

ADDRESSES: Send written comments to David C. Wood, on behalf of Daniel A. Lovato, Acting Forest Supervisor, Plumas National Forest, 159 Lawrence Street, Quincy, CA 95971. Comments may also be sent via facsimile to (530) 283–7746. Comments may also be submitted on the Plumas National Forest OSV Designation Web page: *http://www.fs.usda.gov/project/?project=47124.*

Individuals who use telecommunication devices for the deaf (TTY) may call the Federal Information Relay Service (FIRS) at (800) 877–8339 TTY, 24 hours a day, 7 days a week.

FOR FURTHER INFORMATION CONTACT: David C. Wood, Acting Public Services and Engineering Staff Officer, Plumas National Forest, 159 Lawrence Street, Quincy, CA 95971, (530) 283–2050; *dcwood@fs.fed.us.*

SUPPLEMENTARY INFORMATION:

The following summarizes how the Forest Service currently manages OSV use on the approximately 1,197,900-acre Plumas National Forest:

1. Approximately 160 miles of National Forest System OSV trails exist on the Plumas National Forest;

2. Of the 160 miles of National Forest System OSV trails, approximately 136 are groomed for OSV use;

3. Approximately 85 miles of National Forest System trails are closed to OSV use, but accessible from Areas otherwise open to off-trail, cross-country OSV use;

4. Approximately 1,163,550 acres of National Forest System land are open to off-trail, cross-country OSV use; and

5. Approximately 34,850 acres of National Forest System land are closed to OSV use.

Travel Management Rule Subpart C: The Forest Service issued a final rule governing OSV management (Subpart C of the Travel Management Rule, 36 CFR part 212) in the **Federal Register** on January 28, 2015, and this rule went into effect on February 27, 2015 (80 FR 4500, Jan. 28, 2015). Subpart C of the Travel Management Rule states,

''Over-snow vehicle use on National Forest System roads, on National Forest System trails, and in areas on National Forest System lands shall be designated by the Responsible Official on administrative units or Ranger Districts, or parts of administrative units or Ranger Districts, of the National Forest System where snowfall is adequate for that use to occur, and, if appropriate, shall be designated by class of vehicle and time of year, provided that the following uses are exempted from these decisions:

1. Limited administrative use by the Forest Service;

2. Use of any fire, military, emergency, or law enforcement vehicle for emergency purposes;

3. Authorized use of any combat or combat support vehicle for national defense purposes;

4. Law enforcement response to violations of law, including pursuit; and

5. Over-snow vehicle use that is specifically authorized under a written authorization issued under Federal law or regulations'' (36 CFR 212.81(a)).

The designations resulting from this analysis would only apply to the use of OSVs. An OSV is defined in the Forest Service's Travel Management Rule as ''a motor vehicle that is designed for use over snow and that runs on a track or tracks and/or a ski or skis, while in use over snow'' (36 CFR 212.1). OSV use designations made as a result of the analysis in this environmental impact statement would conform to subpart C of the Travel Management Rule. OSV use that is inconsistent with the OSV use designations made under this decision would be prohibited under 36 CFR 261.14.

These designations would not affect valid existing rights held by federally recognized tribes, counties, or private individuals, including treaty rights, other statutory rights, or private rights-of-way.

Snow Trail Grooming Program: For over 30 years, the Forest Service, Pacific Southwest Region, in cooperation with the California Department of Parks and Recreation (California State Parks) Off-highway Motor Vehicle Division (OHMVR), has enhanced winter recreation, and more specifically, snowmobiling recreation, by maintaining National Forest System trails (snow trails) by grooming snow for snowmobile use. Most groomed snow

trails are co-located on underlying National Forest System roads and trails. Some grooming occurs on County roads and closed snow-covered highways, and some routes proceed cross-country over snow. Grooming activities are funded by the state off-highway vehicle trust fund.

In 2013, the Forest Service entered into a Settlement Agreement with Snowlands Network et al., to ''complete appropriate NEPA [National Environmental Policy Act] analysis(es) to identify snow trails for grooming'' on the Plumas National Forest and four other national forests in California. The Forest Service will comply with the terms of the Settlement Agreement for the Plumas National Forest by completing this analysis. Other requirements of the Settlement Agreement are listed in the ''Need for Analysis'' section, below.

Purpose and Need for Action

One purpose of this project is to effectively manage OSV use on the Plumas National Forest to provide access, ensure that OSV use occurs when there is adequate snow, promote the safety of all users, enhance public enjoyment, minimize impacts to natural and cultural resources, and minimize conflicts among the various uses.

There is a need to provide a manageable, designated OSV system of trails and Areas within the Plumas National Forest, that is consistent with and achieves the purposes of the Forest Service Travel Management Rule at 36 CFR part 212. This action responds to direction provided by the Forest Service's Travel Management Rule.

The existing system of available OSV trails and Areas on the Plumas National Forest is the culmination of multiple agency decisions over recent decades. Public OSV use of the majority of this available system continues to be manageable and consistent with current travel management regulations. Exceptions have been identified, based on internal and public input and the criteria listed at 36 CFR 212.55. These include needs to provide improved access for OSV users and formalize prohibitions required by Forest Plan and other management direction. These exceptions represent additional needs for change, and in these cases, changes are proposed to meet the overall objectives.

A second purpose of this project is to identify OSV trails where the Forest Service or its contractors would conduct grooming for OSV use. Under the terms of the Settlement Agreement between the Forest Service and Snowlands Network et al., the Forest Service is required to complete the appropriate NEPA analysis to identify snow trails for grooming on the Plumas National Forest.

The snow trail grooming analysis would also address the need to provide a high-quality snowmobile trail system on the Plumas National Forest that is smooth and stable for the rider. Groomed trails are designed so that the novice rider can use them without difficulty.

Need for Analysis

Subpart C of the Forest Service Travel Management Regulation requires the Forest Service to designate over-snow vehicle (OSV) use on National Forest System roads, National Forest System trails, and Areas on National Forest System lands. Both decisions will be informed by an analysis as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

Subpart C of the Travel Management Regulation specifies that all requirements of subpart B of the Travel Management Regulations will continue to apply to the designation decision, including:

1. Public involvement as required by the National Environmental Policy Act (36 CFR 212.52);

2. Coordination with Federal, State, county, and other local governmental entities and tribal governments (36 CFR 212.53);

3. Revision of designations (36 CFR 212.54);

4. Consideration of the criteria for designation of roads, trails, and Areas (36 CFR 212.55);

5. Identification of designated uses on a publicly available use map of roads, trails, and Areas (36 CFR 212.56); and

6. Monitoring of effects (36 CFR 212.57).

Pursuant to the Settlement Agreement, the Forest Service is required to complete an appropriate NEPA analysis to identify snow trails for grooming. Furthermore, additional terms of the Settlement Agreement require the Forest Service to:

1. Analyze ancillary activities such as the plowing of related parking lots and trailheads as part of the effects analysis;

2. Consider a range of alternative actions that would result in varying levels of snowmobile use; and

3. Consider an alternative submitted by Plaintiffs and/or Intervenors during the scoping period in the NEPA analysis so long as the alternative meets the purpose and need, and is feasible and within the scope of the NEPA analysis.

Proposed Action

The Forest Service proposes several actions on the Plumas National Forest to be analyzed as required by the National Environmental Policy Act (NEPA). The actions proposed are as follows:

1. To designate OSV use on National Forest System roads, National Forest System trails, and Areas on National Forest System lands within the Plumas National Forest where snowfall depth is adequate for that use to occur. All existing OSV prohibitions applying to areas or trails would continue. OSV use that is inconsistent with the designations made under this project would be prohibited under 36 CFR 261.14. This proposal would designate approximately 215 miles of snow trail for OSV use. It would designate approximately 1,155,460 acres for cross-country OSV use. Existing ungroomed snow trails for OSV use under National Forest System jurisdiction that are located within Areas that would be designated for cross-country OSV use would not be designated separately as snow trails for OSV use, since OSV use here would be permitted under the ''Area'' designation.

2. To identify approximately 208 miles of snow trails for grooming on the Plumas National Forest for OSV use. This includes 72 miles which are not currently groomed. Grooming these additional miles would require increased funding from the California OHMVR Division, which is not currently available, but these trails would be eligible for grooming should funding become available. Trail mileages are estimates only and we are currently reviewing the status of trails where there is uncertainty regarding Forest Service jurisdiction or grooming authorization, such as trails located on private property, or county roads that groomed trails have historically passed through.

3. To allow grooming of snow trails, consistent with historical grooming practices, when unpacked snow depths equal or exceed 12 inches, and formally adopt California State Parks' OSV snow grooming standards requiring a minimum of 12 inches of snow depth before grooming can occur.

4. To implement a forest-wide snow depth requirement for OSV use that would provide for public safety and natural and cultural resource protection by allowing OSV use, both on-trail and off-trail in designated Areas, when unpacked snow depths equal or exceed 12 inches. Exceptions would be allowed in order for OSVs to access higher terrain and deeper snow when snow depths are less than 12 inches, as long as this use does not cause visible damage to the underlying surface. Most groomed snow trails are co-located on

underlying paved, dirt, and gravel National Forest System roads and trails.

5. To restrict OSV use on approximately 2,015 acres, limiting OHV travel to existing routes, to improve consistency with national guidelines for bald eagle management. Within these restricted Areas, existing route segments totaling approximately 7 miles would be designated for OSV use.

6. To enact new OSV prohibitions on approximately 5,940 acres in a portion of the Lakes Basin Management Area and a portion of the Black Gulch/Clear Creek Area.

7. To designate 21 locations where OSVs would be allowed to cross the Pacific Crest Trail.

These actions would begin immediately upon the issuance of the record of decision, which is expected in December of 2017. The Forest Service would produce an OSV use map (OSVUM) that would look like the existing motor vehicle use map (MVUM) for the Plumas National Forest. Such a map would allow OSV enthusiasts to identify the routes and Areas where OSV use would be allowed on the Plumas National Forest.

Responsible Official

The Plumas National Forest Supervisor will issue the decision.

Nature of Decision To Be Made

This decision will designate OSV use on National Forest System roads, on National Forest System trails, and in Areas on National Forest System lands on the Plumas National Forest where snowfall is adequate for that use to occur. It will also identify the snow trails where grooming for OSV use would occur. The decision would only apply to the use of over-snow vehicles as defined in the Forest Service's Travel Management Regulations (36 CFR 212.1). The Forest Supervisor will consider all reasonable alternatives and decide whether to continue current management of OSV uses on the Plumas National Forest, implement the proposed action, or select an alternative for the management of OSV uses.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Written comments should be within the scope of the proposed action, have a direct relationship to the proposed action, and must include supporting reasons for the responsible official to consider. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions. The preferred format for attachments to electronically submitted comments would be as an MS Word document. Attachments in portable document format (pdf) are not preferred, but are acceptable.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however.

The Plumas National Forest Over-Snow Vehicle (OSV) Use Designation is an activity implementing a land management plan. It is not an activity authorized under the Healthy Forests Restoration Act of 2003 (Pub. L. 108–148). Therefore, this activity is subject to pre-decisional administrative review consistent with the Consolidated Appropriations Act of 2012 (Pub. L. 112–74) as implemented by subparts A and B of 36 CFR part 218.

Dated: September 23, 2015.

Daniel A. Lovato,

Acting Forest Supervisor.

[FR Doc. 2015–24644 Filed 9–28–15; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–65–2015]

Foreign-Trade Zone 149—Freeport, Texas: Application for Expansion Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by Port Freeport, grantee of FTZ 149, requesting authority to expand the zone under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR Sec. 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on September 22, 2015.

FTZ 149 was approved by the FTZ Board on June 28, 1988 (Board Order 385, 53 FR 26096, 7/11/1988), and reorganized under the alternative site framework on August 29, 2012 (Board Order 1853, 77 FR 54891, 9/6/2012). The zone currently has a service area that includes Brazoria and Fort Bend Counties, Texas.

The zone includes the following magnet sites: Site 1 (280 acres)—Port Freeport Primary Facility, 1001 Navigation Boulevard, Freeport; Site 3 (1,063.10 acres, sunset 8/31/2017)—Port Freeport (Parcels 13, 14 & 19)—State Highway 288, Freeport; and, Site 10 (8 acres, sunset 8/31/2017)—Alvin Santa Fe Industrial Park, 200 Avenue I, Alvin.

The applicant is requesting authority to expand existing Site 1 to include an additional 40 acres at the Port Freeport Primary Facility (new total—320 acres).

In accordance with the FTZ Board's regulations, Camille Evans of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is November 30, 2015. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to December 14, 2015.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.* For further information, contact Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: September 22, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–24683 Filed 9–28–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Pittsburgh, et al.; Notice of Decision on Application for Duty-Free Entry of Scientific Instruments

This is a decision pursuant to Section 6(c) of the Educational, Scientific, and

Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 3720, U.S. Department of Commerce, 14th and Constitution Ave. NW., Washington, DC.

Docket Number: 15–015. *Applicant:* University of Pittsburgh, Pittsburgh, PA 15219. *Instrument:* Oxygraph-2K. Manufacturer: Oroboros Instruments Corp., Austria. *Intended Use:* See notice at 80 FR 44936, July 28, 2015. *Comments:* None received. *Decision:* Approved. We know of no instruments of equivalent scientific value to the foreign instruments described below, for such purposes as this is intended to be used, that was being manufactured in the United States at the time of order. Reasons: The instrument will be used to evaluate the various putative antidotes to reverse the effects of cyanide or sulfide toxicants on mitochondria in cultured cells. The instrument will be used to measure changes in oxygen consumption rates correlated with either changes in mitochondrial inner-membrane depolarization, changes in calcium fluxes between endoplasmic reticulum and mitochondria, or prevailing levels of hydrogen peroxide and nitric oxide. The instrument is unique in its ability to allow routine measurements to be made with specifications summarized under the term ''high-resolution respirometry'', meaning the limit of detection of O_2 flux is as low as 0.5 $pmols^{-1}cm^{-3}$, signal noise at zero oxygen concentration is < 0.05 μM O_2, oxygen back-diffusion at zero oxygen at < 3 $pmols^{-1}cm^{-3}$, and oxygen consumption at air saturation and standard basic barometric pressure (100kPa) at 2.7 ± 0.9 SD in at 37 degrees Celsius. The dual measurement capability of the instrument is also critical for the experiments.

Docket Number: 15–022. *Applicant:* Purdue University, West Lafayette, IN 47907. *Instrument:* Conical twin screw minicompounder. *Manufacturer:* Xplore, the Netherlands. *Intended Use:* See notice at 80 FR 44936, July 28, 2015. *Comments:* None received. *Decision:* Approved. We know of no instruments of equivalent scientific value to the foreign instruments described below, for such purposes as this is intended to be used, that was being manufactured in the United States at the time of order. *Reasons:* The instrument will be used to find improved formulations of polymer resins with improved mechanical, thermal, electrical and other properties using compounding, recirculation, master-batch mixing and additive mixing. The instrument satisfies several requirements for the experiments, including surface hardness of components at 2000 Vickers hardness, operational temperature to 450 degrees Celsius, conical twin screw design, capability of both co- and counter-rotating, expandable to specialized screws for nanomaterial compounding, expandable to film line, fiber line, and injection molder, corrosive material tolerance (pH 0–14) and the ability to track viscosity.

Docket Number: 15–024. *Applicant:* Institute for the Preservation of Cultural Heritage, Yale University, West Haven, CT 06516. *Instrument:* Willard Multi-Function Table. *Manufacturer:* Willard, United Kingdom. *Intended Use:* See notice at 80 FR 44936, July 28, 2015. *Comments:* None received. *Decision:* Approved. We know of no instruments of equivalent scientific value to the foreign instruments described below, for such purposes as this is intended to be used, that was being manufactured in the United States at the time of order. *Reasons:* The instrument will be used to carry out conservation processes, for conservation fellows to develop and research methodologies of treatment and to instruct student conservators in structural conservation techniques. The surface of the table can be heated very precisely and evenly, air can be circulated under the surface to create downward pressure, air can also be passed through ducts which can be heated and can produce precisely controlled humidity, a vacuum system can be used to hold objects in place and can be operated independently of the humidification system, which is a unique feature of the instrument. Research into new techniques and the testing of adhesives and consolidants will be undertaken.

Docket Number: 15–027. *Applicant:* University of Nebraska, Lincoln, Lincoln, NE 68588–0645. *Instrument:* Photonic Professional GT-upgrade. *Manufacturer:* Nanoscribe GmbH, Germany. *Intended Use:* See notice at 80 FR 44936–37, July 28, 2015. *Comments:* None received. *Decision:* Approved. We know of no instruments of equivalent scientific value to the foreign instruments described below, for such purposes as this is intended to be used, that was being manufactured in the United States at the time of order. *Reasons:* The instrument will be used to research micro/nano 3D printing, micro/nano technology, materials, and novel laser-material interactions, using 3D laser lithography techniques integrating both two-photon polymerization (TPP) and multi-photon ablation (MPA). The instrument integrates both a precise piezo stage and a galvano scanner for a large-are and fast micro/nano-structuring. Multi-photon polymerization and multi-photon ablation will be investigated and applied for printing 3D micro/nano-structures of arbitrary geometries, especially those on plasmonics, photonics and microelectromechanical systems. The influence of degree of polymerization on the micro 3D printing will be studied for further 3D fabrication.

Docket Number: 15–032. Applicant: The Trustees of Princeton University, Princeton, NJ 08540. Instrument: Helios Dual Beam. Manufacturer: FEI Company, Czech Republic. Intended Use: See notice at 80 FR 44936–37, July 28, 2015. Comments: None received. Decision: Approved. We know of no instruments of equivalent scientific value to the foreign instruments described below, for such purposes as this is intended to be used, that was being manufactured in the United States at the time of order. Reasons: The instrument will be used to perform imaging on cross sections of nanoscale, biological, photonic and multifunctional materials, made at precise geometric locations at a very small scale. Additionally, it is used to cross-section through the exact center of an impression, or along planes parallel to a set of microstructural features. Standard methods are incapable of preparing cross sections with the requisite spatial precision. With its unique triple detection system located inside the column and immersion mode, the system is designed for simultaneous detector acquisition for angular and energy selective SE and BSE imaging. Fast access to very precise, clear information is guaranteed, not only top-down, but also on titled specimen or cross-sections. Additional below-the-lens detectors and a beam deceleration mode unsure that all signals are collected and no information is left behind. The instrument extends characterization with a versatile 110mm goniometer stage with tilt capability up to 90 degrees and optimal tripe in-column detection. Unique features of the instrument include the shortest time to nanoscale information using best in class Ga ion gun and Elstar Schlottky FESEM high resolution, stability and automation, sample management tailored to individual application needs, with the high flexibility 110mm and high stability 150mm piezo stages, the focused ion beam can mill any material to a very fine scale, and can make features with a high degree of accuracy at the nanoscale, with critical dimensions of less than 50 nm, rapidly

design, create and inspect micro and nano-scale functional prototype devices and create 3D Nanoprototyping with a DualBeam, sharp, refined and charge-free contrast obtained from up to 6 integrated in-column and below-the-lens detectors, can mill difficult charging samples with charge neutralizer.

Docket Number: 15–034. *Applicant:* Purdue University, West Lafayette, IN 47907. *Instrument:* Diode-Pumped Solid-State Laser. *Manufacturer:* Edgewave GmbH, Germany. *Intended Use:* See notice at 80 FR 44936–37, July 28, 2015. *Comments:* None received. *Decision:* Approved. We know of no instruments of equivalent scientific value to the foreign instruments described below, for such purposes as this is intended to be used, that was being manufactured in the United States at the time of order. *Reasons:* The instrument will be used to enhance the fundamental understanding of propellant combustion so that safer and higher performance solid propellants can be designed and developed. The instrument is to be used for the measurement of flame radical species in propellant flames in real-time, using high-frame-rate (10–40kHz) imaging of the flame radical OH, produced in the reaction zone. The OH distribution is used to determine the burning mode for the propellant, and the laser system will give the capability to obtain high-frame-rate images of other propellants. The primary technique is high-frame-rate planar laser-induced fluorescence (PLIF) imaging. The UV laser from a Credo dye laser, pumped by the Edgewave DPSS laser, is formed into a focused sheet using a combination of spherical and cylindrical lenses. The frequency of the UV beam is then tuned to a resonance transition for the OH radical and the OH radical is pumped from the ground state to an excited electronic state by absorbing a photon from the laser sheet. Once in the excited state, the OH radical can decay by emitting a photon (fluorescence). The fluorescence light is imaged using a high-frame-rate intensified CMOS camera to produce an image of the OH distribution in the laser sheet, providing both time-and space-resolved information on the laser process. No domestic instruments have the required power, rep rate, and pulse length on the order of 10 nanoseconds.

Gregory W. Campbell,

Director, Subsidies Enforcement Office, Enforcement and Compliance.

[FR Doc. 2015–24468 Filed 9–28–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Oregon State University, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscope

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 3720, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 15–019. Applicant: Oregon State University, Corvallis, OR 97331–2104. Instrument: Electron Microscope. Manufacturer: FEI Company, Czech Republic. Intended Use: See notice at 80 FR 44936, July 28, 2015.

Docket Number: 15–021. Applicant: The City University of New York, New York, NY 10017. Instrument: Electron Microscope. Manufacturer: FEI Company, Japan. Intended Use: See notice at 80 FR 44936, July 28, 2015.

Docket Number: 15–023. Applicant: Idaho National Laboratory, Idaho Falls, ID 83415. Instrument: Focused Ion Beam (FIB) Microscope. Manufacturer: FEI, Czech Republic. Intended Use: See notice at 80 FR 44936, July 28, 2015.

Docket Number: 15–025. Applicant: The Rockefeller University, New York, NY 10065. Instrument: Electron Microscope. Manufacturer: FEI Company, the Netherlands. Intended Use: See notice at 80 FR 44936–37, July 28, 2015.

Docket Number: 15–026. Applicant: University of Delaware, Newark, DE 19716. Instrument: Electron Microscope. Manufacturer: FEI Company, Brno, Czech Republic. Intended Use: See notice at 80 FR 44936–37, July 28, 2015.

Docket Number: 15–028. Applicant: University of California, Irvine, Irvine, CA 92697–2575. Instrument: Electron Microscope. Manufacturer: JEOL, Ltd., Japan. Intended Use: See notice at 80 FR 44936–47, July 28, 2015.

Docket Number: 15–030. Applicant: Washington State University, Pullman, WA 99164–1020. Instrument: MSM400 Yeast Tetrad Dissection Microscope. Manufacturer: Singer Instruments, United Kingdom. Intended Use: See notice at 80 FR 44936–37, July 28, 2015.

Docket Number: 15–033. Applicant: Battelle Memorial Institute, Richland, WA 99354. Instrument: Electron Microscope. Manufacturer: FEI Company, the Netherlands. Intended Use: See notice at 80 FR 44936–38, July 28, 2015.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States at the time the instrument was ordered. Reasons: Each foreign instrument is an electron microscope and is intended for research or scientific educational uses requiring an electron microscope. We know of no electron microscope, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of each instrument.

Gregory W. Campbell,

Director, Subsidies Enforcement Office, Enforcement and Compliance.

[FR Doc. 2015–24466 Filed 9–28–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE175

Marine Fisheries Advisory Committee Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of open public meeting.

SUMMARY: This notice sets forth the proposed schedule and agenda of a forthcoming meeting of the Marine Fisheries Advisory Committee (MAFAC). The members will discuss and provide advice on issues outlined under **SUPPLEMENTARY INFORMATION** below.

DATES: The meeting will be held October 13–15, 2015, from 8:30 a.m. to 5 p.m.

ADDRESS: The meeting will be held at the Sheraton Silver Spring Hotel, 8777 Georgia Ave, Silver Spring, MD 20910; 301–589–0800.

FOR FURTHER INFORMATION CONTACT: Jennifer Lukens, MAFAC Executive Director; (301) 427–8004; email: *Jennifer.Lukens@noaa.gov.*

SUPPLEMENTARY INFORMATION: As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, notice is hereby given of a meeting of MAFAC. The MAFAC was established by the Secretary of Commerce (Secretary), and, since 1971,

advises the Secretary on all living marine resource matters that are the responsibility of the Department of Commerce. The complete charter and summaries of prior meetings are located online at *http://www.nmfs.noaa.gov/ocs/mafac/.*

Matters To Be Considered

This meeting time and agenda are subject to change.

The meeting is convened to hear presentations and discuss policies and guidance on the following topics: NOAA Fisheries Climate Science Strategy and its implementation, coastal resiliency, improving recovery of protected resources, implementation of the recreational fisheries policy, recreational bait and tackle economic survey and upcoming surveys, the Office of Aquaculture Draft Strategic Plan FY 2016–2020, and the budget outlook for FY2016. The meeting will include discussion of various MAFAC administrative and organizational matters and may include meetings of the standing subcommittees.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Heidi Lovett; 301–427–8034 by October 2, 2015.

Dated: September 21, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2015–24676 Filed 9–28–15; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No: CFPB–2015–0040]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (Bureau) is proposing a new information collection titled, ''Consumer Response Government and Congressional Boarding Forms.''

DATES: Written comments are encouraged and must be received on or before October 29, 2015 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- Electronic: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- OMB: Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503 or fax to (202) 395–5806. Mailed or faxed comments to OMB should be to the attention of the OMB Desk Officer for the Bureau of Consumer Financial Protection.

Please note that comments submitted after the comment period will not be accepted. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or social security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.reginfo.gov* (this link active on the day following publication of this notice). Select ''Information Collection Review,'' under ''Currently under review,'' use the dropdown menu ''Select Agency'' and select ''Consumer Financial Protection Bureau'' (recent submissions to OMB will be at the top of the list). The same documentation is also available at *http://www.regulations.gov.* Requests for additional information should be directed to the Consumer Financial Protection Bureau, (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, (202) 435–9575, or email: *PRA@cfpb.gov. Please do not submit comments to this email box.*

SUPPLEMENTARY INFORMATION:

Title of Collection: Consumer Response Government and Congressional Boarding Forms.

OMB Control Number: 3170–XXXX.

Type of Review: New collection (Request for a new OMB Control Number).

Affected Public: State, Local, and Tribal Governments; Federal Government.

Estimated Number of Respondents: 150.

Estimated Total Annual Burden Hours: 41.

Abstract: The Consumer Financial Protection Act of 2010 (the ''Act'') directs the Bureau to facilitate the coordinated collection, monitoring, and response to consumer complaints regarding certain financial products and services. The Act further provides for consumer complaint information sharing between the Bureau and State and Federal agencies (''Agencies'') and for consumer complaint sharing and reporting to Congress. To fulfill these mandates, the Bureau has developed separate portals for Agencies and Congressional users as part of its secure web portal offerings (the ''Government Portal'' and the ''Congressional Portal,'' respectively).

Through the portals, Agencies and Congressional offices can view consumer submitted complaint data in a user-friendly format that allows easy identification of complaints currently active in the Bureau's process, complaints referred to a prudential federal regulator and other closed/archived complaints. The portals include features for Agencies and Congressional offices to export selected complaint data and search by company, consumer name, consumer financial product and more. They also allow Agencies and Congressional offices to identify whether a named company has responded to a complaint and view the company closure response category.

Request for Comments: The CFPB issued a 60-day **Federal Register** notice on June 25, 2015, (80 FR 36519). Comments were solicited and continue to be invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau 's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record.

Dated: September 16, 2015.

Linda F. Powell,

Chief Data Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2015–24340 Filed 9–28–15; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2013–0030]

Proposed Collection; Comment Request

AGENCY: Office of the Administrative Assistant to the Secretary of the Army, (OAA–RPA).

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Department of the Army 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 November 30, 2015.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

• *Mail:* 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 Department of the Army, Military Surface Deployment and Distribution Command, (AMSSD–SB), 1 Soldier Way, Scott Air Force Base, Illinois 62225–5006, ATTN: (Mr. Kim Morrison), or call Department of the Army Reports Clearance Officer at (703) 428–6440.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Signature and Tally Record, DD Form 1907, OMB Control Number 0702–0027.

Needs and Uses: Signature and Tally Records (STR) is an integral part of the Defense Transportation System and is used for commercial movements of all sensitive and classified material. The STR provides continuous responsibility for the custody of shipments in transit and requires each person responsible for the proper handling of the cargo to sign their name at the time they assume responsibility for the shipment, from point of origin, and at specified stages until delivery at destination. A copy of the STR, along with other transportation documentation is forwarded by the carrier to the appropriate finance center for payment.

Affected Public: Business or other for profit.

Annual Burden Hours: 3,750.

Number of Respondents: 130.

Responses Per Respondent: 577.

Annual Responses: 75,010.

Average Burden Per Response: 3 minutes.

Frequency: On occasion.

The destination transportation officer uses the DD Form 1907 to assure that the carriers utilize the STR and provide the transportation service as requested by origin shipper. A copy of the STR, along with other transportation documentation, is forwarded by the carrier to the appropriate finance center for payment. The DD Form 1907 verifies the protected services requested in Bill of Lading that was provided.

Dated: September 23, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–24602 Filed 9–28–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2014–0016]

Proposed Collection; Comment Request

AGENCY: Office of the Administrative Assistant to the Secretary of the Army (OAA–RPA), DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Department of the Army 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 November 30, 2015.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

• Mail: 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 Director of Admissions, U.S. Military Academy, ATTN: Associate Director of Admissions—Support, 606 Thayer Road, West Point, NY 10996–1905, or call Department of the Army Reports Clearance Officer at (703) 428–6440.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Candidate Procedures; USMA Forms 21–16, 21–23, 21–25, 21–26, 5–520, 5–518, 5–497, 481, 546, 5–2, 5–26, 5–515, 480–1, 520, 261, 21–14, 21–8; OMB Control Number 0702–0061.

Needs and Uses: West Point candidates provide personal background information that allows the West Point Admissions Committee to make subjective judgements on non-academic experiences. Data are also used by West Point's Office of Institutional Research for correlation with success in graduation and military careers.

Affected Public: Individuals or Households.

Annual Burden Hours: 11,720 hours.

Number of Respondents: 46,880.

Responses per Respondent: 1.

Annual Responses: 46,880.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

Title 10, U.S.C. 4346 provides requirements for admission of candidates to the U.S. Military Academy. The U.S. Military Academy (USMA) strives to motivate outstanding potential candidates to apply for admission to USMA. Once candidates are found, USMA collects information necessary to nurture them through successful completion of the application process.

Dated: September 24, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–24628 Filed 9–28–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2009–0021]

Proposed Collection; Comment Request

AGENCY: Office of the Administrative Assistant to the Secretary of the Army, (OAA–AHS), DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Department of the Army 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 November 30, 2015.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* 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 Director of Admissions, U.S. Military Academy, Official Mail & Distribution Center, ATTN: Associate Director of Admissions—Support, 606 Thayer Road, West Point, NY 10996–1905, or call Department of the Army Reports clearance officer at (703) 428–6440.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Pre-Candidate Procedures, USMA–375, USMA–723, USMA–450, USMA–21–12, USMA–21–27, USMA–381; OMB Control Number 0702–0060.

Needs and Uses: West Point candidates provide personal background information which allows the West Point Admissions Committee to make subjective judgements on non-academic experiences. Data are also used by West Point's Office of Institutional Research for correlation with success in graduation and military careers.

Affected Public: Individuals or households.

Annual Burden Hours: 9,930.

Number of Respondents: 66,200.

Responses per Respondent: 1.

Annual Responses: 66,200.

Average Burden per Response: 9 minutes.

Frequency: On occasion.

Title 10, U.S.C. 4336 provides requirements for admission of candidates to the U.S. Military Academy. The U.S. Military Academy (USMA) strives to motivate outstanding potential candidates to apply for admission to USMA. Once candidates are found, USMA collects information necessary to nurture them through successful completion of the application process.

Dated: September 23, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–24606 Filed 9–28–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2014–0014]

Proposed Collection; Comment Request

AGENCY: Office of the Administrative Assistant to the Secretary of the Army (OAA–RPA), DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Department of the Army 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 November 30, 2015.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

• Mail: 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 Director of Admissions, U.S. Military Academy, ATTN: Associate Director of Admissions—Support, 606 Thayer Road, West Point, NY 10996–1905, or call Department of the Army Reports Clearance Officer at (703) 428–6440.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Offered Candidate Procedures; USMA Forms 5–490, 2–66, 847, 5–489, 5–519, 8–2, 5–599, 480–1; OMB Control Number 0702–0062.

Needs and Uses: West Point candidates provide personal background information which allows the West Point Admissions Committee to make subjective judgements on non-academic experiences. Data is also used by West Point's Office of Institutional Research for correlation with success in graduation and military careers. The purpose of this activity is to obtain a group of applicants who eventually may be evaluated for admission to the U.S. Military Academy.

Affected Public: Individuals or Households.

Annual Burden Hours: 11,720 hours.

Number of Respondents: 46,880.

Responses per Respondent: 1.

Annual Responses: 46,880.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

Title 10, U.S.C. 4346 provides requirements for admission of candidates to the U.S. Military Academy. The U.S. Military Academy (USMA) strives to motivate outstanding potential candidates to apply for admission to USMA. Once candidates are found, USMA collects information necessary to nurture them through successful completion of the application process.

Dated: September 24, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–24649 Filed 9–28–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2015–0003]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by October 29, 2015.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Exchange Application for Employment Files; Exchange Form 1200–026 ''Driver's Supplemental Information''; Exchange Form 1200–718 Local National Employment Application-Germany Only''; ''Employment Application for External Candidates''; ''Exchange Army and Air Force Exchange Service AAFES-Turkey Application for Employment''; ''Initial Application for Local National Employment with the Army and Air Force Exchange Service (AAFES)''. OMB Control Number 0702–XXXX.

Type of Request: New.

Number of Respondents: 73,390.

Responses per Respondent: 1.

Annual Responses: 73,390.

Average Burden per Response: 45 minutes.

Annual Burden Hours: 55,043.

Needs And Uses: The information collection requirement is necessary to consider individuals who have applied for positions in the Army Air Force Exchange Service by making determinations of qualifications including medical qualifications, for positions applied for, and to rate and rank applicants applying for the same or similar positions.

Affected Public: Individuals or Households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments and recommendations, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: September 24, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–24669 Filed 9–28–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2013–0029]

Proposed Collection; Comment Request

AGENCY: Office of the Administrative Assistant to the Secretary of the Army (OAA–AAHS).

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Department of the Army 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 November 30, 2015.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* 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 U.S. Army Cadet Command Junior ROTC, Bldg 6573, 394 2nd Dragoon Road, Fort Knox, Kentucky 40121, ATTN: ATCC–JRI (Billy Smith), or call Department of the Army Reports Clearance Officer at (703) 428–6440.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Application and Contract for Establishment of a Junior Reserve Officers' Training Corps Unit, DA Form 3126; OMB Control Number 0702–0021.

Needs and Uses: The information collection requirement is necessary to provide unique educational opportunities for young citizens through their participation in a federally sponsored curriculum while pursuing their civilian education. Students develop citizenship, leadership, communications skills, an understanding of the role of the U.S. Army in support of national objectives, and an appreciation for the importance of physical fitness.

Affected Public: Not-for-profit Institutions.

Annual Burden Hours: 70.

Number of Respondents: 70.

Responses per Respondent: 1.

Annual Responses: 70.

Average Burden per Response: 1 hour.

Frequency: On occasion.

Data provided on the DA Form 3126 is used to determine which schools are invited to host a unit, to establish a fair and equitable distribution of units throughout the Nation, and to identify selection criteria such as enrollment potential, capacity of the institution to conduct the program, educational accreditation, and the ability of the school to comply with statutory and contractual obligations.

Dated: September 23, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–24597 Filed 9–28–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2015–HQ–0037]

Proposed Collection; Comment Request

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Department of the Army 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 November 30, 2015.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: 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 Department of the Army, Office of the Provost Marshal General (OPMG), Law Enforcement Branch, ATTN: Ms. Katherine Brennan, 2800 Army Pentagon, Washington, DC 20310–2800.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Army Sex Offender Information; Department of the Army Form 3975; OMB Control Number 0702–0128.

Needs and Uses: The information collection requirement is necessary to obtain and record the sex offender registration information of those sex offenders who live, work or go to school on Army installations. Respondents are any convicted sex offender required to register pursuant to any DOD, Army, State government, law, regulation, or policy where they are employed, reside, or are a student and live, work, or go to school on an Army installation. The information collected is used by Army law enforcement to ensure the sex offender is compliant with any court order restrictions.

Affected Public: Businesses or other for-profit; individuals or households.

Annual Burden Hours: 183.

Number of Respondents: 550.

Responses per Respondent: 1.

Annual Responses: 550.

Average Burden per Response: 20 minutes.

Frequency: On occasion.

Respondents are sex offenders required to register with the state and live, work or go to school on an Army Installation. The information collected is used by Army law enforcement and the Garrison Commander to ensure the sex offender is compliant with any specific court ordered restrictions on Army installations. Data from members of the public is collected only by Army Law Enforcement authorized personnel. The frequency of sex offender registration with the PMO is not under the control of any Army Law Enforcement personnel, it is the responsibility of the sex offender who lives or works on the Army installations to follow Army policy and report to the PMO within 3 working days of assignment to the installation. Sex Offenders could live or work on an Army installation and live in government housing near schools or daycare without Army Law Enforcement's knowledge. Army Law Enforcement would be less able to complete its mission to provide security and law enforcement to safeguard personnel living and working on Army installations.

Dated: September 24, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–24636 Filed 9–28–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Environmental Research and Development Program, Scientific Advisory Board; Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing this notice to announce an open meeting of the Strategic Environmental Research and Development Program, Scientific Advisory Board (SAB). This meeting will be open to the public.

DATES: Tuesday, October 20, 2015, from 8:30 a.m. to 3:45 p.m.

ADDRESSES: 901 N. Stuart Street, Suite 200, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Dr. Anne Andrews, SERDP Office, 4800 Mark Center Drive, Suite 17D08, Alexandria, VA 22350–3605; or by telephone at (571) 372–6565.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150. This notice is published in accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463).

Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis.

The purpose of the October 20, 2015 meeting is to review new start research in the Resource Conservation and Climate Change field requesting Strategic Environmental Research and Development Program funds as required by the SERDP Statute, U.S. Code—Title 10, Subtitle A, Part IV, Chapter 172, § 2904. The full agenda follows:

AGENDA FOR OCTOBER 20, 2015

8:30 a.m.	Convene/Opening Remarks, Approval of September 2015 Minutes	Dr. Joseph Hughes, Chair.
8:40 a.m.	Program Update	Dr. Anne Andrews, Acting Executive Director.
8:55 a.m.	Resource Conservation and Climate Change Overview	Dr. John Hall, Resource Conservation and Climate Change, Program Manager.
9:05 a.m.	16 RC01–006 (RC–2633): Assessing White-Nose Syndrome and Non-Stationary Changes on Bat Populations on and Near DoD Installations in the West (FY16 New Start).	Dr. Tonie Rocke, USGS National Wildlife Health Center, Madison, WI. Dr. James Lloyd-Smith, University of California, Los Angeles, Los Angeles, CA.
9:50 a.m.	Break.	
10:05 a.m.	Resource Conservation and Climate Change Overview.	
10:15 a.m.	16 RC02–002 (RC–2640): Fundamental Measurements and Modeling of Prescribed Fire Behavior in the Naturally Heterogeneous Fuel Beds of Southern Pine Forests (FY16 New Start).	Dr. Brian Allan, University of Illinois Urbana-Champaign, Urbana, IL.
11:00 a.m.	16 RC02–016 (RC–2641): Multi-scale Analyses of Wildland Fire Combustion Processes in Open-Canopied Forests Using Coupled and Iteratively Informed Laboratory-, Field-, and Model-Based Approaches (FY16 New Start).	Dr. Richard Ostfeld, Cary Institute of Ecosystem Studies, Millbrook, NY.
11:45 a.m.	Lunch.	
12:45 p.m.	16 RC02–015 (RC–2651): Ignition, Propagation, and Emissions of Smoldering Combustion: Experimental Analysis and Physics Based Modelling (FY16 New Start).	Dr. Corinne Richards-Zawacki, Tulane University, New Orleans, LA.

AGENDA FOR OCTOBER 20, 2015—Continued

1:30 p.m.	16 RC02–020 (RC–2642): Examination of Wildland Fire Spread at Small Scales Using Direct Numerical Simulations and Frequency Comb Laser Diagnostics (FY16 New Start).	Dr. Sharon Bewick, University of Maryland, College Park, College Park, MD.
2:15 p.m.	Break.	
2:30 p.m.	16 RC02–026 (RC–2643): Improving Parameterization of Combustion Processes in Coupled Fire-Atmosphere Models through Infrared Remote Sensing (FY16 New Start).	Dr. John Hall, Resource Conservation and Climate Change, Program Manager.
3:15 p.m.	Strategy Session	Dr. John Marra, NOAA NESDIS NCEI, Honolulu, HI.
3:45 p.m.	Public Discussion/Adjourn for the day	Dr. John Hall, Resource Conservation and Climate Change, Program Manager.

Pursuant to 41 CFR 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written statements to the Strategic Environmental Research and Development Program, Scientific Advisory Board. Written statements may be submitted to the committee at any time or in response to an approved meeting agenda.

All written statements shall be submitted to the Designated Federal Officer (DFO) for the Strategic Environmental Research and Development Program, Scientific Advisory Board. The DFO will ensure that the written statements are provided to the membership for their consideration. Contact information for the DFO can be obtained from the GSA's FACA Database at *http://www.facadatabase.gov/*.

Time is allotted at the close of each meeting day for the public to make comments. Oral comments are limited to 5 minutes per person.

Dated: September 23, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–24595 Filed 9–28–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2015–HA–0006]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by October 29, 2015.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Defense Medical Human Resources System internet (DMHRSi); OMB Control Number 0720–0041.

Type of Request: Reinstatement.

Number of Respondents: 85,000.

Responses per Respondent: 1.

Annual Responses: 85,000.

Average Burden per Response: 7.5 minutes.

Annual Burden Hours: 10,625.

Needs and Uses: DMHRSi is a Department of Defense software application that provides the Military Health System (MHS) with a comprehensive enterprise human resource system with capabilities to manage personnel, manpower, education & training, labor cost assignment and readiness functional areas. It has built-in safeguards to limit access and visibility of personal or sensitive information in accordance with the Privacy Act of 1974. The application accounts for everyone in the MHS—Active Duty, Reserves, National Guard, government civilian, contractors and volunteers assigned or borrowed—this also includes nonappropriated fund employees and foreign nationals.

Affected Public: Federal Government, Individuals or households. Business or other For-Profit and Not-For-Profit Institutions.

Frequency: Quarterly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Josh Brammer.

Comments and recommendations on the proposed information collection should be emailed to Mr. Josh Brammer, DoD Desk Officer, at *Oira_submission@omb.eop.gov*. Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: September 23, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–24611 Filed 9–28–15; 8:45 am]

BILLING CODE 5001–06–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0162; FRL–9934–62–OAR]

Proposed Information Collection Request; Comment Request; Regional Haze Regulations (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Renewal of the ICR for the Regional Haze Regulations'' (EPA ICR No. 1813.09, OMB Control No. 2060.0421) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*). Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is

currently approved through March 31, 2016. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before November 30, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2003–0162, to the *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Chris Werner, Air Quality Policy Division, Office of Air Quality Planning and Standards, C539–04, U.S. Environmental Protection Agency, Research Triangle Park, NC 27709; telephone number: (919) 541–5133; fax number: (919) 541–5315; email address: *werner.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting document(s) which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is (202) 566–1744. For additional information about the EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, the EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical or other technological collection techniques or other forms of information technology, *e.g.,* allowing electronic submission of responses. The EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, the EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: This ICR is for activities related to the implementation of the EPA's regional haze rule, for the time period between March 31, 2016, and March 31, 2019, and renews the previous ICR. The regional haze rule codified at 40 CFR parts 308 and 309, as authorized by sections 169A and 169B of the Clean Air Act, requires states to develop implementation plans to protect visibility in 156 federally-protected Class I areas. Tribes may choose to develop implementation plans. For this time period, states will primarily be developing and submitting periodic comprehensive implementation plan revisions (or initial implementation plans) and progress reports to comply with the regulations.

Respondents/Affected Entities: Entities potentially affected by this action are state, local and tribal air quality agencies, regional planning organizations and facilities potentially regulated under the regional haze rule.

Title: Regional Haze Regulations; EPA ICR No. 1813.09, OMB Control No. 2060.0421.

Respondent's Obligation To Respond: Mandatory [*see* 40 CFR 51.308(b), (f) and (g) and 40 CFR 51.309(d)(10)].

Estimated Number of Respondents: 52 (total); 52 state agencies.

Frequency of Response: Approximately every 5 years.

Total Estimated Burden: 10,307 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total Estimated Cost: $510,489 (per year). There are no annualized capital or operation and maintenance costs.

Changes in Estimates: There is an increase of 4,259 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to this ICR renewal period covering different task elements than the previous renewal (EPA ICR No. 1813.08). These differences reflect the requirements of the current regional haze rule with respect to the scheduled events and activities in the implementation process. The last collection request anticipated the program consisting mainly of submission of 5-year progress reports. The change in burden reflects changes in labor rates and changes in the activities conducted due to the normal progression of the program, especially the fact that states will be working on and submitting periodic comprehensive State Implementation Plan (SIP) revisions (or initial SIPs).

Dated: September 15, 2015.

Stephen D. Page,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 2015–24332 Filed 9–28–15; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice: 2015–6018]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB Review and Comments Request.

Form Title: EIB 00–02 Annual Competitiveness Report Survey of Exporters and Bankers.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

Ex-Im Bank plans to invite approximately 150 U.S. exporters and commercial lending institutions that have used Ex-Im Bank's short-, medium-, and long-term programs over the previous calendar year with an electronic invitation to participate in the online survey. The proposed survey will ask participants to evaluate the competitiveness of Ex-Im Bank's programs and how the programs compare to those of foreign credit agencies. Ex-Im Bank will use the

responses to develop an analysis of the Bank's competitiveness.

The survey can be reviewed at: *http://www.exim.gov/sites/default/files/pub/pending/EXIM_Competitiveness_Report_Survey.pdf*

DATES: Comments should be received on or before November 30, 2015.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV* or by mail to Michele Kuester, Export-Import Bank of the United States, 811 Vermont Ave. NW., Washington, DC 20571 Attn: OMB 3048–14–01.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 00–02 Annual Competitiveness Report Survey of Exporters and Bankers.

OMB Number: 3048–0004.

Type of Review: Renewal.

Need and Use: The information requested enables Ex-Im Bank to evaluate and assess its competitiveness with the programs and activities of the major OECD official ECAs and to report on the Bank's status in this regard.

The number of respondents: 150.

Estimated time per respondents: 90 minutes.

The frequency of response: Annually.

Annual hour burden: 225 total hours.

Government Expenses

Reviewing time per response: 45 minutes.

Responses per year: 150.

Reviewing time per year: 112.5 hours.

Average Wages per hour: $42.50.

Average cost per year: (time * wages) $4,781.25.

Benefits and overhead: 20%.

Total Government Cost: $5737.5.

Bonita Jones-McNeil,

Program Analyst, Records Management Division.

[FR Doc. 2015–24675 Filed 9–28–15; 8:45 am]

BILLING CODE 6690–01–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 October 23, 2015.

A. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. *Old Fort Banking Company Employee Stock Ownership and 401(k) Plan-ESOP Component Trust,* Old Fort, Ohio; to become a bank holding company by acquiring 45 percent of the voting shares of Gillmor Financial Services, Inc., and thereby indirectly acquire voting shares of The Old Fort Banking Company, both in Old Fort, Ohio.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Pinnacle Bancorp, Inc.,* Central City, Nebraska; to acquire 100 percent of the voting shares of Woodhaven National Bank, Fort Worth, Texas.

Board of Governors of the Federal Reserve System, September 24, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–24630 Filed 9–28–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 14, 2015.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *CB Bancshares Trust and Suresh Ramamurthi,* as trustee, both of Topeka, Kansas; to acquire voting shares of CB Bancshares Corp, and thereby indirectly acquire voting shares of CBW Bank, both in Weir, Kansas.

Board of Governors of the Federal Reserve System, September 24, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–24629 Filed 9–28–15; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–15–0981]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those

who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Assessing and Evaluating Human Systems Integration Needs in Mining—Reinstatement with Change—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The project is aimed at determine the following information with regards to the necessary inclusion of Human Systems Integration into research related to underground coal mining. The project includes two specific aims. The first is to identify underground mining jobs and tasks which suffer from human systems integration breakdown as well as missing information which contributes to a less than optimal situational awareness. The second specific aim is to develop and test interfaces aimed to improve the underground worker's situational awareness.

In order to achieve the goals laid out in the two specific aims, several research instruments were developed. These research instruments have not been modified since the previous approval period. Therefore, all research instruments submitted for the Reinstatement with Change are identical to what was previously approved. The following is a brief description of each of the data collection instruments.

The Direct Observation was designed to identify the tasks and subtasks mine workers perform while working as continuous miner operators and fire bosses. To date, 10 continuous miner operators and four fire bosses have volunteered for this task. Data will be collected from six additional fire bosses.

The General Preference Questionnaire was designed to determine how and when miners working in an underground coal mine prefer to have information about their work environment, the location of themselves, others, and equipment communicated to them while they are working. To date, data has been collected from 50 miners. This questionnaire will be administered to 25 additional miners working in an underground coal mine.

The Subject Matter Expert (SME) Questionnaire was designed to determine how subject matter experts (*e.g.,* experienced continuous miner operators) prefer to have information about their work environment, the location of themselves, others and equipment communicated to them while they are working. The questionnaire has been administered to 14 miners working in an underground coal mine. All miners who have completed the questionnaire so far have worked as continuous miner operators. An additional 36 mine workers will be invited to complete the questionnaire, those invited will work in one of two positions: Continuous miner operator or fire boss.

The Safety Director Questionnaire was designed to determine what machinery and equipment is currently being used within the underground coal mining environment. This questionnaire will be administered to up to 50 Safety Directors working at an underground mining operation.

Vest Usability Testing was designed to examine the effectiveness and viability of physically integrating equipment. This will be done by asking a group of miners to wear mining vests during their normal work hours and complete a questionnaire before and after the vest wearing period. Approximately 60 underground coal miners will be asked to take part in Vest Usability Testing.

The Roof Bolter Questionnaire will be used to assess the functional lighting needs and problems around roof bolting machines and the usability of a lighting feedback system for specific controls. Approximately 30 Roof Bolter Operators will be asked to complete the Roof Bolter Questionnaire (half before the intervention and half after).

There are no costs to the miners as study participation will take place during their normal working hours. Thus, any cost associated with the experiment will be incurred by the mining company. The total estimated annual burden hours are 334.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number responses per respondent	Average burden per response (in hours)
Mine Employee	Informed Consent	207	1	5/60
Mine Employee	Talent Waiver	207	1	2/60
Mine Employee	Demographic Questionnaire	207	1	2/60
Mine Employee	Task and Cognitive Task Analyses: Continuous Miner Operator.	10	1	2
Mine Employee	Task and Cognitive Task Analyses: Fire Boss.	10	1	2
Mine Employee	Direct Observation: Fire Boss	6	1	4
Mine Employee	General Preference Questionnaire	25	1	30/60
Mine Employee	Subject Matter Expert Questionnaire	36	1	1
Mine Employee	Safety Director Questionnaire	50	1	30/60
Mine Employee	Roof Bolter Questionnaire	30	2	15/60
Mine Employee	Vest Usability Testing	60	2	45/60
Mine Employee	Focus Groups	30	1	1
Mine Employee	Lab Experiments	30	1	1

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. 2015–24680 Filed 9–28–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee to the Director (ACD), Centers for Disease Control and Prevention (CDC)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting of the aforementioned committee:

TIME AND DATE: 8:30 a.m.–3:00 p.m., EDT, October 29, 2015.

PLACE: CDC, Building 21, Conference Rooms 1204 A/B, 1600 Clifton Road NE., Atlanta, Georgia 30329.

STATUS: Open to the public, limited only by the space and phone lines available. The meeting room accommodates approximately 50 people. Advance registration for in-person participation is required by October 16, 2015. The public is welcome to participate during the public comment period, which is tentatively scheduled from 2:35 p.m. to 2:40 p.m. This meeting will also be available by teleconference. Please dial (877) 930–8819 and enter code 1579739.

Web links:

Windows Media: *http://wm.onlinevideoservice.com/CDC1*

Flash: *http://www.onlinevideoservice.com/clients/CDC/?mount=CDC3*

Smart Phone and Mobile Devices: *http://wowza01.sea.onlinevideoservice.com/live/CDC3/playlist.m3u8*

If you are unable to connect using the link, copy and paste the link into your web browser. For technical support please call: (404) 639–3737.

PURPOSE: The Advisory Committee to the Director, CDC, shall advise the Secretary, HHS, and the Director, CDC, on policy and broad strategies that will enable CDC to fulfill its mission of protecting health through health promotion, prevention, and preparedness. The committee recommends ways to prioritize CDC's activities, improve results, and address health disparities. It also provides guidance to help CDC work more effectively with its various private and public sector constituents to make health protection a practical reality.

MATTERS FOR DISCUSSION: The Advisory Committee to the Director will receive updates from the State, Tribal, Local and Territorial Subcommittee; the Health Disparities Subcommittee, the Ethical Considerations for Public Private Partnerships Workgroup, the Global Workgroup, the Internal and External Laboratory Safety Workgroups, and the Public Health—Health Care Collaboration Workgroup, as well as an update from the CDC Director.

Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: Carmen Villar, MSW, Designated Federal Officer, ACD, CDC, 1600 Clifton Road NE., M/S D–14, Atlanta, Georgia 30329. Telephone (404) 639–7158, Email: *GHickman@cdc.gov.* The deadline to register for in-person attendance at this meeting is October 16, 2015. To register, please send an email to *GHickman@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 2015–24665 Filed 9–28–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Breast and Cervical Cancer Early Detection and Control Advisory Committee (BCCEDCAC)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting of the aforementioned committee:

TIME AND DATE: 1:00 p.m.–4:00 p.m., EST, November 9, 2015.

PLACE: Teleconference.

Teleconference login information is as follows:

For Participants:

TOLL-FREE PHONE #: 800–369–1873.

Participant passcode: 2395561.

For Participants:

URL: *https://www.mymeetings.com/nc/join/.*

Conference number: PW5275620.

Audience passcode: 2395561. Participants can join the event directly at: *https://www.mymeetings.com/nc/join.php?i=PW5275620&p=2395561&t=c.*

There is also a toll free number for anyone outside of the USA:

TOLL-FREE PHONE#: 1–212–547–0421.

Participant passcode: 2395561.

STATUS: Open to the public, limited only by space and net conference and audio phone lines available.

PURPOSE: The committee is charged with advising the Secretary, Department of Health and Human Services, and the Director, CDC, regarding the early detection and control of breast and cervical cancer. The committee makes recommendations regarding national program goals and objectives; implementation strategies; and program priorities including surveillance, epidemiologic investigations, education and training, information dissemination, professional interactions and collaborations, and policy.

MATTERS FOR DISCUSSION: The agenda will include the following: (1) Future directions of the National Breast and Cervical Cancer Early Detection Program (NBCCEDP) and (2) Improving NBCCEDP efficiency.

Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: Jameka R. Blackmon, MBA, CMP, Designated Federal Officer, National Center for Chronic Disease Prevention and Health Promotion, CDC, 4770 Buford Hwy. NE., Mailstop F76, Atlanta, Georgia 30341–3717, Telephone (770) 488–4740.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention, and Agency for Toxic Substances and Disease Registry.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 2015–24659 Filed 9–28–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to PAR14–227, Workers' Compensation Surveillance.

TIME AND DATE: 8:00 a.m.–7:00 p.m., EST, November 3–5, 2015 (Closed).

PLACE: Internet Assisted Meeting (IAM)/ Virtual Meeting.

STATUS: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

MATTERS FOR DISCUSSION: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Workers' Compensation Surveillance, PAR14–227, initial review.''

CONTACT PERSON FOR MORE INFORMATION: Donald Blackman, Ph.D., Scientific Review Officer, CDC, 2400 Century Center Parkway, NE., 4th Floor, Room 4204, Mailstop E–74, Atlanta, Georgia 30345, Telephone: (404) 498–6185, *DYB7@CDC.GOV* .

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 2015–24658 Filed 9–28–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Meeting of the Advisory Committee on Immunization Practices (ACIP)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announce the following meeting of the aforementioned committee.

TIME AND DATE: 8:00 a.m.–6:00 p.m., EDT, October 21, 2015.

PLACE: CDC, Tom Harkin Global Communications Center, 1600 Clifton Road NE., Building 19, Kent ''Oz'' Nelson Auditorium, Atlanta, Georgia 30329.

STATUS: Open to the public, limited only by the space available. Time will be available for public comment. The public is welcome to submit written comments in advance of the meeting. Comments should be submitted in writing by email to the contact person listed below. The deadline for receipt October 12, 2015. All requests must contain the name, address, and organizational affiliation of the speaker, as well as the topic being addressed. Written comments should not exceed one single-spaced typed page in length and delivered in 3 minutes or less. Please note that the public comment period may end before the time indicated, following the last call for comments. Members of the public who wish to provide public comments should plan to attend the public comment session at the start time listed. Written comments received in advance of the meeting will be included in the official record of the meeting.

The meeting will be webcast live via the World Wide Web; for instructions and more information on ACIP please visit the ACIP Web site: *http://www.cdc.gov/vaccines/acip/index.html*.

PURPOSE: The committee is charged with advising the Director, CDC, on the appropriate use of immunizing agents. In addition, under 42 U.S.C. 1396s, the committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding the appropriate periodicity, dosage, and contraindications applicable to the vaccines. Further, under provisions of the Affordable Care Act, at section 2713 of the Public Health Service Act, immunization recommendations of the ACIP that have been adopted by the Director of the Centers for Disease Control and Prevention and appear on the CDC immunization schedules must be covered by applicable health plans.

MATTERS FOR DISCUSSION: The agenda will include discussions on: child and adolescent immunization schedule; adult immunization schedule; meningococcal vaccines; human papillomavirus vaccines; influenza; combination vaccine (pediatric hexavalent vaccine (DTaP–IPV-Hib-HepB); cholera vaccine; Japanese encephalitis vaccine; Ebola vaccine trial update and vaccine supply. Recommendation votes are scheduled for child and adolescent immunization schedule and adult immunization schedule.

Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: Stephanie Thomas, National Center for Immunization and Respiratory Diseases, CDC, 1600 Clifton Road NE., MS–A27, Atlanta, Georgia 30329, telephone 404/639–8836; Email *ACIP@CDC.GOV*.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 2015–24656 Filed 9–28–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee to the Director (ACD), Centers for Disease Control and Prevention—State, Tribal, Local and Territorial (STLT) Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting of the aforementioned subcommittee:

TIME AND DATE: 8:30 a.m.–4:00 p.m. EDT, October 21, 2015.

PLACE: CDC, Building 19, Rooms 254/255, 1600 Clifton Road NE., Atlanta, Georgia 30333.

STATUS: Open to the public, limited only by the space available. The meeting room accommodates approximately 20 people. The public is welcome to participate during the public comment, which is tentatively scheduled from 3:15 to 3:35 p.m. This meeting is also available by teleconference. Please dial (888) 233–0592 and enter code 33288611.

Web Links:

Windows Media: *http://wm.onlinevideoservice.com/CDC1*

Flash: *http://www.onlinevideoservice.com/clients/CDC/?mount=CDC3*

Smart Phones and Mobile devices: *http://wowza01.sea.onlinevideoservice.com/live/CDC3/playlist.m3u8*

Technical Support: 404–639–3737

PURPOSE: The Subcommittee will provide advice to the CDC Director through the ACD on strategies, future needs, and challenges faced by State, Tribal, Local and Territorial health agencies, and will provide guidance on opportunities for CDC.

MATTERS FOR DISCUSSION: The STLT Subcommittee members will discuss progress on implementation of ACD-adopted recommendations related to health departments of the future, other emerging challenges, and how CDC can best support STLT health departments in the transforming health system.

The agenda is subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: Judy Monroe, M.D., Designated Federal Officer, State, Tribal, Local and Territorial Subcommittee, Advisory Committee to the Director, CDC, 1600 Clifton Road NE., M/S E–70, Atlanta, Georgia 30333 Telephone (404) 498–0300, Email: *OSTLTSDirector@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 2015–24666 Filed 9–28–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 80 FR 53799, dated September 8, 2015) is amended to reflect the reorganization to establish the Office of Financial Resources within the Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

Section C–B, Organization and Functions, is hereby amended as follows:

Delete in its entirety the mission and function statements for the *Office of the Chief Operating Officer (CAJ)* and insert the following:

Office of the Chief Operating Officer (CAJ). (1) Provides leadership, direction, support, and assistance to CDC's programs and activities to enhance CDC's strategic position in public health; ensure responsible stewardship; maintain core values; optimize operational effectiveness of business services; and institutionalize accountability for achieving management initiatives; (2) directs the conduct of operational activities including, among others, facilities and real property planning and management; grants, procurement and materiel management; budget formulation/execution and finance/accounting; human resources management; information technology and systems planning and support; internal security and emergency preparedness; and management analysis and services; (3) manages the planning, evaluation, and implementation of continuous improvement and reengineering initiatives and adoption of innovations and technologies in these areas and ensures that they are undertaken in a comprehensive and integrated manner; (4) maintains liaison with officials of the Department of Health and Human Services (HHS) responsible for the direction and conduct of the HHS program support and management services functions; (5) provides assistance to HHS officials and to CDC's Centers/Institute/Offices (CIO) to assure that the human resources of CDC are sufficient in numbers, training, and diversity to effectively conduct the public health mission of CDC; (6) provides guidance and ensures compliance with the budget priorities established by the Office of the Director, CDC; and (7) plans and coordinates the implementation of various federal administrative, statutory, regulatory, and policy requirements.

Office of the Director (CAJ1). (1) Manages and directs the activities and functions of the Office of the Chief Operating Officer; (2) provides guidance and support in the conduct of agency-wide business services and management activities performed for or by CIOs; (3) participates in the development of CDC's priority areas, goals and objectives; (4) advises and assists the CDC Director, and other key officials on all aspects of business service activities and functions; (5) oversees operation of the Working Capital Fund (6) oversees governance of the Agency's labor management activities; (7) evaluates and conducts agency-wide enterprise risk monitoring and management; and (8) coordinates responses to Office of the Inspector General hotline and other special investigations.

Delete in its entirety the mission and function statements for the *Office of the Chief Financial Officer (CAJE)* and insert the following:

Office of Financial Resources (CAJE). (1) Provides leadership, direction, and guidance in matters regarding CDC/ATSDR financial resources, in support of the agency's public health science and programs; (2) plans, develops, and implements policies, procedures, and practices to ensure effective customer service, consultation, and oversight in financial management, grants, and acquisition processes; (3) engages CDC/ATSDR Centers/Institute/Offices (CIOs), as well as other key stakeholders to align agency-wide financial management, grants, and acquisition processes with applicable laws, regulations, and policies, and with CDC/ATSDR public health goals, and (4) provides all support necessary to help ensure that appropriated funds are utilized in compliance with Congressional mandate, for the sole purpose of preventing and controlling infectious diseases domestically and globally.

Office of the Director (CAJE1). (1) Provides overall leadership, direction, guidance, oversight, and coordination in the areas of finance and accounting services, acquisition services, budget services, and grants services; (2) provides overall leadership, direction, guidance, oversight, and coordination in the areas of organizational management,

project management, policy, performance, communication, financial information systems, budget formulation, and appropriation processes; (3) performs the functions of Chief Financial Officer (CFO) for CDC/ATSDR; (4) provides expertise in interpreting applicable laws, regulations, policies and guidance, and provides leadership, direction, and coordination in resolving issues; (5) advises and assists the CDC Director, the Chief Operating Officer, and other officials—both in program and business service offices—on all matters regarding financial resources of the agency; (6) maintains liaison with all applicable federal agencies on compliance activities associated with financial management, grants, and acquisitions functions; (7) plans, develops, and implements programs as appropriate to evaluate policies, procedures, and practices to ensure adherence to financial resource laws, policies, procedures, and regulations; (8) provides leadership, direction, guidance, and coordination on audits and establishes priorities in resolving issues; and (9) develops Annual Quality Assurance Plans.

Office of Management Services (HCAJE13). (1) Provides overall budgetary, employee relations, human capital management, logistics and administrative support; (2) collaborates and maintains liaison with CDC Management Officials to monitor and address priority issues of concern to CDC Leadership; (3) provides direction, strategy, analysis, and operational support in all aspects of human capital management, including workforce and career development and human resources operations (4) manages internal operational budget processes, including planning, execution, and monitoring; (5) manages internal acquisition processes; (6) serves as point of contact on all matters concerning facilities management, property management, records management, equipment, travel, and space utilization and improvements; and (7) serves as coordinator of continuity of operations activities.

Office of Appropriations (CAJE14). (1) Provides leadership, consultation, guidance, and advice on matters of public health and financial policy; (2) leads all CDC/ATSDR Congressional appropriations activities including strategic outreach; (3) develops CDC/ATSDR's annual financial and public health policy request in accordance with Department of Health and Human Services (HHS), Office of Management and Budget (OMB), and Congressional requirements, policies, procedures, and regulations; (4) maintains liaison with the Office of the Secretary (OS), OMB, other government organizations, and Congress on appropriations and financial policy matters; (5) develops materials for, and participates in, public health policy and financial reviews and hearings before HHS, OMB, and Congress; (6) collaborates with other parts of CDC, and outside stakeholders, in the development and implementation of agency-wide financial and public health program plans; and (7) provides guidance and advice on the consolidation of budget and performance information as part of CDC's annual budget request.

Office of Financial Information Systems (CAJE16). (1) Provides management and coordination necessary for access to systems, data, and reporting capability; (2) develops, implements, and manages long-term systems strategy; (3) provides systems analysis, design, programming, implementation, enhancement and documentation of organizational information technology systems; (4) provides technical support and assistance for data error analysis and resolution, coordination of system initiatives, management of information technology resources, and the access and interpretation of financial system data; (5) serves as a liaison to the Unified Financial Management System (UFMS) operations and maintenance and other internal and external groups as needed; (6) provides technical and managerial direction for the development, implementation, and maintenance of grants and contracts systems; (7) manages HHS grants and administrative systems; (8) manages all aspects of systems security and administration; (9) ensures implementation of data standards; (10) performs certification and accreditation of information technology systems; and (11) performs common accounting number (CAN) realignment coordination.

Office of Policy, Performance, and Communications (CAJE17). (1) Provides technical and managerial direction for the development of organizational and CDC-wide policies that are cross-cutting to support CDC's public health science and programs; (2) participates with senior management in program planning, policy determinations, evaluations, and decisions concerning escalation points for grants, acquisitions, and financial management; (3) provides leadership, coordination, and collaboration on issues management and triaging, and ensures the process of ongoing issues identification, management, and resolution; (4) conducts policy analysis, tracking, review and clearance as it relates to grants, acquisitions, and financial management to support CDC's public health science and programs; (5) manages and responds to Congressional inquiries and media requests as it relates to financial resources to support CDC's public health science and programs; (6) serves as the point of contact for the policy analysis, technical review and final clearance of executive correspondence and policy documents that require approval from the CDC Director, CDC Leadership Team, or officials; (7) coordinates and manages annual contract and grant forecasting activities; (8) provides reporting for annual planning meetings, annual reports, data calls, end-of-year coordination, and ad-hoc requests; (9) leads the Office of Financial Resources (OFR) performance management, including the development of strategic plans, performance metrics, dashboards, Quarterly Program Review materials, and the Office the Chief Operating Officer strategic direction materials; (10) leads business processes improvement initiatives; (11) leads OFR customer service improvement initiatives and administers customer service surveys; (12) provides communications support for executive presentations, messages, and meetings; (13) ensures accurate and consistent information dissemination, including Freedom Of Information Act requests and Executive Secretariat controlled correspondence; (14) ensures consistent application of CDC correspondence standards and styles; and (15) provides leadership, technical assistance, and consultation in establishing best practices in internal and external business communication and implements external communication strategies to promote and protect the agency's brand (*e.g.,* employee communications, intranet, internet and other communication platforms). Office of Budget Services (CAJEV). The Office of Budget Services oversees agency-wide budget execution functions, financial data analysis, reporting and planning.

Office of the Director (CAJEV1). (1) Provides overall leadership, supervision, and management of budget staff; (2) provides agency-level budget execution functions, financial data analysis, and reporting; (3) provides budgetary information for business decision-making support surrounding the agency's mission and goals; (4) develops high-level plans to execute agency-level budget; (5) ensures changes and plans are in compliance with decisions and agency direction; (6)

reports compliance of laws, regulations, and decisions; (7) provides agency-wide budget planning, analysis, and reporting for agency budget execution and public health goals strategy; (8) provides agency spend plan validation, remediation, and analysis; (9) provides funds control management for the agency-level budget; (10) assists in the review of Congressional bill language to identify and properly account for earmarks and other directed programs; and (11) provides Departmental and OMB reporting; and (12) provides budget execution for Centralized Mandatory Services.

Budget Operations Services Branch (CAJEVJ). (1) Conducts agency-level budget execution functions, financial data analysis, and reporting; (2) assists the Office of Budget in providing budgetary information for business decision-making support surrounding public health; (3) assists in developing plans to execute agency-level budget; (4) ensures changes and plans are in compliance with decisions and agency direction; (5) reports compliance of laws, regulations, and decisions to the Director, Office of Budget; (6) assists in agency-wide budget planning, analysis, and reporting for agency budget execution and public health initiatives; (7) assists CIOs in establishing an agency-level planning budget to forecast annual funding and prepare spend plans for the upcoming fiscal year; (8) provides information to the Director, Office of Budget related to funds control management for the agency's budget; (9) assists in the review of Congressional bill language to identify and properly account for earmarks and other directed programs; (10) assists in fulfilling HHS and OMB reporting requirements; (11) calculates agency-level funding authority during continuing resolution periods, as required; and (12) provides guidance and advice to the CDC CFO and the Director, Office of Budget, on issues related to use of CDC appropriations and other matters concerning budgetary policy, law and regulations.

Infectious Disease Budget Execution Services Branch (CAJEVK). (1) Provides the legal and regulatory expertise and support to execute CDC's budget within the framework of HHS, OMB, and Congressional regulations, and policies of CDC Office of the Director (OD); (2) manages the expectations agreed upon in the Budget Execution Services Service Level Agreement; (3) promotes structured, ongoing partnerships with CIOs; (4) manages and supports programs in all aspects of funds management; (5) provides the leadership and guidance for spend plan creation and administration, in compliance with all federal guidelines and policies, such as the Anti-Deficiency Act; (6) provides the overall analysis and reconciliation of spend plans to advise programs on future spending decisions; (7) assists program officials in developing sub-allocation of CIO, and/or Division ceilings; (8) communicates and shares knowledge with programs and CDC's budget analyst community; and (9) performs cost-benefit analysis to review financial requests and makes recommendations for future-year budget.

Public Health Scientific Services Budget Execution Services Branch (CAJEVL). (1) Provides the legal and regulatory expertise and support to execute CDC's budget within the framework of HHS, OMB, and Congressional regulations, and policies of CDC OD; (2) manages the expectations agreed upon in the Budget Execution Services Service Level Agreement; (3) promotes structured, ongoing partnerships with CIOs; (4) manages and supports programs in all aspects of funds management; (5) provides the leadership and guidance for spend plan creation and administration, in compliance with all federal guidelines and policies, such as the Anti-Deficiency Act; (6) provides the overall analysis and reconciliation of spend plans to advise programs on future spending decisions; (7) assists program officials in developing sub-allocation of CIO, and/or Division ceilings; (8) communicates and shares knowledge with programs and CDC's budget analyst community; and (9) performs cost-benefit analysis to review financial requests and makes recommendations for future-year budget.

Office of the Director, OSTLTS, and Occupational Safety and Health Budget Execution Services Branch (CAJEVM). (1) Provides the legal and regulatory expertise and support to execute CDC's budget within the framework of HHS, OMB, and Congressional regulations, and policies of CDC OD; (2) manages the expectations agreed upon in the Budget Execution Services Service Level Agreement; (3) promotes structured, ongoing partnerships with CIOs; (4) manages and supports programs in all aspects of funds management; (5) provides the leadership and guidance for spend plan creation and administration, in compliance with all federal guidelines and policies, such as the Anti-Deficiency Act; (6) provides the overall analysis and reconciliation of spend plans to advise programs on future spending decisions; (7) assists program officials in developing sub-allocation of CIO, and/or Division ceilings; (8) communicates and shares knowledge with programs and CDC's budget analyst community; and (9) performs cost-benefit analysis to review financial requests and makes recommendations for future-year budget.

Non-Communicable Disease, Injury, and Environmental Health Budget Execution Services Branch (CAJEVN). (1) Provides the legal and regulatory expertise and support to execute CDC's budget within the framework of HHS, OMB, and Congressional regulations, and policies of CDC OD; (2) manages the expectations agreed upon in the Budget Execution Services Service Level Agreement; (3) promotes structured, ongoing partnerships with CIOs; (4) manages and supports programs in all aspects of funds management; (5) provides the leadership and guidance for spend plan creation and administration, in compliance with all federal guidelines and policies, such as the Anti-Deficiency Act; (6) provides the overall analysis and reconciliation of spend plans to advise programs on future spending decisions; (7) assists program officials in developing sub-allocation of CIO, and/or Division ceilings; (8) communicates and shares knowledge with programs and CDC's budget analyst community; and (9) performs cost-benefit analysis to review financial requests and makes recommendations for future-year budget.

Global Health Budget Execution Services Branch (CAJEVP). (1) Provides the legal and regulatory expertise and support to execute CDC's budget within the framework of HHS, OMB, and Congressional regulations, and policies of CDC OD; (2) manages the expectations agreed upon in the Budget Execution Services Service Level Agreement; (3) promotes structured, ongoing partnerships with CIOs; (4) manages and supports programs in all aspects of funds management; (5) provides the leadership and guidance for spend plan creation and administration, in compliance with all federal guidelines and policies, such as the Anti-Deficiency Act; (6) provides the overall analysis and reconciliation of spend plans to advise programs on future spending decisions; (7) assists program officials in developing sub-allocation of CIO, and/or Division ceilings; (8) communicates and shares knowledge with programs and CDC's budget analyst community; and (9) performs cost-benefit analysis to review financial requests and makes recommendations for future-year budget.

Preparedness, Response, and Office of the Chief Operating Officer Budget Execution Services Branch (CAJEVQ). (1) Provides the legal and regulatory expertise and support to execute CDC's budget within the framework of HHS, OMB, and Congressional regulations, and policies of CDC OD; (2) manages the expectations agreed upon in the Budget Execution Services Service Level Agreement; (3) promotes structured, ongoing partnerships with CIOs; (4) manages and supports programs in all aspects of funds management; (5) provides the leadership and guidance for spend plan creation and administration, in compliance with all federal guidelines and policies, such as the Anti-Deficiency Act; (6) provides the overall analysis and reconciliation of spend plans to advise programs on future spending decisions; (7) assists program officials in developing sub-allocation of CIO, and/or Division ceilings; (8) communicates and shares knowledge with programs and CDC's budget analyst community; and (9) performs cost-benefit analysis to review financial requests and makes recommendations for future-year budget.

Office of Acquisition Services (CAJEW). The Office of Acquisition Services provides leadership for operations and policies relating to agency-level acquisition functions.

Office of the Director (CAJEW1). (1) Provides overall leadership, supervision, and management of acquisition staff; (2) ensures policies, processes, and procedures adhere to all rules and regulations and are in alignment with CDC's public health goals; (3) develops and implements organizational strategic planning goals and objectives; (4) provides budgetary, human resource management, and administrative support, and leads the development of contracts policy agendas with federal agencies and organizations; (5) provides cost advisory support to acquisition activities with responsibility for initiating requests for audits and evaluations and providing recommendations to contracting officer; (6) conducts continuing studies and analysis of acquisition activities; (7) provides technical and managerial direction for the development, implementation, and maintenance of acquisition systems; (8) ensures adherence to laws, policies, procedures, regulations, and alignment with CDC's public health goals; (9) provides technical and managerial direction for functions related to interagency agreement management and VISA purchase card management; (10) operates CDC's Small and Disadvantaged Business Program and other socioeconomic programs encompassing acquisition and assistance activities; (11) plans and directs all activities related to contract closeout; and (12) develops and implements organizational and CDC-wide policies and procedures for acquisitions to support CDC's public health science and programs.

Infectious Disease and International Acquisition Branch (CAJEWB). (1) Plans, directs, and conducts acquisition of services, supplies, equipment, research and development, studies, and data collection for CDC through a variety of contractual mechanisms (competitive and non-competitive) to support CDC's national and international public health operations utilizing a wide variety of contract types and pricing arrangements; (2) works closely with CIOs in carrying out their public health missions; (3) provides leadership, direction, procurement options, and approaches in developing specifications/statements of work and contract awards; (4) reviews statements of work to ensure conformity with laws, regulations, policies, and alignment to CDC's public health goals; (5) negotiates and issues contracts; (6) directs and controls acquisition planning activities; (7) provides continuing surveillance of financial and administrative aspects of acquisition-supported activities to ensure compliance with HHS and CDC policies; (8) coordinates and negotiates contract modifications, reviewing and approving contractor billings, resolving audit findings, and performing closeout/termination activities; (9) assures that contractor performance is in accordance with contractual commitments; (10) identifies and mitigates risks associated with contracts and purchase orders; and (11) provides innovative problem-solving methods in coordinating international procurement with a wide variety of domestic and international health organizations including resolving issues with the Department of State.

Chronic Disease, Preparedness, Surveillance, and Environmental Acquisition Branch (CAJEWC). (1) Plans, directs, and conducts acquisition of services, supplies, equipment, research and development, studies, and data collection for CDC through a variety of contractual mechanisms (competitive and non-competitive) to support CDC's national and international public health operations utilizing a wide variety of contract types and pricing arrangements; (2) works closely with CIOs in carrying out their public health missions; (3) provides leadership, direction, procurement options, and approaches in developing specifications/statements of work and contract awards; (4) reviews statements of work to ensure conformity with laws, regulations, policies, and alignment to CDC's public health goals; (5) negotiates and issues contracts; (6) directs and controls acquisition planning activities; (7) provides continuing surveillance of financial and administrative aspects of acquisition-supported activities to ensure compliance with HHS and CDC policies; (8) coordinates and negotiates contract modifications, reviewing and approving contractor billings, resolving audit findings, and performing closeout/termination activities; (9) assures that contractor performance is in accordance with contractual commitments; and (10) identifies and mitigates risks associated with contracts and purchase orders.

CDC-Wide, Business Services, and Office of the Director Acquisition Branch (CAJEWD). (1) Plans, directs, and conducts acquisition of services, supplies, equipment, research and development, studies, and data collection for CDC through a variety of contractual mechanisms (competitive and non-competitive) to support CDC's national and international public health operations utilizing a wide variety of contract types and pricing arrangements; (2) works closely with CIOs in carrying out their public health missions; (3) provides leadership, direction, procurement options, and approaches in developing specifications/statements of work and contract awards; (4) reviews statements of work to ensure conformity with laws, regulations, policies, and alignment to CDC's public health goals; (5) negotiates and issues contracts; (6) directs and controls acquisition planning activities; (7) provides continuing surveillance of financial and administrative aspects of acquisition-supported activities to ensure compliance with HHS and CDC policies; (8) coordinates and negotiates contract modifications, reviewing and approving contractor billings, resolving audit findings, and performing closeout/termination activities; (9) assures that contractor performance is in accordance with contractual commitments; and (10) identifies and mitigates risks associated with contracts and purchase orders.

Occupational Safety and Health, and Simplified Acquisition Branch (CAJEWE). (1) Plans, directs, and conducts acquisition of services, supplies, equipment, research and development, studies, and data collection for CDC through a variety of contractual mechanisms (competitive and non-competitive) to support CDC's national and international public health operations utilizing a wide variety of contract types and pricing

arrangements; (2) works closely with CIOs in carrying out their public health missions; (3) provides leadership, direction, procurement options, and approaches in developing specifications/statements of work and contract awards; (4) reviews statements of work to ensure conformity with laws, regulations, policies, and alignment to CDC's public health goals; (5) negotiates and issues contracts; (6) directs and controls acquisition planning activities; (7) provides continuing surveillance of financial and administrative aspects of acquisition-supported activities to ensure compliance with HHS and CDC policies; (8) coordinates and negotiates contract modifications, reviewing and approving contractor billings, resolving audit findings, and performing closeout/termination activities; (9) assures that contractor performance is in accordance with contractual commitments; and (10) identifies and mitigates risks associated with contracts and purchase orders.

*Office of Finance and Accounting Services (CAJEU).*The Office of Finance and Accounting Services provides financial services and policy for agency-level accounting functions, and oversees financial data analysis, reporting, management and business decision-making in support of the agency's mission and goals.

Office of the Director (CAJEU1). (1) Provides overall leadership, supervision, and management of finance and accounting staff; (2) provides agency-level accounting functions, financial data analysis, and reporting; (3) provides business decision-making support surrounding the agency's mission and goals; (4) provides commercial payment services to CDC customers and payment support to CDC offices; (5) provides debt management services to CDC customers; (6) provides travel, Intra-governmental Payment and Collection (IPAC) System and international payment services and support to CDC customers and travelers; (7) supports agency-wide planning, analysis, and reporting for agency public health goals strategy; and (8) reports on compliance with laws, regulations, and decisions to CDC's CFO, to include status of internal financial controls and annual audit of financial accounts.

Accounting Branch (CAJEUB). (1) Oversees and provides approach to accounting for the agency; (2) manages accounting treatment for CDC on all business systems implementations and upgrades to current business systems; (3) manages all financial audit reviews and conducts risk assessment on internal controls; (4) prepares, analyzes fluctuations, and coordinates explanations for differences on all required financial statements and notes and ensures compliance with federal and department reporting requirements; (5) coordinates accounting policy issues with the HHS Assistant Secretary for Financial Resources, Office of Finance; (6) manages Fund Balance with Treasury, including authority, disbursements (payroll and non-payroll), collections, deposit funds and budget clearing accounts; (7) prepares manual journal vouchers for corrections to the general ledger; (8) performs monthly, quarterly, and year-end close-out process of the general ledger; (9) serves as liaison on capital asset procedures and financial questions/inquiries related to grants; (10) manages financial accounting and reconciliations for all assets for CDC, including real and personal property, equipment, land, leases, leasehold improvements, software, personal property, inventories, and stockpiles; (11) provides training and assistance to CDC project officers and grants management officials on various financial management aspects of grants; (12) manages the process to perform grant processing for commitments, obligations, advances, disbursements, and accruals; (13) manages grants transactions, such as vendor set-up, establishing sub-accounts, CAN set-up within the Payment Management System (PMS), reconciling sync file to PMS, and posting files from PMS to UFMS; and (14) conducts grant reviews and supports program in grant execution.

Commercial Payment Branch (CAJEUD). (1) Manages all activities, policies, quality control, and audit support for accounts payable and disbursement functions for commercial payments; (2) serves as the CDC subject matter expert on all financial matters dealing with commercial payments; (3) ensures all commercial payments are made in accordance with applicable Federal laws and standards, such as appropriations law; (4) serves as liaison with the Department of Treasury, CIOs, as well as outside customers, to provide financial information and reconcile commercial payment issues; (5) provides training and advice on commercial payment and disbursement issues; (6) manages transactions related to commercial accounts payable and disbursements; (7) completes all reconciliations of sub-legers to general ledger related to commercial payments; (8) compiles and submits a variety of cash management and commercial reports required by Treasury and various outside agencies; (9) responds to commercial inquiries for invoices and certifies payments; (10) performs quality control and quality assurance reviews and participates in internal reviews; and (11) records undelivered order adjustments or obligations as needed.

Debt Management Branch (CAJEUE). (1) Manages interagency agreements and accounts receivable service lines under CDC/ATSDR's Working Capital Fund; (2) tracks, processes, and records all actions related to a debt; (3) oversees invoicing, billing, collections, reconciliations and reporting for the agency; (4) serves as the central point of contact for resolving the agency's debt management issues; (5) ensures all persons have been given due process, or notification of the debt or an opportunity to repay the debt, generally within 30 days; (6) develops strategy and analysis for reimbursable agreements in accordance with the appropriate CIO and/or Division; (7) manages all aspects of accounts receivable transactions in UFMS, and prepares invoices, and processes billing; (8) collaborates with programs and senior leadership to resolve posting errors, such as the resolution for over-obligated and unsigned agreements, indirect cost calculations, and uncollectible debt; (9) analyzes intra-governmental and intergovernmental eliminations process for compliance with financial statements; (10) prepares and submits agency-level financial reports to HHS/OS; (11) conducts training and offers advice on receivables, Interagency Agreements, and miscellaneous receivables such as vessels, gifts, royalties, cooperative research and development agreements, and user fees; (12) prepares and submits year end certification and verification of the Treasury Report on receivables; and (13) defines Departmental needs for central debt management automated systems to achieve efficiency and effectiveness without compromising program objectives.

Travel, IPAC, and International Payment Branch (CAJEUG). (1) Manages as the subject matter expert all activities, policies, quality control, audit support, and payment transactions for all travel, IPAC, and international activities (to include International expenditures and related reimbursements, IPAC disbursements, change of station, and monthly stipend payments for foreign nationals and visiting fellows along with associated tax filings); (2) ensures all travel, IPAC, and international payments are made in accordance with applicable federal and international laws and standards, such as appropriations law; (3) serves as liaison with the Department of Treasury, CIOs, as well as outside customers, to

provide financial information and reconcile travel, IPAC, and international payment issues; (4) compiles and submits a variety of cash management and travel reports required by Treasury and various other outside agencies; (5) provides training and advice on payment, travel and disbursement issues; (6) completes all reconciliations of sub-ledgers to general ledger related to travel, IPAC, and international payments; (7) responds to traveler inquiries for vouchers and certifies payments; (8) performs quality control and quality assurance reviews; (9) provides expertise, guidance, oversight, and interpretation of policies, laws, rules and regulations for all aspects of travel procedures and policies at CDC, including the use of the automated travel system, local travel, domestic and foreign temporary duty travel, and change of station travel for civil service employees, foreign service employees, commissioned officers, CDC fellows, etc.; (10) communicates and implements Departmental travel policies; (11) manages the administrative aspects of travel for the agency, including enforcement of travel card policy, delegations of authority, distribution of cash purchase memos, and approval of first-class memos; (12) serves as liaison with travel provider for travel contract matters; (13) provides travel support to the Emergency Operations Center; and (14) develops CDC conference travel planning and reporting for HHS and Congress.

Office of Grants Services (CAJEY). The Office of Grants Services provides leadership for operations and policies relating to agency-level grants.

Office of the Director (CAJEY1). (1) Provides overall leadership, supervision, and management of the grants staff; (2) ensures policies, processes, and procedures adhere to all rules and regulations and are in alignment with CDC's public health goals; (3) develops and implements organizational strategic planning goals and objectives; (4) provides budgetary, human resource management, and administrative support; leads the development of grants policy agendas with federal agencies and organizations; (5) provides cost advisory support to assistance activities with responsibility for initiating requests for audits and evaluations, and providing recommendations to grants management officer, as required; (6) conducts continuing studies and analysis of grants activities; (7) provides technical and managerial direction for the development, implementation, and maintenance of grants systems; (8) ensures adherence to laws, policies, procedures, regulations, and alignment with CDC's public health goals; (9) provides technical and managerial direction for functions related to objective review and grants close out; (10) serves as a central CDC receipt and referral point for all applications for assistance funds, including interfacing with the automated grants systems and relevant HHS line of business agencies; (11) distributes draft public health program announcements for review; (12) develops formal training in grants management for awardees and CDC staff; and (13) develops and implements organizational and CDC-wide policies and procedures for grants to support CDC's public health science and programs.

Infectious Disease Services Branch (CAJEYB). (1) Plans, directs, and conducts assistance management activities for CDC through the awards of grants and cooperative agreements (competitive and non-competitive) across public health systems; (2) plans, directs, coordinates, and conducts the grants management functions and processes in support of public health assistance awards; (3) provides leadership and guidance to CDC project officers and public health program officials related to grants activities; (4) maintains a close working relationship with CDC program offices; (5) reviews assistance applications for conformity to laws, regulations, policies, and alignment to CDC's public health goals; (6) issues grants and cooperative agreements; (7) provides continuing surveillance of financial and administrative aspects of assistance-supported activities to ensure compliance with HHS and CDC policies; (8) ensures that grantee performance is in accordance with assistance requirements; and (9) collects and reports business management and public health programmatic data, analyzes and monitor business management data on grants and cooperative agreements and maintains assistance files.

Chronic Disease and Birth Defects Services Branch (CAJEYC). (1) Plans, directs, and conducts assistance management activities for CDC through the awards of grants and cooperative agreements (competitive and non-competitive) across public health systems; (2) plans, directs, coordinates, and conducts the grants management functions and processes in support of public health assistance awards; (3) provides leadership and guidance to CDC project officers and public health program officials related to grants activities; (4) maintains a close working relationship with CDC program offices; (5) reviews assistance applications for conformity to laws, regulations, policies, and alignment to CDC's public health goals; (6) issues grants and cooperative agreements; (7) provides continuing surveillance of financial and administrative aspects of assistance-supported activities to ensure compliance with HHS and CDC policies; (8) ensures that grantee performance is in accordance with assistance requirements; and (9) collects and reports business management and public health programmatic data, analyzes and monitor business management data on grants and cooperative agreements and maintains assistance files.

OD, Environmental, Occupational Health and Injury Prevention Services Branch (CAJEYD). (1) Plans, directs, and conducts assistance management activities for CDC through the awards of grants and cooperative agreements (competitive and non-competitive) across public health systems; (2) plans, directs, coordinates, and conducts the grants management functions and processes in support of public health assistance awards; (3) provides leadership and guidance to CDC project officers and public health program officials related to grants activities; (4) maintains a close working relationship with CDC program offices; (5) reviews assistance applications for conformity to laws, regulations, policies, and alignment to CDC's public health goals; (6) issues grants and cooperative agreements; (7) provides continuing surveillance of financial and administrative aspects of assistance-supported activities to ensure compliance with HHS and CDC policies; (8) ensures that grantee performance is in accordance with assistance requirements; and (9) collects and reports business management and public health programmatic data, analyzes and monitor business management data on grants and cooperative agreements and maintains assistance files.

Global Health Services Branch (CAJEYE). (1) Plans, directs, and conducts assistance management activities for CDC through the awards of grants and cooperative agreements (competitive and non-competitive) across public health systems; (2) plans, directs, coordinates, and conducts the grants management functions and processes in support of public health assistance awards; (3) provides leadership and guidance to CDC project officers and public health program officials related to grants activities; (4) maintains a close working relationship with CDC program offices; (5) reviews

assistance applications for conformity to laws, regulations, policies, and alignment to CDC's public health goals; (6) issues grants and cooperative agreements; (7) provides continuing surveillance of financial and administrative aspects of assistance-supported activities to ensure compliance with HHS and CDC policies; (8) ensures that grantee performance is in accordance with assistance requirements; (9) collects and reports business management and public health programmatic data, analyzes and monitor business management data on grants and cooperative agreements and maintains assistance files; and (10) provides innovative problem-solving methods in the coordination of international grants for a wide range of public health partners in virtually all major domestic and international health organizations including resolving issues with the Department of State.

Delete in its entirety the mission and function statements for the *Procurement and Grants Office (CAJH).*

James Seligman,

Acting Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2015–24601 Filed 9–28–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Epi-Centers for the Prevention of Healthcare-Associated Infections, Antimicrobial Resistance and Adverse Events

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (DHHS).

ACTION: Notice of Domestic Single Source Competition Expansion Supplement Funding Opportunity Announcement (FOA).

SUMMARY: The National Center for Emerging and Zoonotic Infectious Diseases (NCEZID) will be providing a Single Source Competition Supplement to Harvard Pilgrim Healthcare, an awardee of the Epi-Centers for the Prevention of Healthcare-Associated Infections, Antimicrobial Resistance and Adverse Events Cooperative Agreement. The single source supplement will fund research utilizing proprietary methods to improve sepsis prevention by better defining the burden, preventability and identifying measurers to track progress.

DATES: Effective date is date of publication in the **Federal Register**.

ADDRESSES: John Jernigan, MD, MS, Division of Healthcare Quality Promotion, National Center for Emerging and Zoonotic Infectious Diseases, Centers for Disease Control and Prevention, 1600 Clifton RD, Atlanta, GA 30333. Phone: 404–639–4245. FAX: 404–639–4046. Email: *jqj9@cdc.gov*.

FOR FURTHER INFORMATION CONTACT: Deborah Loveys, Ph.D., Extramural Programs Research Office, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, 1600 Clifton Road, MS E–60, Atlanta, GA 30333. Telephone: (404) 718–8834. Fax: (404) 718–8848. Email: *hft6@cdc.gov*.

Dated: September 22, 2015.

Tiffanee Woodard,

Deputy Branch Chief, Epidemiology Research and Innovations Branch, Division of Healthcare Quality Promotion, Centers for Disease Control and Prevention.

Terrance Perry,

Director, Office of Grants Services, Centers for Disease Control and Prevention.

[FR Doc. 2015–24673 Filed 9–28–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–15–0728]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

National Notifiable Diseases Surveillance System—Revision—Center for Surveillance, Epidemiology and Laboratory Services (CSELS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Public Health Services Act (42 U.S.C. 241) authorizes CDC to disseminate nationally notifiable condition information. The Nationally Notifiable Diseases Surveillance System (NNDSS) is based on data collected at the state, territorial and local levels as a result of legislation and regulations in those jurisdictions that require health care providers, medical laboratories, and other entities to submit health-related data on reportable conditions to public health departments. These reportable conditions, which include infectious and non-infectious diseases, vary by jurisdiction depending upon each jurisdiction's health priorities and needs. Infectious disease agents and environmental hazards often cross geographical boundaries. Each year, the Council of State and Territorial Disease Epidemiologists (CSTE), supported by CDC, determines which reportable conditions should be designated nationally notifiable and voluntarily submitted to CDC so that information can be shared across jurisdictional boundaries and both surveillance and prevention and control activities can be coordinated at regional and national levels.

CDC requests a three-year approval for a Revision for the National Notifiable Diseases Surveillance System (NNDSS), (OMB Control No. 0920–0728,

Expiration Date 01/31/2017). This Revision includes new requests for approval to: (1) Replace ''Hepatitis C virus, past or present'' and ''Hepatitis C, acute'' with ''Hepatitis C'' on the List of Nationally Notifiable Conditions, (2) replace all listed Arboviral conditions with an inclusive category, ''Arboviral Diseases'' on the List of Nationally Notifiable Conditions, (3) receive case notification data for Hantavirus infection, non-Hantavirus Pulmonary Syndrome, (4) receive case notification data for Acute Flaccid Myelitis should it become nationally notifiable, (5) receive case notification data for Amebic Encephalitis should it become nationally notifiable, (6) receive new laboratory and vaccine data elements for all conditions, and (7) receive new disease-specific data elements for Mumps, Pertussis, Varicella, Arboviral Diseases, and Sexually Transmitted Diseases (STD).

Although this Revision includes case notifications that were not part of the last NNDSS Revision, the estimate of the average burden per response based on the burden tables from all of the consolidated applications has not changed. The burden on the states and cities is estimated to be 10 hours per response and the burden on the territories is estimated to be 5 hours per response. The addition of new vaccine, laboratory, and disease-specific data elements do not add any additional burden because the states, territories, and cities already collect those data elements. There will be no increase in burden for the states, territories, and cities to send those data elements to CDC. The estimated annual burden is 28,340 hours.

Estimated Annualized Burden Hours

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)
States	Weekly and Annual	50	52	10
Territories	Weekly and Annual	5	52	5
Cities	Weekly and Annual	2	52	10

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. 2015–24681 Filed 9–28–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to GH15–002: Conducting Public Health Research in Georgia, and GH16–002: Impact Evaluation of Combination HIV Prevention Intervention in Botswana under PEPFAR.

TIME AND DATE: 9:30a.m.–1:30p.m., EST, November 4, 2015 (Closed).

PLACE: Teleconference.

STATUS: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

MATTERS FOR DISCUSSION: The meeting will include the initial review, discussion, and evaluation of applications received in response to GH15–002: Conducting Public Health Research in Georgia, and GH16–002: Impact Evaluation of Combination HIV Prevention Intervention in Botswana under PEPFAR.

CONTACT PERSON FOR MORE INFORMATION: Hylan Shoob, Scientific Review Officer, Center for Global Health (CGH) Science Office, CGH, CDC, 1600 Clifton Road NE., Mailstop D–69, Atlanta, Georgia 30033, Telephone: (404) 639–4796.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 2015–24657 Filed 9–28–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Performance Review Board Members

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In this notice, the Centers for Disease Control and Prevention (CDC) located within the Department of Health and Human Services (HHS) is publishing the names of the Performance Review Board Members who are reviewing performance for Fiscal Year 2015.

FOR FURTHER INFORMATION CONTACT: Sharon O'Brien, Deputy Director, Executive and Scientific Resources Office, Human Resources Office, Centers for Disease Control and Prevention, 4770 Buford Highway, Mailstop K–07, Atlanta, Georgia 30341, Telephone (770) 488–1781.

SUPPLEMENTARY INFORMATION: Title 5, U.S.C. Section 4314(c)(4) of the Civil Service Reform Act of 1978, Public Law 95–454, requires that the appointment of Performance Review Board Members be published in the **Federal Register.** The following persons will serve on the CDC Performance Review Boards or Panels, which will oversee the evaluation of performance appraisals of Senior Executive Service members for the Fiscal Year 2015 review period:

Christine Branche, Co-Chair

James Seligman, Co-Chair
Irma Arispe
Janet Collins
Hazel Dean
Joseph Henderson
Christine Kosmos
Alan Kotch
Jennifer Parker
Judith Qualters
Kalwant Smagh

Dated: September 24, 2015.

Veronica Kennedy,

Acting Director, Division of the Executive Secretariat, Office of the Chief of Staff, Centers for Disease Control and Prevention.

[FR Doc. 2015–24650 Filed 9–28–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0438]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Early Food Safety Evaluation of New Non-Pesticidal Proteins Produced by New Plant Varieties Intended for Food Use

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by October 29, 2015.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0583. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Early Food Safety Evaluation of New Non-Pesticidal Proteins Produced by New Plant Varieties Intended for Food Use OMB Control Number 0910–0583—Extension

Since May 29, 1992, when we issued a policy statement on foods derived from new plant varieties, we have encouraged developers of new plant varieties, including those varieties that are developed through biotechnology, to consult with us early in the development process to discuss possible scientific and regulatory issues that might arise (57 FR 22984). The guidance entitled, ''Recommendations for the Early Food Safety Evaluation of New Non-Pesticidal Proteins Produced by New Plant Varieties Intended for Food Use,'' continues to foster early communication by encouraging developers to submit to us their evaluation of the food safety of their new protein. Such communication helps to ensure that any potential food safety issues regarding a new protein in a new plant variety are resolved early in development, prior to any possible inadvertent introduction into the food supply of the new protein.

We believe that any food safety concern related to such material entering the food supply would be limited to the potential that a new protein in food from the plant variety could cause an allergic reaction in susceptible individuals or could be a toxin. The guidance describes the procedures for early food safety evaluation of new proteins produced by new plant varieties, including bioengineered food plants, and the procedures for communicating with us about the safety evaluation.

Interested persons may use Form FDA 3666 to transmit their submission to the Office of Food Additive Safety in the Center for Food Safety and Applied Nutrition. Form FDA 3666 is entitled, ''Early Food Safety Evaluation of a New Non-Pesticidal Protein Produced by a New Plant Variety (New Protein Consultation),'' and may be used in lieu of a cover letter for a New Protein Consultation (NPC). Form FDA 3666 prompts a submitter to include certain elements of a NPC in a standard format and helps the respondent organize their submission to focus on the information needed for our safety review. The form, and elements that would be prepared as attachments to the form, may be submitted in electronic format via the Electronic Submission Gateway, or may be submitted in paper format, or as electronic files on physical media with paper signature page. The information is used by us to evaluate the food safety of a specific new protein produced by a new plant variety.

In the **Federal Register** of June 19, 2015 (80 FR 35370), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

Description of Respondents: The respondents to this collection of information are developers of new plant varieties intended for food use.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Category	FDA Form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
First four data components	3666	6	1	6	4	24
Two other data components	3666	6	1	6	16	96
Total						120

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimated number of annual responses and average burden per response are based on our experience with early food safety evaluations. Completing an early food safety evaluation for a new protein from a new plant variety is a one-time burden (one evaluation per new protein). Many developers of novel plants may choose

not to submit an evaluation because the field testing of a plant containing a new protein is conducted in such a way (*e.g.,* on such a small scale, or in such isolated conditions, etc.) that cross-pollination with traditional crops or commingling of plant material is not likely to be an issue. Also, other developers may have previously communicated with us about the food safety of a new plant protein, for example, when the same protein was expressed in a different crop.

For purposes of this extension request, we are re-evaluating our estimate of the annual number of responses that we expect to receive in the next 3 years. We received 12 NPCs during the 5-year period from 2005 through 2009, for an average of 2.4 NPCs per year. However, during the last extension period, we saw a decrease in the number of NPCs submitted by developers, with no NPCs submitted in 2010 through 2014. More recently, we received four NPCs in the first 4 months of 2015. Based on an approximate average from the years 2005 through 2009, and our experience in 2015, we are revising our estimate of the annual number of NPCs submitted by developers to be six or fewer.

The early food safety evaluation for new proteins includes six main data components. Four of these data components are easily and quickly obtainable, having to do with the identity and source of the protein. We estimate that completing these data components will take about 4 hours per NPC. We estimate the reporting burden for the first four data components to be 24 hours (4 hours × 6 responses).

Two data components ask for original data to be generated. One data component consists of a bioinformatics analysis which can be performed using publicly available databases. The other data component involves ''wet'' lab work to assess the new protein's stability and the resistance of the protein to enzymatic degradation using appropriate in vitro assays (protein digestibility study). The paperwork burden of these two data components consists of the time it takes the company to assemble the information on these two data components and include it in a NPC. We estimate that completing these data components will take about 16 hours per NPC. We estimate the reporting burden for the two other data components to be 96 hours (16 hours × 6 responses). Thus, we estimate the total annual hour burden for this collection of information to be 120 hours.

Dated: September 23, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–24620 Filed 9–28–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2014–M–2375, FDA–2015–M–0909, FDA–2015–M–0199, FDA–2015–M–0200, FDA–2015–M–0201, FDA–2015–M–0228, FDA–2015–M–0266, FDA–2015–M–0267, FDA–2015–M–0431, FDA–2015–M–0502, FDA–2015–M–0690, FDA–2015–M–0738, FDA–2015–M–0910]

Medical Devices; Availability of Safety and Effectiveness Summaries for Premarket Approval Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of premarket approval applications (PMAs) that have been approved. This list is intended to inform the public of the availability of safety and effectiveness summaries of approved PMAs through the Internet and the Agency's Division of Dockets Management.

ADDRESSES: Submit written requests for copies of summaries of safety and effectiveness data to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Please cite the appropriate docket number as listed in table 1 when submitting a written request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the summaries of safety and effectiveness.

FOR FURTHER INFORMATION CONTACT: Melissa Torres, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1650, Silver Spring, MD 20993–0002, 301–796–5576.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with sections 515(d)(4) and (e)(2) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360e(d)(4) and (e)(2)), notification of an order approving, denying, or withdrawing approval of a PMA will continue to include a notice of opportunity to request review of the order under section 515(g) of the FD&C Act. The 30-day period for requesting reconsideration of an FDA action under § 10.33(b) (21 CFR 10.33(b)) for notices announcing approval of a PMA begins on the day the notice is placed on the Internet. Section 10.33(b) provides that FDA may, for good cause, extend this 30-day period. Reconsideration of a denial or withdrawal of approval of a PMA may be sought only by the applicant; in these cases, the 30-day period will begin when the applicant is notified by FDA in writing of its decision.

The regulations provide that FDA publish a quarterly list of available safety and effectiveness summaries of PMA approvals and denials that were announced during that quarter. The following is a list of approved PMAs for which summaries of safety and effectiveness were placed on the Internet from January 1, 2015, through March 31, 2015. There were no denial actions during this period. The list provides the manufacturer's name, the product's generic name or the trade name, and the approval date.

TABLE 1—LIST OF SAFETY AND EFFECTIVENESS SUMMARIES FOR APPROVED PMAS MADE AVAILABLE FROM JANUARY 1, 2015, THROUGH MARCH 31, 2015

PMA No., Docket No.	Applicant	Trade name	Approval date
P980040/S049, FDA–2014–M–2375	Abbott Medical Optics, Inc.	TECNIS® multifocal 1-piece intraocular lens.	12/17/2014
P140010, FDA–2015–M–0199	Medtronic, Inc.	IN.PACT™ Admiral™ Paclitaxel-coated Percutaneous Transluminal Angioplasty Balloon Catheter.	12/30/2014
P130019, FDA–2015–M–0201	EnteroMedics, Inc.	Maestro® Rechargeable System	1/14/2015
P130025, FDA–2015–M–0200	Koning Corp.	Koning Breast CT (Model CBCT 1000)	1/14/2015
P060001/S020, FDA–2015–M–0228	ev3, Inc.	Protégé™ GPS Self-Expanding Peripheral Stent System.	1/21/2015
H140001, FDA–2015–M–0267	ABIOMED, Inc.	Impella RP System	1/23/2015

TABLE 1—LIST OF SAFETY AND EFFECTIVENESS SUMMARIES FOR APPROVED PMAS MADE AVAILABLE FROM JANUARY 1, 2015, THROUGH MARCH 31, 2015—Continued

PMA No., Docket No.	Applicant	Trade name	Approval date
P140017, FDA–2015–M–0266	Medtronic, Inc.	Melody™ Transcatheter Pulmonary Valve (TPV) and Ensemble™ Transcatheter Valve Delivery System.	1/27/2015
P130023, FDA–2015–M–0431	Cohera Medical, Inc.	TissuGlu® Surgical Adhesive	2/3/2015
P010047/S036, FDA–2015–M–0502	NeoMend, Inc.	ProGel™ Pleural Air Leak Sealant	2/13/2015
P140018, FDA–2015–M–0690	Covidien, LLC	VenaSeal™ Closure System	2/20/2015
H130001, FDA–2015–M–0909	Biologics Consulting Group, Inc.	Lixelle Beta 2-microglobulin Apheresis Column.	3/5/2015
P110024, FDA–2015–M–0738	Advanced Circulatory Systems, Inc.	ResQCPR™ System	3/6/2015
P130013, FDA–2015–M–0910	Boston Scientific Corp.	WATCHMAN™ Left Atrial Appendage (LAA) Closure Technology.	3/13/2015

II. Electronic Access

Persons with access to the Internet may obtain the documents at *http://www.fda.gov/MedicalDevices/ProductsandMedicalProcedures/DeviceApprovalsandClearances/PMAApprovals/default.htm.*

Dated: September 23, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–24625 Filed 9–28–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0229]

Issuance of Priority Review Voucher; Rare Pediatric Disease Product

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the issuance of a priority review voucher to the sponsor of a rare pediatric disease product application. The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended by the Food and Drug Administration Safety and Innovation Act (FDASIA), authorizes FDA to award priority review vouchers to sponsors of rare pediatric disease product applications that meet certain criteria. FDA has determined that Xuriden (uridine triacetate), manufactured by Wellstat Therapeutics Corp., meets the criteria for a priority review voucher.

FOR FURTHER INFORMATION CONTACT: Larry Bauer, Rare Diseases Program, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–4842, FAX: 301–796–9858, *larry.bauer@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: FDA is announcing the issuance of a priority review voucher to the sponsor of a rare pediatric disease product application. Under section 529 of the FD&C Act (21 U.S.C. 360ff), which was added by FDASIA, FDA will award priority review vouchers to sponsors of rare pediatric disease product applications that meet certain criteria. FDA has determined that Xuriden (uridine triacetate), manufactured by Wellstat Therapeutics Corp., meets the criteria for a priority review voucher. Uridine triacetate is a pyrimidine analog for uridine replacement. Xuriden is indicated for the treatment of hereditary orotic aciduria. Hereditary orotic aciduria is caused by a deficiency in the activity of the pyrimidine pathway enzyme uridine 5′-monophosphate synthase. The disorder is generally characterized by anemia and/or other hematological manifestations, excessive urinary excretion of orotic acid, failure to thrive, and developmental delay.

For further information about the Rare Pediatric Disease Priority Review Voucher Program and for a link to the full text of section 529 of the FD&C Act, go to *http://www.fda.gov/ForIndustry/DevelopingProductsforRareDiseasesConditions/RarePediatricDiseasePriorityVoucherProgram/default.htm.*

For further information about Xuriden (uridine triacetate), go to the Drugs@FDA Web site at *http://www.accessdata.fda.gov/scripts/cder/drugsatfda/index.cfm.*

Dated: *September 24, 2015.*

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–24640 Filed 9–28–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–3393]

Determination That ORTHO EVRA (Norelgestromin/Ethinyl Estradiol) Transdermal System, 0.15 Milligrams/24 Hours Norelgestromin and 0.035 Milligrams/24 Hours Ethinyl Estradiol, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that ORTHO EVRA (norelgestromin/ethinyl estradiol) Transdermal System, 0.15 milligrams (mg)/24 hours (hr) norelgestromin and 0.035 mg/24hr ethinyl estradiol was not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to this drug product, and it will allow FDA to continue to approve ANDAs that refer to the product as long as they meet relevant legal and regulatory requirements.

FOR FURTHER INFORMATION CONTACT: Ayako Sato, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6206, Silver Spring, MD 20993–0002, 240–402–4191, *Ayako.Sato@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA applicants must, with certain

exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products with Therapeutic Equivalence Evaluations,'' which is generally known as the ''Orange Book''. Under FDA regulations, a drug is removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

Under § 314.161(a) (21 CFR 314.161(a)), the Agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness: (1) Before an ANDA that refers to that listed drug may be approved, (2) whenever a listed drug is voluntarily withdrawn from sale and ANDAs that refer to the listed drug have been approved, and (3) when a person petitions for such a determination under 21 CFR 10.25(a) and 10.30. Section 314.161(d) provides that if FDA determines that a listed drug was withdrawn from sale for safety or effectiveness reasons, the Agency will initiate proceedings that could result in the withdrawal of approval of the ANDAs that refer to the listed drug.

FDA has become aware that the drug product listed in the table in this document is no longer being marketed.

Application No.	Drug	Applicant
NDA 21–180	ORTHO EVRA (norelgestromin/ethinyl estradiol) Transdermal System; 0.15 mg/24hr norelgestromin and 0.035 mg/24hr ethinyl estradiol.	Janssen Pharmaceutical Inc., 920 U.S. Highway 202, Raritan, NJ 08869–0602.

FDA has reviewed its records and, under § 314.161, has determined that the drug product listed in this document was not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the Agency will continue to list the drug product listed in this document in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' identifies, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness.

Approved ANDAs that refer to the NDA listed in this document are unaffected by the discontinued marketing of the product subject to this NDA. Additional ANDAs that refer to this product may also be approved by the Agency if they comply with relevant legal and regulatory requirements. If FDA determines that labeling for norelgestromin/ethinyl estradiol transdermal system should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: September 23, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–24622 Filed 9–28–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–3389]

Determination That PONDIMIN (Fenfluramine Hydrochloride) Tablets, 20 Milligrams and 60 Milligrams, and PONDEREX (Fenfluramine Hydrochloride) Capsules, 20 Milligrams Were Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that PONDIMIN (fenfluramine hydrochloride (HCl)) tablets, 20 milligrams (mg) and 60 mg, and PONDEREX (fenfluramine HCl) capsules, 20 mg, were withdrawn from sale for reasons of safety or effectiveness. The Agency will not accept or approve abbreviated new drug applications (ANDAs) for fenfluramine HCl tablets, 20 mg or 60 mg, or fenfluramine HCl capsules, 20 mg.

FOR FURTHER INFORMATION CONTACT: Robin Fastenau, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6236, Silver Spring, MD 20993–0002, 240–402–4510.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

PONDIMIN (fenfluramine HCl) tablets, 20 mg, and PONDEREX (fenfluramine HCl) capsules, 20 mg, were the subject of NDA 16–618, held by Wyeth Pharmaceuticals, and were initially approved on June 14, 1973. PONDIMIN (fenfluramine HCl) sustained release tablets, 60 mg, was the subject of NDA 16–618, held by Wyeth Pharmaceuticals, and was initially approved in 1982. PONDIMIN and PONDEREX were indicated for treatment of obesity.

In 1997, FDA asked that PONDIMIN (fenfluramine HCl) tablets and PONDEREX (fenfluramine HCl) capsules be withdrawn from the market after receiving new evidence that the products were associated with valvular heart disease (September 15, 1997, FDA Announces Withdrawal Fenfluramine and Dexfenfluramine (Fen-Phen), available on the Internet at *http://www.fda.gov/Drugs/DrugSafety/PostmarketDrugSafetyInformationforPatientsandProviders/ucm179871.htm;* see FDA November 1997 Fen-Phen Safety Update Information, available on the Internet at *http://www.fda.gov/Drugs/DrugSafety/PostmarketDrugSafetyInformationforPatientsandProviders/ucm072820.htm*). Wyeth Pharmaceuticals subsequently discontinued marketing these products. On October 8, 1998, FDA issued a Notice of Proposed Rulemaking proposing to include certain drug products on a list of drug products that had been withdrawn or removed from the market because such drugs products or components of such drug products had been found to be unsafe or not effective, and which could not be compounded under section 503A of the FD&C Act (63 FR 54082). FDA identified in that notice ''all drug products containing fenfluramine hydrochloride.'' The notice also noted that fenfluramine HCl tablets, formerly marketed as PONDIMIN tablets, were associated with valvular heart disease, and the manufacturer voluntarily withdrew the drug from the market. This proposed rule was finalized in 64 FR 10944 (March 8, 1999), 21 CFR 216.24.

In the **Federal Register** of May 5, 2004 (69 FR 25124), FDA issued a notice that it was withdrawing approval of 92 new drug applications and 49 abbreviated new drug applications, including PONDIMIN (fenfluramine HCl) tablets and PONDEREX (fenfluramine HCl) capsules, under section 505(e) of the FD&C Act. Consistent with § 314.161 and its prior rulemaking on compounded drug products under 21 CFR 216.24, FDA has determined that PONDIMIN (fenfluramine HCl) tablets and PONDEREX (fenfluramine HCl) capsules were withdrawn from sale for reasons of safety or effectiveness. This determination is consistent with FDA's prior request and Wyeth Pharmaceutical's withdrawal of PONDIMIN (fenfluramine HCl) tablets and PONDEREX (fenfluramine HCl) capsules from the market for reasons of safety or effectiveness. The Agency previously removed PONDIMIN (fenfluramine HCl) tablets and PONDEREX (fenfluramine HCl) capsules from the list of drug products published in the Orange Book. FDA will not accept or approve any ANDAs that refer to these drug products.

Dated: September 23, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–24619 Filed 9–28–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–1167]

Controlled Correspondence Related to Generic Drug Development; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a guidance for industry entitled ''Controlled Correspondence Related to Generic Drug Development''. The guidance document provides information regarding the process by which human generic drug manufacturers and related industry can submit correspondence to FDA requesting information on generic drug development. This guidance also describes FDA's process for providing communications related to such correspondence.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

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

FOR FURTHER INFORMATION CONTACT: Maryll Toufanian, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave, Bldg. 75, Rm. 1684, Silver Spring, MD 20993–0002, 240–402–7944, *Maryll.Toufanian@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Controlled Correspondence Related to Generic Drug Development''. The guidance document provides information regarding the process by which human generic drug manufacturers and related industry can submit correspondence to FDA requesting information on generic drug development. This guidance also describes FDA's process for providing communications related to such correspondence.

Under the provisions of the Generic Drug User Fee Amendments of 2012 (GDUFA), FDA agreed to certain obligations as laid out in the Generic Drug User Fee Act Program Performance Goals and Procedures for fiscal years 2013 through 2017 (the GDUFA Commitment Letter) that accompanies the legislation (Ref. 1). Among those obligations is FDA's commitment to performance metrics for its responses to controlled correspondence for fiscal years 2015 through 2017.

This guidance finalizes the draft guidance announced in the **Federal Register** on August 27, 2014 (79 FR 51180). The Agency considered comments on the draft guidance while finalizing this guidance. Generally, we revised the draft guidance to provide clarifying and explanatory information that will assist human generic drug manufacturers and related industry as they submit controlled correspondence to FDA. Changes from the draft guidance include a description of a process to submit information to update the Agency's Inactive Ingredient Database and a description of enhanced communication to requestors regarding the status of their controlled correspondence.

Two comment threads on the draft guidance benefit from additional

discussion here. Specifically, FDA received numerous comments regarding two categories of requests that FDA proposed in the draft guidance to exclude from the controlled correspondence process. First, FDA received comments requesting that the Agency refrain from excluding requests for product-specific guidance on demonstrating bioequivalence. FDA declines to revise the guidance in this fashion. As set out in the draft guidance, the short timeframe contemplated for the controlled correspondence responses is inconsistent with the well-established process for issuing product-specific recommendations described in the guidance for industry on ''Bioequivalence Recommendations for Specific Products (June 2010)'', as well as with the principles in the GDUFA Commitment Letter regarding the Regulatory Science Initiative. Rather than incorporating such guidance development into the controlled correspondence process, FDA's Office of Generic Drugs (OGD) is developing a separate process for product-specific guidance development.

This approach is being managed by the Division of Therapeutic Performance (DTP) within OGD's Office of Research and Standards, involves representatives from numerous divisions and offices within OGD, and provides for timely posting of product-specific recommendations to facilitate generic drug development. Requests for product-specific guidance development received through the general *Generic Drugs@fda.hhs.gov* email account are forwarded directly to DTP for consideration and tracking. Prioritization of guidance development is based on a variety of factors, including public health needs, industry demand for generic development, anticipated expiration of reference listed drug exclusivity, formulation features and predictability of in vivo performance, OGD experience with similar formulations or product types, and the feasibility of different approaches to demonstrate bioequivalence (*e.g.,* pharmacokinetic/pharmacodynamics studies, comparative clinical endpoint studies, and in vitro approaches). FDA anticipates that this targeted development approach will expedite the availability of product-specific guidances while supporting the important policies of transparency and maximizing benefit to the public health.

Second, FDA received comments regarding its proposed method of responding to requests related to issues for which the Agency has not yet determined a policy. Upon review of the comments, FDA is revising its recommendations related to such inquiries. As described in the guidance, if there is a better mechanism for a requestor to obtain comment from FDA on the subject of the request than through a controlled correspondence, the Agency will direct the requestor to such a mechanism, *e.g.,* a pre-abbreviated new drug application meeting request or the Regulatory Science Initiative. For requests for which the controlled correspondence pathway is the best mechanism, but that raise issues for which FDA has not determined appropriate policy, such requests will remain open until such policy decision is made.

This 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 controlled correspondence related to generic drug development. 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. Paperwork Reduction Act of 1995

This guidance refers to 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 collection of information has been approved under OMB control number 0910–0797.

III. Comments

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

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov*.

V. Reference

The following reference has been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and is available electronically at *http://www.regulations.gov*. (FDA has verified the Web site address in this reference section, but we are not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register**.)

1. Generic Drug User Fee Act Program Performance Goals and Procedures (GDUFA Commitment Letter) for fiscal years 2013 through 2017, available at *http://www.fda.gov/downloads/ForIndustry/UserFees/GenericDrugUserFees/UCM282505.pdf*.

Dated: September 22, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–24621 Filed 9–28–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–3327]

E6(R2) Good Clinical Practice; International Conference on Harmonisation; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance entitled ''E6(R2) Good Clinical Practice.'' The draft guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The draft guidance amends the guidance entitled ''E6 Good Clinical Practice: Consolidated Guidance'' (E6(R1)) to encourage implementation of improved and more efficient approaches to clinical trial design, conduct, oversight, recording, and reporting, and also updates standards regarding electronic records and essential documents. The draft guidance is intended to improve clinical trial quality and efficiency while maintaining human subject protection. FDA is making this draft guidance available for comment on the sections that are additions to ICH E6(R1) and marked as ''ADDENDUM.''

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 sections of this draft guidance marked as

''ADDENDUM'' before it begins work on the final version of the guidance, submit either electronic or written comments on the ''ADDENDUM'' sections of the draft guidance by November 30, 2015.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, 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 Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist the office in processing your requests. The draft guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 240–402–7800. 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: *Regarding the guidance:* Dianne Paraoan, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 3326, Silver Spring, MD 20993–0002, 301–796–2500; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

Regarding the ICH: Michelle Limoli, Center for Drug Evaluation and Research, International Programs, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, rm. 7208, Silver Spring, MD 20993–0002, 301–796–8377.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and North America. The eight ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; the Japanese Pharmaceutical Manufacturers Association; CDER and CBER, FDA; the Pharmaceutical Research and Manufacturers of America; Health Canada; and Swissmedic. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization.

In June 2015, the ICH Steering Committee agreed that a draft guidance entitled ''Good Clinical Practice E6(R2)'' should be made available for public comment. The draft guidance is the product of the ICH E6 Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the ICH E6 Expert Working Group.

The draft guidance provides guidance on approaches to clinical trial design, conduct, oversight, recording, and reporting as well as updated standards regarding electronic records and essential documents. The additions to ICH E6(R1) are intended to encourage implementation of the described approaches and processes to improve clinical trial quality and efficiency while maintaining human subject protection. Evolutions in technology and risk management processes offer new opportunities to increase clinical trial efficiency, in part by focusing on trial activities essential to ensuring human subject protection and the reliability of trial results. For example, the draft guidance recommends sponsors implement a system to manage quality throughout clinical trials and recommends sponsors develop a systematic, prioritized, risk-based approach to monitoring clinical trials. The draft guidance provides additional detail regarding recommendations for use of electronic trial data handling and remote electronic trial data systems.

This draft guidance includes additions to ICH E6(R1) that are identified as ''ADDENDUM'' and are marked with vertical lines on both sides of the text. FDA is making the draft guidance available for comment on the ''ADDENDUM'' text added to ICH E6(R1).

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 E6(R2) Good Clinical Practice. 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 document at *http://www.regulations.gov, http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.*

Dated: September 23, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–24623 Filed 9–28–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Intent To Grant Start-Up Exclusive Patent License: Real-Time PCR Point Mutation Assays for Detecting HIV–1 Resistance to Antiviral Drugs

AGENCY: Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209 and 37 CFR part 404, that the Public Health Service, Department of Health and Human Services, is contemplating the grant of an exclusive license to Research Think Tank Molecular Diagnostics, Inc. (RTTMDx) having a principal place of business in Georgia, U.S.A., to practice the inventions embodied in U.S. Provisional Patent Application No. 60/577,696, filed June 07, 2004, entitled ''Real-Time PCR Point Mutation Assays for Detecting the 103N and 184V Mutations in the Reverse Transcriptase of HIV–1'' (HHS Ref. No. E–198–2013/0–U.S.–01); PCT Application No. PCT/U.S.2005/019907, filed June 07, 2005, entitled ''Real-Time PCR Point Mutation Assays for Detecting HIV–1 Resistance to Antiviral Drugs'' (HHS Ref. No. E–198–2013/0–PCT–02); U.S. Patent Application No. 14/059,085, filed October 21, 2013, entitled ''Real-Time PCR Point Mutation Assays for Detecting HIV–1 Resistance to Antiviral Drugs'' (HHS Ref. No. E–198–2013/0–U.S.–11); U.S. Patent No. 8,043,809, filed December 07, 2006, entitled ''Real-Time PCR Point Mutation Assays for Detecting HIV–1 Resistance to Antiviral Drugs'' (HHS Ref. No. E–198–2013/0–U.S.–07); U.S. Patent No. 8,318,428, filed January 24, 2012, entitled ''Real-Time PCR Point Mutation Assays for Detecting HIV–1 Resistance for Antiviral Drugs'' (HHS Ref. No. E–198–2013/0–U.S.–08); U.S. Patent No. 8,592,146, filed September 04, 2013, entitled ''Real-Time PCR Point Mutation Assays for Detecting HIV–1 Resistance to Antiviral Drugs'' (HHS Ref. No. E–198–2013/0–U.S.–09); Australian Patent No. 20055252685, issued March 31, 2011, entitled ''Real-Time PCR Point Mutation Assays for Detecting HIV–1 Resistance to Anti-Viral Drugs,'' (HHS Ref. No. E–198–2013/0–AU–03); Indian Patent No. 19/DELNP/2007, issued December 19, 2013, entitled ''Real-Time PCR Point Mutation Assays for Detecting HIV–1 Resistance to Anti-Viral Drugs'' (HHS Ref. No. E–198–2013/0–IN–06); Canadian Patent Application No. 2,891,079, filed May 19, 2015, entitled ''Real-Time PCR Point Mutation Assays for Detecting HIV–1 Resistance to Anti-Viral Drugs'' (HHS Ref. No. E–198–2013/0–CA–12); Canadian Patent Application No. 259747, filed December 07, 2006, entitled ''Real-Time PCR Point Mutation Assays for Detecting HIV–1 Resistance to Anti-Viral Drugs'' (HHS Ref. No. E–198–2013/0–CA–04); U.S. Provisional Patent Application No. 61/443,926, filed February 17, 2011, entitled ''Real-Time PCR Point Mutation Assays for Detecting HIV–1 Resistance to Antiviral Drugs'' (HHS Ref. No. E–214–2013/0–U.S.–01); PCT Patent Application No. PCT/U.S.2012/025638, filed February 17, 2012, entitled ''Real-Time PCR Point Mutation Assays for Detecting HIV–1 Resistance to Anti-Viral Drugs'' (HHS Ref. No. E–214–2013/0–PCT–02); U.S. Application No. 13/985,499, filed February 17, 2012, entitled ''Real-Time PCR Point Mutation Assays for Detecting HIV–1 Resistance to Anti-Viral Drugs'' (HHS Ref. No. E–214–2013/0–U.S.–06); Canadian Patent Application No. 2827324, filed February 17, 2012, entitled ''Real-Time PCR Point Mutation Assays for Detecting HIV–1 Resistance to Anti-Viral Drugs'' (HHS Ref. No. E–214–2013/0–CA–03); European Patent Application No. 12747199.3, filed February 17, 2012, entitled ''Real-Time PCR Point Mutation Assays for Detecting HIV–1 Resistance to Anti-Viral Drugs'' (HHS Ref. No. E–214–2013/0–EP–04); Indian Patent Application No. 7110/DELNP/2013, filed February 17, 2012, entitled ''Real-Time PCR Point Mutation Assays for Detecting HIV–1 Resistance to Anti-Viral Drugs'' (HHS Ref. No. E–214–2013/0–IN–05); U.S. Provisional Patent Application No. 61/829,473, filed May 31, 2013, entitled ''Real-Time PCR Point Mutation Assays for Detecting HIV–1 Resistance to Anti-Viral Drugs (HHS Ref. No. E–511–2013/0–U.S.–01); PCT Application No. PCT/U.S.2014/040514, filed June 02, 2014, entitled, ''Real-Time PCR Point Mutation Assays for Detecting HIV–1 Resistance to Anti-Viral Drugs'' (HHS Ref. No. E–511–2013/0–PCT–02).

The patent rights in these inventions have been assigned to the Government of the United States of America. The territory of the prospective Start-Up Exclusive Patent License may be worldwide, and the field of use may be limited to ''Development, manufacture, and sale of an FDA-approved or foreign equivalent-approved Class III real-time PCR diagnostic assay for HIV–1 genotyping utilizing whole HIV–1 *pol* viral sequencing, limited to use in humans.''

DATES: Only written comments and/or applications for a license that are received by the NIH Office of Technology Transfer on or before October 14, 2015 will be considered.

ADDRESSES: Requests for a copy of the patent application(s), inquiries, comments and other materials relating to the contemplated license should be directed to: Karen Surabian, J.D., M.B.A., Licensing and Patenting Manager, CDC Unit, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 594–3232; Facsimile: (301) 402–0220; Email: *karen.surabian@nih.gov.* A signed confidential disclosure agreement may be required to receive copies of the patent application assuming it has not already been published under the publication rules of either the United States Patent and Trademark Office or the World Intellectual Property Organization.

SUPPLEMENTARY INFORMATION: The use of antiretroviral compounds to treat HIV infection has proliferated; consequently viruses have adapted and evolved mutations limiting the efficacy of these drugs and disrupting the success of treatment. The CDC has developed a novel assay featuring real-time PCR reagents and methods for detecting drug-resistance related mutations in HIV, for newly diagnosed patients and those individuals currently receiving antiretroviral therapies.

This RT–PCR assay can diagnose different point mutations in patient samples at an achievable sensitivity of 1–2 log greater than conventional point-mutation sequencing methods. More specifically, this assay measures the differential amplifications of common and mutation-specific reactions that target specific codons of interest, which are the HIV–1 proteins of reverse transcriptase, protease, and integrase (HIV–1 *pol*).

Given its low cost, simplicity, high-throughput capability, and tremendous diagnostic sensitivity, this assay will be useful for detection and surveillance of drug resistance-associated mutations and will aid in the clinical management of HIV infection both domestically and in developing countries where the cost of surveillance has been prohibitive.

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 part 404. The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, the NIH Office of Technology Transfer receives written evidence and argument that establishes that the grant of the contemplated license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Properly filed competing applications for a license in the prospective field of use that are filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released

under the Freedom of Information Act, 5 U.S.C. 552.

Dated: September 24, 2015.

Richard U. Rodriguez,

Acting Director, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2015–24674 Filed 9–28–15; 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 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 open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

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 Initial Review Group; Kidney, Urologic and Hematologic Diseases D Subcommittee.

Date: October 14–15, 2015.

Open: October 14, 2015, 8:00 a.m. to 8:30 a.m.

Agenda: To review policy and procedures.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Closed: October 14, 2015, 8:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Closed October 15, 2015, 8:00 a.m. to 4:00 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: Barbara A. Woynarowska, Ph.D., Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 754, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 402–7172, *woynarowskab@niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group; Digestive Diseases and Nutrition C Subcommittee.

Date: October 21–23, 2015.

Open: October 21, 2015, 6:00 p.m. to 6:30 p.m.

Agenda: To review policy and procedures.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Closed: October 21, 2015, 6:30 p.m. to 10:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Closed: October 22, 2015, 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Closed: October 23, 2015, 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Robert Wellner, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 706, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, *rw175w@nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group, Diabetes, Endocrinology and Metabolic Diseases B Subcommittee.

Date: October 28–30, 2015.

Open: October 28, 2015, 5:30 p.m. to 6:00 p.m.

Agenda: To review policy and procedures.

Place: Bethesda North Marriott Hotel & Conference Center; 5701 Marinelli Road; Bethesda, MD 20852.

Closed: October 28, 2015, 6:00 p.m. to 10:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Closed: October 29, 2015, 8:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Closed: October 30, 2015, 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: John F. Connaughton, Ph.D., Chief, Chartered Committees Section, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7797, *connaughtonj@extra.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: September 24, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–24660 Filed 9–28–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, NIAAA Member Conflict Applications—Neurosciences [ZAA1 DD (05)].

Date: November 10, 2015.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIAAA, NIH, 5635 Fishers Lane, CR2098, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, NIH, 5635 Fishers Lane; Room 2019, Rockville, MD 20852, (301) 451–2067, *srinivar@mail.nih.gov*.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; NIAAA Member Conflict Applications—Neurosciences [ZAA1 DD (04)].

Date: November 13, 2015.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIAAA, NIH, 5635 Fishers Lane, CR2098, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, NIH, 5635 Fishers Lane; Room 2085, Rockville, MD 20852, (301) 451–2067, *srinivar@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 92.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Supports Awards, National Institutes of Health, HHS)

Dated: September 24, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–24662 Filed 9–28–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, HIV and Aging.

Date: October 30, 2015.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 2C212, 7201 Wisconsin Avenue Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Maurizio Grimaldi, MD, Ph.D., Scientific Review Officer, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Room 2C218, Bethesda, MD 20892, 301–496–9374, *grimaldim2@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: September 24, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–24661 Filed 9–28–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in 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 Biomedical Imaging and Bioengineering Special Emphasis Panel; P41 BTRC Review (2016/01).

Date: November 18–20, 2015.

Time: 6:00 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Chase Park Plaza, 212 North Kingshigway Blvd., Saint Louis, MO 63108.

Contact Person: Dennis Hlasta, Ph.D., Scientific Review Officer, 6707 Democracy Boulevard, Suite 952, Bethesda, MD 20892, 301–451–4794, *hlastadj@mail.nih.gov.*

Dated: September 24, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–24664 Filed 9–28–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in 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 Biomedical Imaging and Bioengineering Special Emphasis Panel; NIBIB P41 Review (2016/01).

Date: November 12–14, 2015.

Time: 5:00 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Place, 173 Old Davis Road, Davis, CA 95616.

Contact Person: Ruixia Zhou, Ph.D., Scientific Review Officer, 6707 Democracy Boulevard, Democracy Two Building, Suite 957, Bethesda, MD 20892, 301–496–4773, *zhour@mail.nih.gov.*

Dated: September 24, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–24663 Filed 9–28–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are 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; and (d) ways to minimize the burden of the

collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Now Is the Time (NITT)—Project AWARE Evaluation—Site Notification and Recruitment—New

SAMHSA is conducting a national evaluation of the Now is the Time (NITT) initiative, which includes separate programs—NITT Project AWARE (Advancing Wellness and Resilience in Education)—State Educational Agency (SEA), Healthy Transitions, and two Minority Fellowship Programs (Youth and Addictions Counselors). These programs are united by their focus on capacity building, system change, and workforce development.

NITT—Project AWARE, which is the focus of this activity, represents a response to the third and fourth components of President Obama's NITT Initiative: Making schools safer and focusing on access to mental health services. NITT—Project AWARE is authorized under section 520A of the Public Health Service Act, as amended, and addresses the Healthy People 2020 Mental Health and Mental Disorders Topic Area. Project AWARE grantees are required to provide mental health awareness training to adults who interact with youth, create partnerships to connect youth to mental health services, and create a school climate to reduce violence. NITT—Project AWARE grants were made to 20 state education agencies, each of which will partner with 3–5 local education agencies (LEAs or school districts) in their state to plan and implement Project AWARE activities. Project AWARE activities may be implemented in all schools in the district or may be focused on a specific type or number of schools.

The evaluation of NITT—Project AWARE will examine the process, outcomes, and impact of activities by SEA grantees and their LEA and school partners. The study will evaluate the capacity of SEAs to increase awareness of mental health issues among school-aged youth; provide training for school personnel and other adults who interact with youth to detect and respond to mental illness in children and young adults; connect children, youth, and families/caregivers who may have behavioral health issues with appropriate services; and improve conditions for learning and behavioral health outcomes for all school-aged youth (grades K–12). At the grantee, district, and school levels, the evaluation will collect data from key staff in all partner organizations. At each Project AWARE and comparison school, annual surveys will be used to collect data from the school principal (or designee), students, and teachers, beginning in spring 2016. The NITT—Project AWARE evaluation will also rely on information collected from existing sources or noted in award requirements.

Site notification and recruitment of Project AWARE grantees and their school and district partners is being conducted for the purpose of enlisting sites for participation in the Project AWARE component of the NITT evaluation. Site notification and recruitment will be conducted in school year 2015–2016. Data collection is planned to begin in spring 2016. Subsequent OMB packages will be submitted separately for each of the three program evaluations (*i.e.,* Project AWARE, Healthy Transitions, MFP—Youth & Addiction Counselors) in fall 2015, requesting approval for instruments and data collection procedures.

Current activities are focused on notification and recruitment of state grantees, grantee and nongrantee districts, and grantee and nongrantee schools. Each grantee state will be asked to support the evaluation by encouraging the grantee districts to cooperate with the national evaluation contractor when contacted, enlist the participation of grantee schools, and provide access to data available through the district's management information system (MIS). Each grantee district will also be asked to assist the study with identifying and encouraging the participation of comparison (i.e, nongrantee) schools, where possible. For each treatment (*i.e.,* Project AWARE) school, one matched comparison school will be identified that is similar to the treatment school in terms of demographic characteristics and rates of incidents of violence and other measures but is not implementing Project AWARE activities. Both treatment and comparison schools will be asked to participate in the school, teacher, and student surveys (teachers and students) and data abstraction from the schools' MIS system.

If a comparison school cannot be identified or recruited from the same grantee district as the treatment school, an attempt will be made to recruit nongrantee districts and schools in a neighboring community where potential matched schools have been identified.

During site notification and recruitment, the evaluation contractor will send packets that include a letter, brochure, and frequently asked questions, and will follow up with a telephone call. The following entities will be contacted:

- All 20 NITT—Project AWARE grantees at the state level
- An estimated 90 local education agency partners (3–5 districts per state, under the grant requirements)
- An estimated 396 schools in grantee districts that will be implementing Project AWARE activities (''treatment schools'') (approximately 4–5 schools per grantee district are expected to participate in the evaluation). This estimate includes additional schools that may need to be contacted to replace grantee schools that are unable or unwilling to participate.
- An estimated 432 schools in grantee districts that are NOT currently implementing Project AWARE activities (''comparison schools''). This estimate includes additional schools that may need to be contacted to replace comparison schools that are unable or unwilling to participate.
- Approximately 30 nongrantee districts will be identified and recruited *as needed* if no comparison school is available in a grantee district to form a matched pair with a treatment school.
- Approximately 90 comparison schools in nongrantee districts will be identified and recruited *as needed* to form a matched pair for treatment schools with no comparison school available. For each treatment school without a comparison school, one best match and two alternates will be identified in each of the 30 districts.

The table below summarizes the reporting burden associated with this notification and recruitment activity. The total burden is 1,058 hours.

TOTAL BURDEN HOURS FOR THE NITT—PROJECT AWARE SITE NOTIFICATION AND RECRUITMENT

[FY2016]

Respondent	Number of respondents	Responses per respondent	Total number of responses	Hours per response	Total burden hours
State grantee official	20	1	20	1	20
District official in grantee district	90	1	90	1	90
School official in grantee district—treatment school	396	1	396	1	396
School official in grantee district—comparison school	432	1	432	1	432
District official in nongrantee district	30	1	30	1	30
School official in nongrantee district	90	1	90	1	90
Total	1,058		1,058		1,058

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 2–1057,

One Choke Cherry Road, Rockville, MD 20857 or email her a copy at *summer.king@samhsa.hhs.gov*. Written comments should be received by November 30, 2015.

Summer King,

Statistician.

[FR Doc. 2015–24627 Filed 9–28–15; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2015–0064]

Office for Interoperability and Compatibility Seeks Nominations for the Project 25 Compliance Assessment Program (P25 CAP) Advisory Panel

AGENCY: Science and Technology Directorate, DHS.

ACTION: Notice.

SUMMARY: The Department of Homeland Security (DHS) is once again seeking nominations and expressions of interest for membership on the Project 25 Compliance Assessment Program Advisory Panel (P25 CAP AP). DHS is providing the public with additional time to submit nominations because it wants to ensure that it has a broad and qualified pool of candidates to select from for the benefit of the program and its stakeholders. DHS previously made this request through the **Federal Register** (Docket No. DHS–2015–0041). DHS understands that the previous notice may have provided insufficient time for some to obtain the necessary components for a qualifying nomination package. The activities of the P25 CAP AP are expected to commence in fall 2015.

P25 is a standard which enables interoperability among digital two-way land mobile radio communications products created by and for public safety professionals. P25 CAP is a formal, independent process, created by DHS and operated in collaboration with the National Institute of Standards and Technology (NIST), for ensuring that communications equipment that is declared by the supplier to be P25 compliant, in fact, is tested against the standards with publicly published results. The P25 CAP AP would provide a resource by which DHS could gain insight into the collective interest of organizations that procure P25-compliant equipment and a resource in DHS's continuing to establish the policies of the P25 CAP along with assisting the DHS Office for Interoperability and Compatibility (OIC) in the administration of the Program.

DATES: All responses must be received within 15 days from the date of this notice at the address listed below.

ADDRESSES: Expressions of interest and nominations should be submitted to *SandTFRG@hq.dhs.gov*.

- *Instructions:* All submissions received must include the words ''Department of Homeland Security'' and DHS–2015–0064, the docket number for this action.

FOR FURTHER INFORMATION CONTACT: John Merrill, Director, Office for Interoperability and Compatibility, Science and Technology Directorate, Department of Homeland Security, 202–254–5604 (O), *John.Merrill@hq.dhs.gov*.

SUPPLEMENTARY INFORMATION:

Background

TIA–102/Project 25 (P25) is a standards development process for the design, manufacture, and evaluation of interoperable digital two-way land mobile radio communications products created by and for public safety professionals. The goal of P25 is to specify formal standards for interfaces and features between the various components of a land mobile radio system commonly used by public safety agencies in portable handheld and mobile vehicle-mounted devices. The P25 standard enables interoperability among different suppliers' products.

P25 CAP was developed by DHS and the National Institute of Standards and Technology (NIST) to test equipment designed to comply with P25 standards. The program provides public safety agencies with evidence that the communications equipment they are purchasing is tested against and complies with the P25 standards for performance, conformance, and interoperability.

P25 CAP is a voluntary system that provides a mechanism for the recognition of testing laboratories based on internationally accepted standards. It identifies competent P25 CAP testing laboratories for DHS-recognition through assessments by DHS-authorized accreditation bodies and promotes the acceptance of compliant test results from these laboratories.

As a voluntary program, P25 CAP allows suppliers to publicly attest to their products' compliance with a selected group of requirements through Summary Test Report (STR) and Supplier's Declaration of Compliance (SDOC) documents based on the Detailed Test Report (DTR) from the DHS-recognized laboratory (ies) that performed the product testing. In turn, P25 CAP makes these documents available to the first response community to inform their purchasing decisions via the *FirstResponder.gov/P25CAP* Web site.

Membership

The Science and Technology Directorate (S&T) of the DHS is forming the P25 CAP Advisory Panel to provide S&T with the views of active local, state, tribal, territorial and Federal government officials who use or whose offices use portable handheld and mobile vehicle-mounted radios. Those government officials selected to participate in the P25 CAP AP will be selected based on their experience with the management and procurement of land mobile radio systems or knowledge

of conformity assessment programs and methods. OIC will select candidates in light of the desire to balance viewpoints required to effectively address P25 CAP issues under consideration. OIC is particularly interested in receiving nominations and expressions of interest from individuals in the following categories:

- State, tribal, territorial, or local government agencies and organizations with expertise in communications issues and technologies.
- Federal government agencies with expertise in communications or homeland security matters.

While OIC can call for a meeting of the P25 CAP AP as it deems necessary and appropriate, for member commitment and planning purposes, it is anticipated that the P25 CAP AP will meet approximately 3–4 times annually in their role of providing guidance and support to the P25 CAP.

Those selected to serve on the P25 CAP AP will be required to sign a gratuitous services agreement and will not be paid or reimbursed for their participation; however, DHS S&T will reimburse the travel expenses associated with the participation of non-Federal members in accordance with Federal Travel Regulations. OIC reserves the right to select primary and alternate members to the P25 CAP AP for terms appropriate for the accomplishment of the Board's mission. Members serve at the pleasure of the OIC Director.

Registered lobbyists pursuant to the Lobbying Disclosure Act of 1995 are not eligible for membership on the P25 CAP AP and will not be considered.

Roles and Responsibilities

The duties of the P25 CAP AP will include providing recommendations of its individual members to OIC regarding actions and steps OIC could take to promote the P25 CAP. The duties of the P25 CAP AP may include but are not limited to its members reviewing, commenting on, and advising on:

a. The laboratory component of the P25 CAP under established, documented laboratory recognition guidelines.

b. Proposed Compliance Assessment Bulletins (CABs).

c. Proposed updates to previously approved CABs, as Notices of Proposed CABs, to enable comment and input on the proposed CAB modifications.

d. OIC updates to existing test documents or establishing new test documents for new types of P25 equipment.

e. Best practices associated with improvement of the policies and procedures by which the P25 CAP operates.

f. Existing test documents including but not limited to Supplier Declarations of Compliance (SDOCs) and Summary Test Reports (STRs) posted on the *FirstResponder.gov/P25CAP* Web site.

g. Proposed P25 user input for improving functionality through the standards-making process.

Nominations/Expressions of Interest Procedures and Deadline

Nominations and expressions of interest shall be received by OIC no later than 15 days from the date of this notice at the address listed above (*SandTFRG@hq.dhs.gov*). Nominations and expressions of interest received after this date shall not be considered. Each nomination and expression of interest must provide the following information as part of the submission:

- A cover letter that highlights a history of proven leadership within the public safety community including, if applicable, a description of prior experience with law enforcement, fire response, emergency medical services, emergency communications, National Guard, or other first responder roles and how the use of communications in those roles qualifies the nominee to participate on the P25 CAP AP.
- Name, title, and organization of the nominee.
- A resume summarizing the nominee's contact information (including the mailing address, phone number, facsimile number, and email address), qualifications, and expertise to explain why the nominee should be appointed to the P25 CAP AP.
- The resume must demonstrate a minimum of ten years (10) years of experience directly using P25 systems in an operational environment in support of established public safety communications or from a system implementer/administrator perspective; a bachelor's or associate degree with an emphasis in communications and engineering may be substituted for three (3) years, a master's/professional certification for seven (7) years, and a Ph.D. for ten (10) years of the requirement.
- The resume must discuss the nominee's familiarity with the current P25 CAP, including documents that are integral to the process such as the SDOCs, STRs, and CABs referenced in this notice
- A letter from the nominee's supervisor indicating the nominee's agency's support for the nominee to participate on the P25 CAP AP.
- Disclosure of Federal boards, commissions, committees, task forces, or work groups on which the nominee currently serves or has served within the past 12 months.
- A statement confirming that the nominee is not registered as a lobbyist pursuant to the Lobbying Disclosure Act of 1995.

Additional information can be found as follows:

Project 25 Compliance Assessment Program and Compliance Assessment Bulletins

http://www.firstresponder.gov/P25%20CAP%20Resources/Pages/P25CAPResources.aspx

http://www.firstresponder.gov/P25%20CAP%20Resources/Pages/Policy.aspx

Dated: September 23, 2015.

Reginald Brothers,

Under Secretary, DHS Science and Technology Directorate.

[FR Doc. 2015–24686 Filed 9–28–15; 8:45 am]

BILLING CODE 9110–9F–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[GX16LC00BM6BB00]

Agency Information Collection Activities: Request for Comments

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of a revision of a currently approved information collection (1028–0082).

SUMMARY: We (the U.S. Geological Survey) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act (PRA) of 1995, and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This collection is scheduled to expire on January 31, 2016.

DATES: To ensure that your comments are considered, we must receive them on or before November 30, 2015.

ADDRESSES: You may submit comments on this information collection to the Information Collection Clearance Officer, U.S. Geological Survey, 12201 Sunrise Valley Drive MS 807, Reston, VA 20192 (mail); (703) 648–7197 (fax); or *gs-info_collections@usgs.gov* (email). Please reference 'Information Collection 1028–0082, Bird Banding and Recovery Reports' in all correspondence.

FOR FURTHER INFORMATION CONTACT: Bruce Peterjohn, Patuxent Wildlife Research Center, U.S. Geological Survey, 12100 Beech Forest Rd,, Laurel, MD 20708 (mail); 301–497–5646 (phone); or *bpeterjohn@usgs.gov* (email). You may also find information about this ICR at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The USGS Bird Banding Laboratory is responsible for monitoring the trapping and marking of wild migratory birds by persons holding Federal permits. The Bird Banding Laboratory collects information using three forms: (1) The Application for Federal Bird Marking and Salvage Permit, (2) The Permit Renewal Form, and (3) The Bird Banding Recovery Report.

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2), and under regulations at 30 CFR 250.197, ''Data and information to be made available to the public or for limited inspection.'' Responses are voluntary. No questions of a ''sensitive'' nature are asked.

II. Data

OMB Control Number: 1028–0082.

Form Number: NA.

Title: Bird Banding and Recovery Reports.

Type of Request: Extension of a currently approved collection.

Affected Public: General Public.

Respondent's Obligation: None. Participation is voluntary.

Frequency of Collection: On occasion.

Estimated Total Number of Annual Responses: 44,500.

Estimated Time per Response: 3 to 30 minutes, depending on form used. The band recovery form receives approximately 43,900 responses annually. The permit application form receives approximately 100 and the permit renewal form receives approximately 500.

Estimated Annual Burden Hours: 2300 hours.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: We have not identified any ''non-hour cost'' burdens associated with this collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number and current expiration date.

III. Request for Comments

We are soliciting comments as to: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (d) how to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your personal mailing address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment, including your personally identifiable information, may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public view, we cannot guarantee that we will be able to do so.

Mark Wimer,

Deputy Center Director, USGS Patuxent Wildlife Research Center.

[FR Doc. 2015–24668 Filed 9–28–15; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[12 XL 5017AR LLUTC010000 L54400000 EQ0000 LVCLJ12J0460; UTU–89300]

Notice of Realty Action: Proposed Non-Competitive (Direct) Sale of Public Land in Beaver County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) is proposing a non-competitive (direct) sale of 8.125 acres of public land in Beaver County, Utah, to adjoining landowner, Kent and Alice Smith, under the provisions of the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, at not less than the appraised fair market value of $2,030. The sale parcel would be sold to the adjacent landowner to resolve an inadvertent unauthorized use confirmed by a private survey in 2009.

DATES: Comments regarding the sale must be received by the BLM on or before November 13, 2015. The land will not be offered for sale until at least 60 days after publication of this notice.

ADDRESSES: You may submit comments concerning this notice to the BLM Cedar City Field Office, Attn: Michelle Campeau, 176 East DL Sargent Drive, Cedar City, Utah 84721. Comments may be emailed to *mcampeau@blm.gov* or telefaxed to (435) 865–3058.

FOR FURTHER INFORMATION CONTACT: Michelle Campeau, Realty Specialist, 435–865–3047, at the above address or email to *mcampeau@blm.gov.* Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to leave a message or question for the above individual. The FIRS is available 24 hours a day, 7 days a week to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The following described public lands have been examined and found suitable for direct sale pursuant to Sections 203 and 209 of FLPMA, as amended (43 U.S.C. 1713 and 1719) and 43 CFR parts 2711 and 2720.

Salt Lake Meridian, Utah

T. 27 S., R. 10 W.,
Sec. 7, SE¼SW¼SE¼SE¼SW¼ and S½SE¼SE¼SE¼SW¼;
Sec. 18, N½NE¼NE¼ NW¼, NE¼SE¼NE¼NE¼NW¼,
and SE¼NE¼NW¼NE¼NW¼.
The areas described aggregate 8.125 acres.

The parcel would be sold to the adjacent landowners, Kent and Alice Smith, to resolve an inadvertent unauthorized use identified by the BLM in 2007 and confirmed through a private survey in 2009. The parcel represents the smallest legal subdivision that would wholly encompass all existing surface improvements and debris area associated with a former salvage and hauling operation.

In accordance with 43 CFR 2710.0–6(c)(3)(iii) and 43 CFR 2711.3–3(a), direct sale may be appropriate to resolve inadvertent, unauthorized occupancy of the land or to protect existing equities in the land. The sale, if completed, would protect the existing improvements and resolve the inadvertent unauthorized use and occupancy. The parcel is not suitable for management by other Federal agencies. A Notice of Intent to amend the Resource Management Plan (RMP) in support of the proposed sale was published on August 20, 2014 (79 FR 49336). Both the amendment and sale action have been analyzed in Environmental Assessment (EA) No.

C010–2012–0058–EA. The lands have no known mineral value, no recognized environmental conditions, and no existing encumbrances of record.

Conveyance of the parcel would be subject to valid existing rights and the following terms, conditions, and reservations:

1. A right-of-way thereon for ditches and canals constructed by authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. An appropriate indemnification clause protecting the United States from claims arising out of the patentee's use occupancy or occupations on the patented lands.

On August 20, 2014, the lands were segregated from the public land laws, including the mining laws, except for the sale provisions of FLPMA (79 FR 49336). Detailed information concerning the land sale including the EA, appraisal report, environmental site assessment, and mineral report are available for review at the BLM Cedar City Field Office.

Any comments regarding the sale will be reviewed by the BLM State Director or other authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action in whole or in part. In the absence of timely filed objections, this realty action will become the final determination of the Department of the Interior.

Before including your address, telephone 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 in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 CFR 2710, 2711, and 2720

Jenna Whitlock,

Acting State Director.

[FR Doc. 2015–24695 Filed 9–28–15; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVB01000.L71220000. EX0000.LVTFF15F6810 MO# 4500081505]

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Greater Phoenix Mine Project, Lander County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) Mount Lewis Field Office, Battle Mountain, Nevada, intends to prepare an Environmental Impact Statement (EIS) and by this notice is announcing the beginning of the scoping process to solicit public comments and identify issues.

DATES: This notice initiates the public scoping process for the EIS. Comments on issues may be submitted in writing until October 29, 2015. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local media, newspapers and the BLM Web site at: *http://www.blm.gov/nv/st/en/fo/battle_mountain_field.html.* In order to be considered during the preparation of the Draft EIS, all comments must be received prior to the close of the 30-day scoping period or 15 days after the last public meeting, whichever is later. The BLM will provide additional opportunities for public participation upon publication of the Draft EIS.

ADDRESSES: You may submit comments related to the proposed Greater Phoenix Mine Project by any of the following methods:

- *Email: BLM_NV_BMDO_GreaterPhoenixProject@blm.gov*
- *Fax:* 775–635–4034
- *Mail:* Mount Lewis Field Office, 50 Bastian Road, Battle Mountain, NV 89820.

Documents pertinent to this proposal may be examined at the Mount Lewis Field Office.

FOR FURTHER INFORMATION CONTACT: Chris Worthington, Project Manager, telephone: 775–635–4144; address: 50 Bastian Road, Battle Mountain, NV 89820; email: *BLM_NV_BMDO_GreaterPhoenixProejct@blm.gov.* Contact Mr. Worthington if you wish to add your name to our mailing list. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Newmont Mining Corporation, Inc. (NMC) proposes to amend the existing Phoenix Mine Plan of Operations to construct, operate, reclaim, and close an open pit, heap leach, gold and copper mining operation known as the Greater Phoenix Mine Project (Project) located 14 miles south of Battle Mountain, Nevada, in Lander County. The proposed Project would be located within all or portions of the following Townships, Ranges, and Sections relative to the Mount Diablo Baseline and Meridian: Township 30 North, Range 43 East, Sections 01, 02, 03, 04, 05, 08, 09, 10, 11, 14, 15, 16, 17, 20, 21, and 22; and Township 31 North, Range 43 East, Sections 15, 16, 20, 21, 22, 23, 25, 26, 27, 28, 29, 32, 33, 34, 35 and 36. The proposed Plan of Operations amendment would include increasing the existing Phoenix Mine plan boundary by 10,429 acres to 18,657 acres, of which approximately 9,950 acres is public land managed by the Mount Lewis Field Office. New surface disturbance would include approximately 3,245 acres, which includes approximately 2,285 acres of surface disturbance on public land administered by the BLM, and approximately 960 acres of surface disturbance on private land controlled by NMC.

The proposed Project consists of a modification to an existing mining Plan of Operations and a new right-of-way (ROW) grant authorization to be analyzed in a single NEPA analysis document. The proposed Project would create one large pit encompassing the footprint of the existing Bonanza and Fortitude pit areas into one large Phoenix Pit, of approximately 1,912 acres, of which approximately 568 acres is public land administered by the BLM. The proposed pit depths would intercept groundwater and pit dewatering would be necessary. Following mine closure, pit water would be managed and treated to meet water quality standards and subsequently put to beneficial use. The primary components associated with the proposed Project would include the open pit, two new waste rock dump facilities (WRDF), an expansion of an existing WRDF, expansion of an existing heap leach pad, an expansion of an

existing tailings storage facility, and a new borrow area.

NMC would continue to employ the existing workforce of approximately 500 employees for the construction, operation, reclamation, and closure of the proposed project expansion, which is anticipated to extend the mine life by approximately another 23 years from 2040 to 2063.

The proposed Project surface disturbance affecting Greater Sage-Grouse habitat on BLM administered land is 7 acres of Preliminary Priority Habitat (PPH) and 108 acres of Preliminary General Habitat (PGH). Since 2013, BLM biologists at the Mount Lewis Field Office have coordinated with the Nevada Department of Wildlife (NDOW) and the BLM State Office regarding NMC's disturbance to Greater Sage-Grouse habitat. Collectively, the organizations will formulate best management practices for Greater Sage-Grouse and other wildlife species and will agree on measures to mitigate the disturbance to Greater Sage-Grouse habitat through the EIS development.

The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including potential alternatives, and guide the process for developing the EIS. At present, the BLM has identified the following preliminary issues: Closure of the cyanide heap leach pad (s), water management, air quality impacts, wildlife (including migratory birds), special status species, noise and visual issues, soils, recreation, cultural resources, Native American cultural concerns, and grazing management.

The BLM will utilize and coordinate the NEPA scoping process to help fulfill the public involvement process under the National Historic Preservation Act (NHPA) (54 U.S.C. 306108) as provided in 36 CFR 800.2(d)(3). The information about historic and cultural resources within the area potentially affected by the proposed Project will assist the BLM in identifying and evaluating impacts to such resources in the context of both NEPA and the NHPA.

The BLM will consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed Project that the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the environmental analysis as a cooperating agency.

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: 40 CFR 1501.7.

Jon D. Sherve,

Field Manager, Mount Lewis Field Office.

[FR Doc. 2015–24432 Filed 9–28–15; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAK930000.L13100000.EI0000.241A]

Notice of National Petroleum Reserve in Alaska Oil and Gas Lease Sale 2015 and Notice of Availability of the Detailed Statement of Sale for Oil and Gas Lease Sale 2015 in the National Petroleum Reserve in Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management's (BLM) Alaska State Office hereby notifies the public it will hold a National Petroleum Reserve in Alaska oil and gas lease sale bid opening for tracts in the National Petroleum Reserve in Alaska. The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid.

DATES: The oil and gas lease sale bid opening will be held at 1 p.m. on Wednesday, November 18, 2015. Sealed bids must be received by 4 p.m., Monday, November 16, 2015.

ADDRESSES: The oil and gas lease sale bids will be opened at the Anchorage Federal Building, Denali Room (fourth floor), 222 West 7th Avenue, Anchorage, AK. Sealed bids must be sent to Carol Taylor (AK932), BLM-Alaska State Office; 222 West 7th Avenue, #13; Anchorage, AK 99513–7504.

FOR FURTHER INFORMATION CONTACT: Wayne Svejnoha, 907–271–4407. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management's (BLM) Alaska State Office, under the authority of 43 CFR 3131.4–1(a), hereby notifies the public it will hold a National Petroleum Reserve in Alaska oil and gas lease sale bid opening for tracts in the National Petroleum Reserve in Alaska.

All bids must be submitted by sealed bid in accordance with the provisions identified in the Detailed Statement of Sale. They must be received at the BLM Alaska State Office, ATTN: Carol Taylor (AK932); 222 West 7th Avenue, #13; Anchorage, AK 99513–7504; no later than 4:00 p.m., Monday, November 16, 2015.

The Detailed Statement of Sale for the National Petroleum Reserve in Alaska Oil and Gas Lease Sale 2015 will be available to the public immediately after publication of this Notice in the **Federal Register**. The Detailed Statement may be obtained from the BLM Alaska Web site at *www.blm.gov/ak,* or by request from the Public Information Center, BLM Alaska State Office; 222 West 7th Avenue, #13; Anchorage, AK 99513–7504; telephone 907–271–5960. The Detailed Statement of Sale will include a description of the areas to be offered for lease, the lease terms, conditions, special stipulations, required operating procedures, and how and where to submit bids.

Authority: 43 CFR 3131.4–1 and 43 U.S.C. 1733 and 1740.

Bud C. Cribley,

State Director.

[FR Doc. 2015–24671 Filed 9–28–15; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[BOEM–2015–0016]

Revised Environmental Assessment for Virginia Offshore Wind Technology Advancement Project on the Atlantic Outer Continental Shelf Offshore Virginia; MMAA104000

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of Availability of a Revised Environmental Assessment and a Finding of No Significant Impact.

SUMMARY: BOEM is announcing the availability of a revised Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the approval of the Virginia Offshore Wind Technology Advancement Project (VOWTAP). The revised EA provides a discussion of potential impacts of the proposed action and an analysis of reasonable alternatives to the proposed action. As a result of the analysis in the revised EA, BOEM issued a FONSI concluding that the reasonably foreseeable environmental impacts associated with the proposed action and alternatives would not significantly impact the quality of the human environment. These documents and associated information are available on BOEM's Web site at *http://www.boem.gov/VOWTAP/.*

FOR FURTHER INFORMATION CONTACT: Michelle Morin, BOEM Office of Renewable Energy Programs, 45600 Woodland Road, Sterling, Virginia 20166, (703) 787–1340 or *michelle.morin@boem.gov.*

SUPPLEMENTARY INFORMATION: In December 2014, BOEM published an EA to consider the reasonably foreseeable environmental consequences associated with the approval of wind energy-related research activities (*i.e.,* construction, operation, maintenance, and eventual decommissioning of the VOWTAP) offshore Virginia as proposed by the Commonwealth of Virginia's Department of Mines, Minerals, and Energy (DMME). A Notice of Availability was published on December 2, 2014 to announce the availability of the EA and initiate a 30-day public comment period. On January 2, 2015, BOEM published a **Federal Register** notice extending the comment period until January 16, 2015. The EA was subsequently revised based on comments received during the comment period and a public information meeting. The revised EA provides technical clarification, such as the type of aviation safety lights that would be installed on the turbines, and the parameters used in the avian collision model. Also the revised EA provides additional information detailing the vegetation and land cover of the onshore impact area associated with cable installation and seasonal prohibitions for North Atlantic right whales. In addition to the proposed action, the revised EA considers the same alternative turbine locations considered in the December 2014 EA. BOEM's analysis of the proposed action and alternatives still takes into account standard operating conditions designed to avoid or minimize potential impacts to protected species of marine mammals and sea turtles, including: (1) Those required during all project activity associated with the VOWTAP (vessel strike avoidance, marine debris awareness, and reporting); (2) those required during high-resolution geophysical surveys (establishment, monitoring and clearance of an exclusion zone; and shutdown, ramp up, power down, and pause procedures); (3) those required during pile driving (establishment, monitoring and clearance of an exclusion zone; prohibition on pile driving from November 1 to April 30 and within an active Dynamic Management Area; and soft start and shut down, and pause procedures); and (4) those required during dynamic positioning thruster use (establishment and monitoring of an exclusion zone, and ramp up and power down procedures). In accordance with the requirements of the National Environmental Policy Act (NEPA) and the Council on Environmental Quality's (CEQ) regulations implementing NEPA at 40 CFR 1500–1508, BOEM issued a FONSI supported by the analysis in the revised EA. The FONSI concluded that the reasonably foreseeable environmental impacts associated with the proposed action and alternatives, as set forth in the EA, would not significantly impact the quality of the human environment; therefore, the preparation of an Environmental Impact Statement is not required.

Authority: This Notice of Availability for an EA is in compliance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4231 *et seq.*), and is published pursuant to 43 CFR 46.305.

Dated: June 22, 2015.

Abigail Ross Hopper,

Director, Bureau of Ocean Energy Management.

Editorial Note: The Office of the Federal Register received this document on September 22, 2015.

[FR Doc. 2015–24408 Filed 9–28–15; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–528–529 and 731–TA–1264–1268 (Final)]

Certain Uncoated Paper from Australia, Brazil, China, Indonesia, and Portugal; Scheduling of the Final Phase of Countervailing Duty and Antidumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701–TA–528–529 and 731–TA–1264–1268 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of certain uncoated paper from Australia, Brazil, China, Indonesia, and Portugal, provided for in subheadings 4802.56 and 4802.57 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce to be subsidized and sold at less-than-fair-value.[1]

DATES: Effective Date: August 24, 2015.

FOR FURTHER INFORMATION CONTACT: Nathanael N. Comly (202–205–3174), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled pursuant to sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)), as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as uncoated paper in sheet form; weighing at least 40 grams per square meter but not more than 150 grams per square meter; that either is a white paper with a GE brightness level 7 of 85 or higher or is a colored paper; whether or not surface decorated, printed (except as noted), embossed, perforated, or punched; irrespective of the smoothness of the surface; and irrespective of dimensions. For a full description of the scope of the investigations, including product exclusions, *see Certain Uncoated Paper from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination,* 80 FR 36968, June 29, 2015.

703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China and Indonesia of certain uncoated paper, and that such products from Australia, Brazil, China, Indonesia, and Portugal are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in petitions filed on January 21, 2015, by United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (Pittsburg, Pennsylvania); Domtar Corporation (Ft. Mill, South Carolina); Finch Paper LLC (Glen Falls, New York); P.H. Glatfelter Company (York, Pennsylvania); and Packaging Corporation of America (Lake Forest, Illinois).

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on December 16, 2015, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on January 07, 2016, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before December 31, 2015. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on January 5, 2016, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is December 23, 2015. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is January 14, 2016. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before January 14, 2016. On February 2, 2016, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before February 4, 2016, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's Web site at *http://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: September 23, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–24593 Filed 9–28–15; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act—Global Climate and Energy Project

Notice is hereby given that, on August 17, 2015, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Global Climate and Energy Project (''GCEP'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership, nature and objective. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages

under specified circumstances. Specifically, General Electric Company, Fairfield, CT, and as of September 1, 2015, E.I. du Pont de Nemours and Company, Wilmington, DE, have withdrawn as parties to this venture. The change in its nature and objectives is that the members of GCEP have amended the agreement between them to provide for fixed Sponsor participation fees, to establish comprehensive procedures for the disclosure and treatment of non-project patent rights, and to extend the termination of GCEP from August 31, 2016, to August 31, 2018.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and GCEP intends to file additional written notifications disclosing all changes in membership.

On March 12, 2003, GCEP filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on April 4, 2003 (68 FR 16552).

The last notification was filed with the Department on June 10, 2014. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 24, 2014 (79 FR 43069).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2015–24604 Filed 9–28–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act—PXI Systems Alliance, Inc.

Notice is hereby given that, on September 8, 2015, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), PXI Systems Alliance, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Innovative Integration, Camarillo, CA, has been added as a party to this venture.

Also, Amplicon Liveline Ltd., Brighton, UNITED KINGDOM; Beijing Control Industrial Computer Corporation, Beijing, PEOPLE'S REPUBLIC OF CHINA; and Bloomy Controls, Inc., Windsor, CT, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PXI Systems Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On November 22, 2000, PXI Systems Alliance, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 8, 2001 (66 FR 13971).

The last notification was filed with the Department on June 26, 2015. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 22, 2015 (80 FR 43462).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2015–24610 Filed 9–28–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act—Interchangeable Virtual Instruments Foundation, Inc.

Notice is hereby given that, on September 8, 2015, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Interchangeable Virtual Instruments Foundation, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Lady Bug Technologies, Santa Rosa, CA, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Interchangeable Virtual Instruments Foundation, Inc. intends to file additional written notifications disclosing all changes in membership.

On May 29, 2001, Interchangeable Virtual Instruments Foundation, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 30, 2001 (66 FR 39336).

The last notification was filed with the Department on June 26, 2015. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 22, 2015 (80 FR 43473).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2015–24607 Filed 9–28–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act—Open Platform for NFV Project, Inc.

Notice is hereby given that, on September 10, 2015, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Open Platform for NFV Project, Inc. (''Open Platform for NFV Project'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, CertusNet, Inc., Nanjing, PEOPLE'S REPUBLIC OF CHINA; and Freescale Semiconductor, Inc., Austin, TX, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Open Platform for NFV Project intends to file additional written notifications disclosing all changes in membership.

On October 17, 2014, Open Platform for NFV Project filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 14, 2014 (79 FR 68301).

The last notification was filed with the Department on June 22, 2015. A notice was published in the **Federal**

Register pursuant to Section 6(b) of the Act on July 17, 2015 (80 FR 42538).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2015–24608 Filed 9–28–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act—UHD Alliance, Inc.

Notice is hereby given that, on September 10, 2015, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), UHD Alliance, Inc. (''UHD Alliance'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Fraunhofer Gesellschaft, Erlangen, GERMANY; HiSilicon Technologies Co., Ltd., Shenzhen, PEOPLE'S REPUBLIC OF CHINA; Novatek Microelectronics Corp., Hsinchu, TAIWAN; and Sharp Corporation, Yaita-shi, Tochigi Prefecture, JAPAN, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and UHD Alliance intends to file additional written notifications disclosing all changes in membership.

On June 17, 2015, UHD Alliance filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 17, 2015 (80 FR 42537).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2015–24609 Filed 9–28–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Meeting of the Compact Council for the National Crime Prevention and Privacy Compact

AGENCY: Federal Bureau of Investigation, DOJ.

ACTION: Meeting notice.

SUMMARY: The purpose of this notice is to announce a meeting of the National Crime Prevention and Privacy Compact Council (Council) created by the National Crime Prevention and Privacy Compact Act of 1998 (Compact). Thus far, the Federal Government and 30 states are parties to the Compact which governs the exchange of criminal history records for licensing, employment, and similar purposes. The Compact also provides a legal framework for the establishment of a cooperative federal-state system to exchange such records.

The United States Attorney General appointed 15 persons from state and federal agencies to serve on the Council. The Council will prescribe system rules and procedures for the effective and proper operation of the Interstate Identification Index system for noncriminal justice purposes.

Matters for discussion are expected to include:

(1) Draft **Federal Register** Notice of Approval for the Bureau of Indian Affairs Criminal History Record Checks Utilizing Purpose Code X
(2) Sharing Information on Lessons Learned During National Fingerprint File Implementation
(3) Review of the Draft Civil Fingerprint Image Quality Strategy Guide

The meeting will be open to the public on a first-come, first-seated basis. Any member of the public wishing to file a written statement with the Council or wishing to address this session of the Council should notify the Federal Bureau of Investigation (FBI) Compact Officer, Mr. Gary S. Barron at (304) 625–2803, at least 24 hours prior to the start of the session. The notification should contain the individual's name and corporate designation, consumer affiliation, or government designation, along with a short statement describing the topic to be addressed and the time needed for the presentation. Individuals will ordinarily be allowed up to 15 minutes to present a topic.

DATES: Dates and Times: The Council will meet in open session from 9 a.m. until 5 p.m., on November 4–5, 2015.

ADDRESSES: The meeting will take place at the DoubleTree by Hilton Tucson—Reid Park, 445 South Alvernon Way, Tucson, Arizona, telephone (520) 881–4200.

FOR FURTHER INFORMATION CONTACT: Inquiries may be addressed to Mr. Gary S. Barron, FBI Compact Officer, Module D3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306, telephone (304) 625–2803, facsimile (304) 625–2868.

Dated: September 22, 2015.

Gary S. Barron,

FBI Compact Officer, Criminal Justice Information Services Division, Federal Bureau of Investigation.

[FR Doc. 2015–24667 Filed 9–28–15; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Agency Information Collection Activities; Proposed Collection; Comments Requested; Request To Be Included on the List of Pro Bono Legal Service Providers for Individuals in Immigration Proceedings (Form EOIR–56)

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), Executive Office for Immigration Review, will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was developed pursuant to public comment received in connection with the **Federal Register** publication of a Notice of Proposed Rule Making (NPRM), List of Pro Bono Legal Service Providers for Aliens in Immigration Proceedings, allowing for a 60 day comment period. *See* 79 *FR* 180, at 55662 (Sept. 17, 2014).

DATES: Comments are encouraged and will be accepted for an additional 30 days until October 29, 2015.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Jean King, General Counsel, Executive Office for Immigration Review, U.S. Department of Justice, Suite 2600, 5107 Leesburg Pike, Falls Church, Virginia 22041; telephone: (703) 305–0470. Written comments and/or suggestions can also be directed to the Office of

Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and/or

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

1. *Type of Information Collection:* New Information Collection.

2. *The Title of the Form/Collection:* Request to be included on the List of Pro Bono Legal Service Providers for Individuals in Immigration Proceedings.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form EOIR–56. The applicable component within the Department of Justice is the Office of Legal Access Programs, Executive Office for Immigration Review.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Legal service providers seeking to be included on the List of Pro Bono Legal Service Providers (''List''), a list of persons who have indicated their availability to represent aliens on a pro bono basis. Abstract: Currently, there is no EOIR form for organizations, private attorneys, and referral services to be included on the List. The NPRM for the List indicated that there was no specific form or information collection instrument associated with this rule. *See* 79 FR 55669. However, pursuant to public comments suggesting that EOIR look for alternative electronic methods through which to make an initial application and apply for continued participation in the List, EOIR has created a fillable pdf. form (Form EOIR–56) for this purpose. Form EOIR–56 is voluntary, and may be used to elicit, in a uniform manner, all of the required information for EOIR to determine whether an applicant meets the eligibility requirements for inclusion on the List.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 129 respondents will complete the form annually with an average of 30 minutes per response.

6. *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 64.5 total annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: September 24, 2015.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2015–24626 Filed 9–28–15; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Agreement and Order Regarding Modification of Consent Decree Under the Clean Water Act

On September 23, 2015, the Department of Justice lodged a proposed Agreement and Order Regarding Modification of the Consent Decree (''Consent Decree Modification'') with the United States District Court for the Southern District of Texas in the lawsuit entitled *United States and Texas* v. *Harris County Municipal Utility District Number 50,* Civil Action No. 4:00–cv–01931.

In a Complaint filed on June 6, 2000, Plaintiff United States alleged violations of the Clean Water Act, 33 U.S.C. 1251 *et seq.,* at Harris County Municipal District Number 50's (''HCMUD50's'') sewage treatment plant. A Consent Decree was entered on September 22. 2000, and pursuant to that Consent Decree, HCMUD50 made improvements that resulted in compliance in most areas, though additional improvements are needed to the sewage collection system. The proposed Modified Consent Decree would amend the original Consent Decree to require HCMUD50 to implement necessary modifications and improvements to its collection system by December 31, 2016.

The publication of this notice opens a period for public comment on the Consent Decree Modification. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and Texas* v. *Harris County Municipal Utility District Number 50,* D.J. Ref. No. 90–5–1–1–4505. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree Modification may be examined and downloaded at this Justice Department Web site: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree Modification upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $4.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Thomas Carroll,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2015–24618 Filed 9–28–15; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Refuge Alternatives for Underground Coal Mines

ACTION: Notice.

SUMMARY: On September 30, 2015, the Department of Labor (DOL) will submit

the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) revision titled, ''Refuge Alternatives for Underground Coal Mines,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq*. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before November 30, 2015.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201507-1219-003* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–MSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue, NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Refuge Alternatives for Underground Coal Mines information collection. MSHA regulations mandate each underground coal mine to have an emergency response plan and refuge alternative(s) to protect miners by providing secure spaces with isolated atmospheres that create life-sustaining environments when escape from a mine during a mine emergency is not possible. *See* 30 CFR 75.1506(c)(2), 75–1507, and 75–1508(a) and (b). This ICR covers the refuge alternatives portion of emergency response plans and records for training, examination, maintenance, and repair of refuge alternatives and components. This ICR is being submitted as a revision, because the MSHA has transferred burden to other approved collections; this ICR makes the corresponding changes to this collection. Federal Mine Safety and Health Act of 1977 sections 101(a)(6) and 103(c) and (h) authorize this information collection. *See* 30 U.S.C. 811(a)(6); 813(c), (h).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1219–0146.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on September 30, 2015. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 28, 2015 (80 FR 30494).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section by November 30, 2015. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1219–0146. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–MSHA.

Title of Collection: Refuge Alternatives for Underground Coal Mines.

OMB Control Number: 1219–0146.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 16.

Total Estimated Number of Responses: 49.

Total Estimated Annual Time Burden: 219 hours.

Total Estimated Annual Other Costs Burden: $50.

Dated: September 23, 2015.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2015–24617 Filed 9–28–15; 8:45 am]

BILLING CODE 4510–43–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0212]

Perry Nuclear Power Plant, Unit 1; Consideration of Approval of Transfer of License and Conforming Amendment; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Application for direct transfer of license; opportunity to comment, request a hearing, and petition for leave to intervene; order; correction.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is correcting a notice that was published in the **Federal Register** (FR) on September 16, 2015, regarding FirstEnergy Nuclear Operating Company's June 30, 2015, application for a direct transfer of the leased interests in NPF–58 for Perry Nuclear Power Plant, Unit 1, from the current holder, the Ohio Edison Company, to FirstEnergy Nuclear Generation, LLC. This action is necessary to correct the number of days for the deadline for submitting a petition for intervention identified in Attachment 1, ''General

Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information in this Proceeding,'' of the September 16, 2015, notice.

DATES: The correction is effective September 29, 2015.

ADDRESSES: Please refer to Docket ID NRC–2015–0212 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–2015–0212. 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 Application for Order Consenting to Transfer of Licenses and Conforming License Amendment is available in ADAMS under Accession No. ML15181A366.

• *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: Kimberly Green, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1627, email: *Kimberly.Green@nrc.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** on September 16, 2015, in FR Doc. 2015–23183, on page 55660, in Attachment 1, first column, third line, correct ''60'' to read ''20.''

Dated at Rockville, Maryland, this 23rd day of September, 2015.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2015–24646 Filed 9–28–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos.: 72–1004, 72–40, 50–269, 50–270, 50–287; and NRC–2015–0191]

Duke Energy Carolinas, LLC; Oconee Nuclear Station Units 1, 2, and 3; Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to a request submitted by Duke Energy Carolinas, LLC., on August 28, 2014, from meeting Technical Specification (TS) 1.2.4a of Attachment A of CoC No. 1004, which limits the leak rate of the inner seal weld to 1.0 X 10–7 reference cubic centimeters per second (ref cc/s) at the highest DSC limiting pressure, for five (5) dry shielded canisters (DSCs) at the Oconee Nuclear Station, Independent Spent Fuel Storage Installation (ISFSI).

ADDRESSES: Please refer to Docket ID NRC–2015–0191 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–2015–0191. 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 O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: John Vera, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–5790; email: *John.Vera@nrc.gov.*

SUPPLEMENTARY INFORMATION:

1.0 Background

Duke Energy Carolinas, LLC (the applicant) is the holder of Facility Operating License Nos. DPR–38, DPR–47, and DPR–55, which authorize operation of the Oconee Nuclear Station, Units 1, 2, and 3 in Oconee County, South Carolina, pursuant to part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities.'' The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the NRC now or hereafter in effect.

Consistent with 10 CFR part 72, subpart K, ''General License for Storage of Spent Fuel at Power Reactor Sites,'' a general license is issued for the storage of spent fuel in an ISFSI at power reactor sites to persons authorized to possess or operate nuclear power reactors under 10 CFR part 50. The applicant is authorized to operate a nuclear power reactor under 10 CFR part 50, and holds a 10 CFR part 72 general license for storage of spent fuel at the Oconee Nuclear Station ISFSI. Under the terms of the general license, the applicant stores spent fuel at its ISFSI using the Transnuclear, Inc. (TN) Standardized NUHOMS® dry cask storage system Certificate of Compliance (CoC) No. 1004, Amendment No. 9.

2.0 Request/Action

The applicant has requested an exemption from the requirements of 10 CFR 72.212(b)(3), 10 CFR 72.212(b)(5)(i), and the portion of 10 CFR 72.212(b)(11) that requires compliance with the terms, conditions, and specifications of CoC No. 1004, Amendment No. 9, for the Standardized NUHOMS® Horizontal Modular Storage System, to the extent necessary for the applicant to maintain 5 DSCs in their current position at the ISFSI associated with the operation of Oconee, Units 1, 2, and 3. These regulations specifically require storage of spent nuclear fuel under a general license in dry storage casks approved under the provisions of 10 CFR part 72, and compliance with the terms and conditions set forth in the CoC for each dry storage spent fuel cask used by an ISFSI general licensee. Specifically, the exemption would relieve the applicant from meeting TS 1.2.4a of Attachment A of CoC No. 1004, which limits the leak rate of the inner seal weld to 1.0 x

10^{7} reference cubic centimeters per second (ref cc/s) at the highest DSC limiting pressure. As a result, granting this exemption will allow for continued storage of DSCs numbers 93, 94, 100, 105, and 106 at the Oconee Nuclear Station ISFSI.

In January 2014, the applicant identified a discrepancy on a test report processed from the helium leak rate instrument vendor. The discrepancy was that the temperature coefficient was stated as four (4) percent per degree Celsius (%/°C), when previously this value was three (3) %/°C. The applicant stated that the instrument vendor confirmed that the three (3) %/°C coefficient was incorrect for this instrument, and that canisters loaded at ambient temperatures greater than (≤) 23°C would have had a non-conservative temperature coefficient applied to the helium leak rate measurement. The applicant stated that the incorrect value had been used to calculate the leak rates of forty-seven (47) DSCs.

According to the applicant, forty-two (42) of the forty-seven (47) DSCs affected were verified to meet the TS. The applicant's re-evaluation involved verifying the ambient temperature when the DSCs were loaded and applying the appropriate temperature coefficient. However, the applicant stated that the actual temperature correction value datasheets could not be found for DSCs 93, 94, 100, 105, and 106, and that these canisters were loaded in the summer months when ambient conditions during helium leak testing would likely have exceeded 23°C, so the revised temperature correction factor would have been applicable. The applicant stated that for these DSCs, without evidence of the actual ambient temperature or test value, confirmation that the TS was met with the revised temperature coefficient was not possible.

In a letter dated August 28, 2014, (ADAMS Accession No. ML14255A005), as supplemented December 8, 2014 (ADAMS Accession No. ML14346A008), and June 12, 2015 (ADAMS Accession No. ML15169B103), the applicant requested an exemption from certain parts of the following requirements to allow storage of the 5 DSCs at the Oconee Nuclear Station ISFSI:

- 10 CFR 72.212(b)(3), which states that ''[t]he general licensee must [e]nsure that each cask used by the general licensee conforms to the terms, conditions, and specifications of a CoC or an amended CoC listed in § 72.214.''
- 10 CFR 72.212(b)(5)(i), which requires that, ''The general licensee perform written evaluations, before use and before applying the changes authorized by an amended CoC to a cask loaded under the initial CoC or an earlier amended CoC, which establish that [t]he cask, once loaded with spent fuel or once the changes authorized by an amended CoC have been applied, will conform to the terms, conditions, and specifications of a CoC or an amended CoC listed in § 72.214.''
- 10 CFR 72.212(b)(11), which states in part that ''[t]he licensee shall comply with the terms, conditions, and specifications of the CoC and, for those casks to which the licensee has applied the changes of an amended CoC, the terms, conditions, and specifications of the amended CoC. . . .''

Upon review, in addition to the requirements from which the applicant requested exemption, the NRC staff determined exemptions from the following requirements are also necessary in order to authorize the applicant's request and added the following requirements to the exemption for the proposed action pursuant to its authority under 10 CFR 72.7, ''Specific exemptions'':

- 10 CFR 72.212(a)(2), which states that ''[t]his general license is limited to storage of spent fuel in casks approved under the provisions of this part.''
- 10 CFR 72.214, which lists the approved spent fuel storage casks.

3.0 Discussion

Pursuant to 10 CFR 72.7, the Commission may, upon application by any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations of 10 CFR part 72 as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

Authorized by Law

This exemption would allow the applicant to continue storage of DSCs numbers 93, 94, 100, 105, and 106 in their as-loaded configurations at the Oconee ISFSI by relieving the applicant of the requirement to meet the inner seal weld leak rate limit as required by TS 1.2.4a of Attachment A of CoC No. 1004. The provisions in 10 CFR part 72 from which the applicant is requesting exemption, as well as provisions determined to be applicable by the NRC staff, require the licensee to comply with the terms, conditions, and specifications of the CoC for the approved cask model it uses. Section 72.7 allows the NRC to grant exemptions from the requirements of 10 CFR part 72. Granting the licensee's proposed exemption is not otherwise inconsistent with NRC regulations or other applicable laws. As explained below, the proposed exemption will not endanger life or property, or the common defense and security, and is otherwise in the public interest. Therefore, the exemption is authorized by law.

Will Not Endanger Life or Property or the Common Defense and Security

This exemption would relieve the applicant from meeting TS 1.2.4a of Attachment A of CoC No. 1004, which limits the leak rate of the inner seal weld to less than or equal to 1.0×10^{-7} ref cc/s at the highest DSC limiting pressure, allowing for continued storage of DSCs numbers 93, 94, 100, 105, and 106 in their as loaded conditions at the Oconee Nuclear Station ISFSI. This exemption only addresses the 5 DSCs for which the ambient temperature at time of loading could not be confirmed by the applicant. Because the temperature at the time of loading cannot be confirmed, the applicant cannot demonstrate that the leak rate of the inner seal weld would be less than or equal to 1.0×10^{-7} ref cc/s at the highest DSC limiting pressure. As detailed below, NRC staff reviewed the exemption request to determine whether granting of the exemption would cause potential for danger to life, property, or common defense and security.

Review of the Requested Exemption

Background: The NUHOMS® system provides for the horizontal dry storage of canisterized spent fuel assemblies in a concrete horizontal storage module (HSM). The cask storage system components for NUHOMS® consist of a reinforced concrete HSM and a DSC vessel with an internal basket assembly that holds the spent fuel assemblies. The HSM is a low-profile, reinforced concrete structure designed to withstand all normal condition loads, as well as abnormal condition loads created by natural phenomena such as earthquakes and tornados. It is also designed to withstand design basis accident conditions. The Standardized NUHOMS® Horizontal Modular Storage System has been approved for storage of spent fuel under the conditions of Certificate of Compliance No. 1004. The DSCs under consideration for exemption were loaded under Certificate of Compliance No. 1004, Amendment No. 9.

The NRC has previously approved the Standardized NUHOMS® Horizontal Modular Storage System storage system. The requested exemption does not change the fundamental design, components, contents, or safety features

of the storage system. The NRC staff evaluated the applicable potential safety impacts of granting the exemption to assess the potential for danger to life or property or the common defense and security. The potential impacts identified for this exemption request were in the areas of structural integrity and confinement capability.

Structural Review for the Requested Exemption: The two objectives of TS 1.2.4a are to (1) demonstrate that the top cover is ''leak tight'' as defined in ANSI N14.5—1997, ''American National Standard for Leakage Tests on Packages for Shipment of Radioactive Materials,'' and (2) to retain helium cover gases within the DSC to provide heat dissipation and minimize oxidation of the fuel cladding. There are two tests used to verify the ''leak tight'' condition of the inner top cover seal weld. The first is a dye penetrant test (PT) and the second is a helium leak test (LT).

The applicant stated that the dye penetrant tests conducted met the limits of TS 1.2.5 for the population of forty-seven (47) canisters for which the helium leak rates were calculated with the incorrect temperature coefficient.

The structural acceptance criteria for both the inner top cover weld and the outer top cover weld is predicated on the successful results of the dye penetrant test in accordance with Interim Staff Guidance (ISG)—15 ''Materials Evaluation'' (ADAMS Accession No. ML010100170). The NRC staff finds that because the dye penetrant tests were acceptable, the staff finds that welds are structurally acceptable. There are no structural implications with the inner top cover seal weld as a result of the helium leak test having been conducted with an incorrect temperature correction coefficient. The NRC staff finds that the structural properties of the five (5) CoC No. 1004, Amendment No. 9 DSCs addressed in the exemption request remain in compliance with 10 CFR part 72 and the applicable design and acceptance criteria have been satisfied.

Confinement Review for the Requested Exemption: For canisters affected by use of an incorrect temperature coefficient for leakage rate, the licensee was unable to verify compliance with the technical specifications and thus performed a bounding leak rate calculation based on the maximum bounding temperature (40.6°C) expected during the loading of the DSCs. The NRC staff finds that this temperature is bounding based on publicly published values for the maximum temperature for the area surrounding Oconee (ADAMS Accession No. ML15218A297). This calculation resulted in a calculated leak rate limit of 1.02×10^{-7} ref cc/s (air), or a 2% increase. This does not mean that an actual leakage rate of 1.02×10^{-7} ref cc/s (air) is expected but that the licensee asserts it is a reasonable estimate of the worst case leakage rate that can be derived in the absence of an actual recorded temperature data at the time of leak testing.

The NRC staff finds that the assumption of a maximum bounding temperature, as described above, is appropriate, because the actual ambient temperature is unknown. Use of this assumption demonstrated that the calculated revised leakage rate limit cannot be greater than reported (1.02×10^{-7} ref cc/s (air)). The ambient temperature in part determines the maximum size of the equivalent hole for leak rate calculations, and since the maximum likely temperature value was used, the NRC staff determined that it is reasonable for the license to conclude that a bounding leak rate would be achieved with a maximum equivalent hole size.

The NRC staff reviewed the applicant's calculation method for determining the equivalent leak rate hole size and the estimated leakage rate corrected for assumed gas mixtures (*i.e.,* air: helium). The NRC staff determined that, based on this calculation, even if significant uncertainty in the physical parameters used in the calculation were considered, the maximum equivalent hole size was the main driver that would account for any large change in a calculated leak rate criteria. Accordingly, the NRC staff determined that the revised calculated leakage rate with a bounding maximum temperature could not also result in large changes in the calculated leakage rate depending on the geometric or other physical parameters, such as pressure, which are used in the calculation. Therefore, the NRC staff concludes that consideration of the maximum expected temperature provides a reasonable best estimate of the maximum leakage rate that could be expected for the subject DSCs. Inspection of the revised bounding leak rate calculation demonstrates that even if the package was leaking at the revised leakage rate, there would still be no significant release of radioactive material to the environment nor would this leakage rate result in a depletion of the inert helium environment necessary to ensure spent fuel cladding integrity.

The NRC staff finds that the confinement functions of the five (5) CoC No. 1004, Amendment No. 9 DSCs addressed in the exemption request remain in compliance with 10 CFR part 72.

The NRC staff considered the potential impacts of granting the exemption on the common defense and security. The requested exemption is not related to any security or common defense aspect of the Oconee Nuclear Station ISFSI, therefore granting the exemption would not result in any potential impacts to common defense and security.

Based on its review, the NRC staff has reasonable assurance that in granting the exemption, the storage system will continue meet the thermal, structural, criticality, retrievability and radiation protection requirements of 10 CFR part 72 and the offsite dose limits of 10 CFR part 20 and, therefore, will not endanger life or property. The NRC staff also finds that there is no threat to the common defense and security.

Therefore, the NRC staff concludes that the exemption to relieve the applicant from meeting TS 1.2.4a of Attachment A of CoC No. 1004, which limits the leak rate of the inner seal weld to less than or equal to 1.0×10^{-7} ref cc/s at the highest DSC limiting pressure, allowing for continued storage of DSCs numbers 93, 94, 100, 105, and 106 at the Oconee Nuclear Station ISFSI, will not endanger life or property or the common defense and security.

Otherwise in the Public Interest

In considering whether granting the exemption is in the public interest, the NRC staff considered the alternative of not granting the exemption. If the exemption were not granted, in order to comply with the CoC, the five DSCs which are subject to the exemption request would have to be unloaded from the storage module, transported back to the cask handling area, opened, rewelded, retested, transported back to the HSM, and reloaded. This would entail a higher risk of a cask handling accident and additional personnel exposure. This alternative would also generate additional radioactive contaminated material and waste from operations.

The proposed exemption to permit the continued storage of DSCs numbers 93, 94, 100, 105, and 106 at the Oconee Nuclear Station ISFSI is consistent with NRC's mission to protect public health and safety. Approving the requested exemption produces less of an opportunity for a release of radioactive material than the alternative to the proposed action because there will be no operations involving opening the DSCs which confine the spent nuclear fuel. Therefore, the exemption is in the public interest.

Environmental Consideration

The NRC staff also considered in the review of this exemption request whether there would be any significant environmental impacts associated with the exemption. For this proposed action, the NRC staff performed an environmental assessment pursuant to 10 CFR 51.30, ''Environmental assessment.'' The proposed action is the approval of an exemption from the requirements of 10 CFR 72.212(a)(2), 72.212(b)(3), 72.212(b)(5)(i), 72.214, and the portion of 72.212(b)(11) that states the licensee shall comply with the terms, conditions, and specifications of the CoC. This exemption would relieve the applicant from meeting Technical Specification (TS) 1.2.4a of Attachment A of CoC No. 1004, allowing for continued storage of DSCs numbers 93, 94, 100, 105, and 106 at the Oconee Nuclear Station ISFSI.

The environmental assessment concluded that the proposed action would not significantly impact the quality of the human environment. The NRC staff concludes that the proposed action will not result in any changes in the types or amounts of any radiological effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure because of the proposed action. The proposed action only affects the requirements associated with Technical Specification (TS) 1.2.4a of Attachment A of CoC No. 1004, which limits the leak rate of the inner seal weld to 1.0×10^{-7} ref cc/s at the highest DSC limiting pressure, and does not affect plant effluents, or any other aspects of the environment, for DSCs numbers 93, 94, 100, 105, and 106 at the Oconee Nuclear Station ISFSI.

The Environmental Assessment and the Finding of No Significant Impact was published on September 3, 2015; 80 FR 53350.

4.0 Conclusion

Based on the foregoing considerations, the NRC staff has determined that, pursuant to 10 CFR 72.7, the exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the NRC grants the applicant an exemption from the requirements of 10 CFR 72.212(a)(2), 72.212(b)(3), 72.212(b)(5)(i), 72.214, and the portion of 72.212(b)(11) that states the licensee shall comply with the terms, conditions, and specifications of the CoC, only with regard to meeting Technical Specification (TS) 1.2.4a of Attachment A of CoC No. 1004. This exemption approval is limited to authorizing continued storage of DSCs numbers 93, 94, 100, 105, and 106 in the TN Standardized NUHOMS® dry cask storage system at the Oconee Nuclear Station ISFSI.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this *17* day September, 2015.

For the Nuclear Regulatory Commission.

Michele Sampson,

Branch Chief, Spent Fuel Licensing Branch, Division of Spent Fuel Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2015–24655 Filed 9–28–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0229]

Design of Structures, Components, Equipment, and Systems

AGENCY: Nuclear Regulatory Commission.

ACTION: Standard review plan-draft section revision; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is soliciting public comment on the following sections in Chapter 3, ''Design of Structures, Components, Equipment, and Systems Reactor Coolant System and Connected Systems'' of NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition,'' Section 3.9.2, ''Dynamic Testing and Analysis of Systems, Structures, and Components,'' Section 3.9.4, ''Control Rod Drive Systems,'' Section 3.9.5, ''Reactor Pressure Vessel Internals,'' and Section 3.9.6, ''Functional Design, Qualification, and Inservice Testing Programs for Pumps, Valves, and Dynamic Restraints.''

DATES: Comments must be filed no later than November 30, 2015.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0229. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- Mail comments to: Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Mark Notich, telephone: 301–415–3053; email: *Mark.Notich@nrc.gov;* or Nishka Devaser, telephone: 301–415–5196; email: *Nishka.Devaser@nrc.gov.* Both are staff of the Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2015–0229 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0229.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The 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, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2015–0229 in the subject line of your comment submission, in order to ensure that the NRC is able to make your

comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in you comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Further Information

The NRC seeks public comment on the proposed draft revisions of Standard Review Plan (SRP) Sections 3.9.2, 3.9.4, 3.9.5, and 3.9.6. These sections have been developed to assist the NRC staff review the design of structures, components, equipment, and systems under parts 50 and 52 of Title 10 of the *Code of Federal Regulations* (10 CFR). The revisions to these SRP sections reflect no changes in staff position; rather they clarify the original intent of these SRP sections using plain language throughout in accordance with the NRC's Plain Writing Action Plan. Additionally, these revisions reflect operating experience, lessons learned, and updated guidance since the last revision, and address the applicability of regulatory treatment of non-safety systems where appropriate.

Following the NRC staff's evaluation of public comments, the NRC intends to finalize the proposed revisions of the subject SRP Sections in ADAMS and post them on the NRC's public Web site at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0800/.*

III. Availability of Documents

SRP Section	Current revision ADAMS accession No.	Proposed revision ADAMS accession No.	Redline ADAMS accession No.
Section 3.9.2, ''Dynamic Testing and Analysis of Systems, Structures, and Components''.	Revision 3 (ML070230008) ...	Revision 4 (ML15041A281) ...	ML15041A367
Section 3.9.4, ''Control Rod Drive Systems''	Revision 3 (ML063190004) ...	Revision 4 (ML15041A242) ...	ML15041A334
Section 3.9.5, ''Reactor Pressure Vessel Internals''	Revision 3 (ML070230009) ...	Revision 4 (ML15041A234) ...	ML15041A320
Section 3.9.6, ''Functional Design, Qualification, and Inservice Testing Programs for Pumps, Valves, and Dynamic Restraints''.	Revision 3 (ML070720041) ...	Revision 4 (ML15040A052) ...	ML15041A287

IV. Backfitting and Issue Finality

Issuance of these draft SRP sections, if finalized, does not constitute backfitting as defined in 10 CFR 50.109, nor is it inconsistent with any of the issue finality provisions in 10 CFR part 52. These draft SRP sections do not contain any new requirements for COL applicants or holders under 10 CFR part 52, or for licensees of existing operating units licensed under 10 CFR part 50. Rather, it contains additional draft guidance and clarification on staff review of Preliminary Amendment Requests.

The NRC staff does not intend to impose or apply the positions described in the draft SRP to existing licenses and regulatory approvals. Hence, the issuance of a final SRP—even if considered guidance within the purview of the issue finality provisions in 10 CFR part 52—would not need to be evaluated as if it were a backfit or as being inconsistent with issue finality provisions. If, in the future, the NRC staff seeks to impose a position in the SRP on holders of already issued licenses in a manner that does not provide issue finality as described in the applicable issue finality provision, then the staff must make the showing as set forth in the Backfit Rule or address the criteria for avoiding issue finality as described in the applicable issue finality provision.

The NRC staff does not, at this time, intend to impose the positions represented in the draft SRP sections in a manner that is inconsistent with any issue finality provisions. If, in the future, the staff seeks to impose a position in the draft SRP in a manner that does not provide issue finality as described in the applicable issue finality provision, then the staff must address the criteria for avoiding issue finality as described in the applicable issue finality provision.

Dated at Rockville, Maryland, this 18th day of September, 2015.

For the Nuclear Regulatory Commission.

Kimyata Morgan Butler,

Acting Chief, New Reactor Rulemaking and Guidance Branch, Division of Advanced Reactors and Rulemaking, Office of New Reactors.

[FR Doc. 2015–24654 Filed 9–28–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0227]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to Section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from September 1 to September 14, 2015. The last

biweekly notice was published on September 15, 2015.

DATES: Comments must be filed by October 29, 2015. A request for a hearing must be filed by November 30, 2015.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

• Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0227. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.*

• Mail comments to: Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Shirley Rohrer, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–5411, email: *Shirley.Rohrer@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2015–0227 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0227.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2015–0227, facility name, unit number(s), application date, and subject in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of

the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to

MSHD.Resource@nrc.gov, or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, in some instances, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Duke Energy Florida, Inc. (DEF), et al., Docket No. 50–302, Crystal River, Unit 3, Nuclear Generating Plant (CR–3), Citrus County, Florida

Date of amendment request: July 28, 2015. A publicly-available version is in ADAMS under Accession No. ML15216A123.

Description of amendment request: The amendment would reflect the transfer of ownership, held by Seminole Electric Cooperative, Inc., in CR–3 to DEF. The transfer of ownership will take place pursuant to the Settlement, Release and Acquisition Agreement, dated April 30, 2015, wherein DEF will purchase the 1.6994 percent ownership share in CR–3 held by Seminole Electric Cooperative, Inc., leaving DEF as the sole remaining licensee for CR–3.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes do not involve a significant increase in the probability of any accident previously evaluated because no accident initiators or assumptions are affected. The proposed license transfer is administrative in nature and has no direct effect on any plant system, plant personnel qualifications, or the operation and maintenance of CR–3.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated because no new accident initiators or assumptions are introduced by the proposed changes. The proposed license transfer is administrative in nature and has no direct effect on any plant system, plant personnel qualifications, or operation and maintenance of CR–3.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not involve a significant reduction in a margin of safety because the proposed changes do not involve changes to the initial conditions contributing to accident severity or consequences, or reduce response or mitigation capabilities. The proposed license transfer is administrative in nature and has no direct effect on any plant system, plant personnel qualifications, or operation and maintenance of CR–3.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lara S. Nichols, 550 South Tryon Street, Charlotte, NC 28202.

NRC Branch Chief: Bruce A. Watson.

Entergy Operations, Inc.; System Energy Resources, Inc.; South Mississippi Electric Power Association; and Entergy Mississippi, Inc.; Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi.

Date of amendment request: May 27, 2015. A publicly-available version is in ADAMS under Accession No. ML15147A599.

Description of amendment request: The amendment would allow the extension of the containment isolation valve leakage test (Type C within appendix J to 10 CFR part 50, ''Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors''). The proposed change would also adopt a more conservative grace interval for Type B and Type C tests. This amendment request also proposes an administrative change by deleting the information regarding the performance of the next Type A test no later than November 23, 2008, as this has already occurred.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 FR 50.92(c). The NRC staff's review is presented below:

1. Does the proposed amendment involve a significant increase in the probability or

consequences of an accident previously evaluated?

Response: No.

The proposed extension does not involve either a physical change to the plant or a change in the manner in which the plant is operated or controlled. As such, the containment will continue to perform its design function as a barrier to fission product releases. In addition, the containment and the testing requirements invoked to periodically demonstrate the integrity of the containment exist to ensure the plant's ability to mitigate the consequences of an accident, and do not involve the prevention or identification of any precursors of an accident.

Therefore, this proposed extension does not involve a significant increase in the probability of an accident previously evaluated.

With respect to the increase in the time interval, consistent with the Nuclear Energy Institute (NEI) implementing guidance, there is an added requirement that a licensee's post-outage report include the margin between the Type B and Type C leakage rate summation and its regulatory limit. This provides an additional leading indicator to allow for an increase to the surveillance interval. Further, at no time shall an extension be allowed for Type C valves that are restricted categorically (*e.g.,* boiling-water reactor (BWR) main steam isolation valves (MSIVs)) and those valves with a history of leakage, or any valves held to either a less than maximum interval or to the base refueling cycle interval. Therefore, this proposed extension does not involve a significant increase in the consequences of an accident previously evaluated.

The proposed deletion of Type A test exceptions is for activities that have already taken place, so this deletion is solely an administrative action that has no effect on any component and no impact on how the unit is operated.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical change to the plant or a change to the manner in which the plant is operated or controlled. The proposed deletion of Type A test exceptions is for activities that have already taken place, so this deletion is solely an administrative action that has no effect on any component and no impact on how the unit is operated.

Therefore, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed extension does not involve either a physical change to the plant or a change in the manner in which the plant is operated or controlled. As such, the containment will continue to perform its design function as a barrier to fission product releases. In addition, the containment and the testing requirements invoked to periodically demonstrate the integrity of the containment exist to ensure the plant's ability to mitigate the consequences of an accident, and do not involve the prevention or identification of any precursors of an accident. Consistent with the NEI implementing guidance, there is an added requirement that a licensee's post-outage report include the margin between the Type B and Type C leakage rate summation and its regulatory limit. This provides additional leading indicator to allow for an increase to the surveillance interval. Further, at no time shall an extension be allowed for Type C valves that are restricted categorically (*e.g.,* BWR MSIVs) and those valves with a history of leakage, or any valves held to either a less than maximum interval or to the base refueling cycle interval.

The proposed deletion of Type A test exceptions is for activities that have already taken place, so this deletion is solely an administrative action that has no effect on any component and no impact on how the unit is operated.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Joseph A. Aluise, Assistant General Counsel—Nuclear, Entergy Services, Inc., 639 Loyola Avenue, New Orleans, LA 70113.

NRC Branch Chief: Meena K. Khanna.

Exelon Generation Company, LLC, Docket No. 50–410, Nine Mile Point Nuclear Station (NMP2), Unit 2, Oswego County, New York

Date of amendment request: March 23, 2015. A publicly-available version is in ADAMS under Accession No. ML15082A368.

Description of amendment request: The amendment would revise NMP2, Technical Specifications (TSs) to remove TS Table 3.6.1.3–1, ''Secondary Containment Bypass Leakage Paths Leakage Rate Limits,'' and references to the table and relocate the information to the Technical Requirements Manual (TRM).

*Basis for proposed no significant hazards consideration dete*rmination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Using the guidance in GL 91–08, the NMP2 proposed change would remove Table 3.6.1.3–1 and references to the table from the TS and relocates the information from the table to the TRM, which is a licensee controlled document. This change is consistent with Revision 4 of NUREG–1433, ''General Electric BWR/4 Improved Standard Technical Specifications'' and Revision 4 of NUREG–1434, ''General Electric BWR/6 Improved Standard Technical Specifications.'' This change is an administrative change that will not alter the manner in which the valves will be operated. Since the proposed change does not alter the manner in which the valves are operated, there is no significant impact on reactor operation.

Being an administrative change, the proposed change does not involve a physical change to the valves, nor does it change the safety function of the valves. The proposed TS revision involves no significant changes to the operation of any systems or components in normal or accident operating conditions and no changes to existing structures, systems, or components.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The relocation of the table for the secondary containment isolation valves is an administrative change that will not impact the safety function of the secondary containment isolation valves. The proposed change does not affect the manner in which the valves will be operated; therefore, there are no new failure mechanisms created. The proposed change does not involve physical changes to the valves, nor does it change the safety function of the valves. The proposed change does not physically alter secondary containment isolation capability. The secondary containment bypass leakage paths leakage rate limits will not be changed by the proposed amendment.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

There is no adverse impact on the existing equipment capability as well as associated structures as a result of this administrative change. The proposed changes continue to provide the same limitations for secondary containment bypass leakage paths leakage rate limits as the existing leakage rate limits.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this

review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: J. Bradley Fewell, Senior Vice President, Regulatory Affairs, Nuclear, and General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555

NRC Branch Chief: Benjamin G. Beasley.

Exelon Generation Company, LLC, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit 1, Oswego County, New York

Date of amendment request: March 26, 2015. A publicly-available version is in ADAMS under Accession No. ML15089A231.

Description of amendment request: This amendment request involves the adoption of approved changes to NUREG–1433, ''Standard Technical Specifications [STS] General Electric BWR/4 Plants,'' Revision 4.0, to allow relocation of specific TS surveillance frequencies to a licensee-controlled program. The proposed changes are described in Technical Specification Task Force (TSTF) Traveler 425 ''Relocate Surveillance Frequencies to Licensee Control—RITSTF [Risk Informed TSTF] Initiative 5b,'' Revision 3 (TSTF–425) ADAMS Accession No. ML090850642, and are described in the Notice of Availability published in the **Federal Register** on July 6, 2009 (74 FR 31996). The proposed changes are consistent with NRC-approved TSTF–425. The proposed changes relocate surveillance frequencies to a licensee-controlled program, the Surveillance Frequency Control Program (SFCP). The changes are applicable to licensees using probabilistic risk guidelines contained in NRC-approved NEI (Nuclear Energy Institute) 04–10, ''Risk-Informed Technical Specifications Initiative 5b, Risk-Informed Method for Control of Surveillance Frequencies'' (ADAMS Accession No. ML071360456).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of any accident previously evaluated?

Response: No.

The proposed changes relocate the specified frequencies for periodic surveillance requirements to licensee control under a new Surveillance Frequency Control Program. Surveillance frequencies are not an initiator to any accident previously evaluated. As a result, the probability of any accident previously evaluated is not significantly increased. The systems and components required by the technical specifications for which the surveillance frequencies are relocated are still required to be operable, meet the acceptance criteria for the surveillance requirements, and be capable of performing any mitigation function assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly increased.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

No new or different accidents result from utilizing the proposed changes. The changes do not involve a physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the LAR changes do not impose any new or different requirements. The changes do not alter assumptions made in the safety analysis. The proposed changes are consistent with the safety analysis assumptions and current plant operating practice.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do the proposed changes involve a significant reduction in the margin of safety?

Response: No.

The design, operation, testing methods, and acceptance criteria for systems, structures, and components (SSCs), specified in applicable codes and standards (or alternatives approved for use by the NRC) will continue to be met as described in the plant licensing basis (including the final safety analysis report and bases to TS), since these are not affected by changes to the surveillance frequencies. Similarly, there is no impact to safety analysis acceptance criteria as described in the plant licensing basis. To evaluate a change in the relocated surveillance frequency, Exelon will perform a probabilistic risk evaluation using the guidance contained in NRC approved NEI 04–10, Rev. 1, in accordance with the TS SFCP. NEI 04–10, Rev. 1, methodology provides reasonable acceptance guidelines and methods for evaluating the risk increase of proposed changes to surveillance frequencies consistent with Regulatory Guide 1.177.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: J. Bradley Fewell, Senior Vice President, Regulatory Affairs, Nuclear, and General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: Benjamin G. Beasley.

Florida Power & Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2 (SL–1 and 2), St. Lucie County, Florida

Date of amendment request: July 14, 2015. A publicly-available version is in ADAMS under Accession No. ML15198A032.

Description of amendment request: The amendments would remove Technical Specification (TS) Surveillance Requirement (SR) 4.8.1.1.2.g and relocate the requirements to the Updated Final Safety Analysis Report (UFSAR) for SL–1 and the UFSAR for SL–2. SL TS SR 4.8.1.1.2.g requires a 10-year sediment cleaning of the fuel oil storage tank.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change acts to remove TS SR 4.8.1.1.2.g requirements from the TS and relocate the requirements to the UFSAR. The fuel storage tanks provide an adequate volume of diesel generator fuel oil for diesel generators to operate in the event of a loss of coolant accident and concurrent loss of offsite power. Relocating TS SR 4.8.1.1.2.g requirements from the TS to the UFSAR will not present an adverse impact to the fuel storage tanks and subsequently, will not impact the probability or consequences of an accident previously evaluated.

Furthermore, once relocated to the UFSAR, changes to fuel storage tank sediment cleaning requirements will be controlled in accordance with 10 CFR 50.59. Diesel generator fuel oil quantity and quality are assured by other TS SRs that remain unchanged.

The proposed change does not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, and configuration or the manner in which the plant is operated and maintained. The proposed change does not adversely affect the ability of any structure, system, or component (SSC) to perform its intended safety function to mitigate the consequences

of an initiating event within the assumed acceptance limits.

The proposed change does not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of any accident previously evaluated. Further, the proposed change does not increase the types and amounts of radioactive effluent that may be released offsite, nor significantly increase individual or cumulative occupational/public radiation exposures.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change acts to remove TS SR 4.8.1.1.2.g requirements from the TS and relocate the requirements to the UFSAR. The proposed change does not introduce new modes of plant operation and it does not involve physical modifications to the plant (no new or different type of equipment will be installed). There are no changes in the method by which any safety related plant SSC performs its specified safety function. As such, the plant conditions for which the design basis accident analyses were performed remain valid.

No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures will be introduced as a result of the proposed change. There will be no adverse effect or challenges imposed on any SSC as a result of the proposed change.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is related to confidence in the ability of the fission product barriers to perform their accident mitigation functions. The proposed change acts to remove TS SR 4.8.1.1.2.g requirements from the TS and relocate the requirements to the UFSAR. The TS SRs retained in TS will continue to ensure the proper functioning of diesel generators. The proposed change does not physically alter any SSC. There will be no effect on those SSCs necessary to assure the accomplishment of protection functions. There will be no impact on the overpower limit, departure from nucleate boiling ratio (DNBR) limits, loss of cooling accident peak cladding temperature (LOCA PCT), or any other margin of safety. The applicable radiological dose consequence acceptance criteria will continue to be met.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William S. Blair, Managing Attorney—Nuclear, Florida Power & Light Company, 700 Universe Boulevard, MS LAW/JB, Juno Beach, FL 33408–0420.

NRC Branch Chief: Shana R. Helton.

South Carolina Electric and Gas Company, Docket Nos.: 52–027 and 52–028, Virgil C. Summer Nuclear Station (VSNS), Units 2 and 3, Fairfield County, South Carolina

Date of amendment request: May 6, 2015. A publicly-available version is in ADAMS under Accession No. ML15127A177.

Description of amendment request: The amendment request proposes changes to the VSNS, Units 2 and 3, Updated Final Safety Analysis Report (UFSAR) in the form of departures from the incorporated plant-specific Design Control Document Tier 2 information, including the Technical Requirements Manual, and involves related changes to Combined License (COL) Appendix C information, with corresponding changes to the associated plant-specific Tier 1 information. The proposed departures consist of changes to plant-specific Tier 1 (and COL, Appendix C) tables and UFSAR tables, text, and figures related to the addition of two hydrogen igniters above the In-Containment Refueling Water Storage Tank roof vents to improve hydrogen burn capabilities, incorporating consistency changes to a plant-specific Tier 1 table to clarify the minimum surface temperature of the hydrogen igniters and igniter location, removal of hydrogen igniters from the Protection and Safety Monitoring System from a plant-specific Tier 1 table, and clarification of hydrogen igniter controls in a Tier 1 table.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed addition of hydrogen igniters and clarifying changes to the hydrogen ignition subsystem does not affect any safety-related equipment or function. The hydrogen ignition subsystem is designed to mitigate beyond design basis hydrogen generation in the containment. The hydrogen ignition subsystem changes do not involve any accident, initiating event or component failure; thus, the probabilities of the accidents previously evaluated are not affected. The modified system will maintain its designed and analyzed beyond design basis function to maintain containment integrity. The maximum allowable leakage rate specified in the Technical Specifications is unchanged, and radiological material release source terms are not affected; thus, the radiological releases in the accident analyses are not affected.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed addition of hydrogen igniters and clarifying changes to the hydrogen ignition subsystem will maintain the beyond design basis function of the hydrogen ignition subsystem. The hydrogen igniter subsystem changes do not impact its function to maintain containment integrity during beyond design basis accident conditions, and, thus does not introduce any new failure mode. The proposed changes do not create a new fault or sequence of events that could result in a radioactive release. The proposed changes would not affect any safety-related accident mitigating function.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed addition of hydrogen igniters and clarifying changes to the hydrogen ignition subsystem will maintain the beyond design basis function of the hydrogen ignition subsystem. The proposed changes do not have any effect on the ability of safety-related structures, systems, or components to perform their design basis functions. The proposed changes do not affect the ability of the hydrogen igniter subsystem to maintain containment integrity following a beyond design basis accident. The hydrogen igniter subsystem continues to meets the requirements for which it was designed, and continues to meet the regulations.

No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the proposed changes, thus no margin of safety is reduced.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Kathryn M. Sutton, Morgan, Lewis & Bockius LLC, 1111 Pennsylvania Avenue NW., Washington, DC 20004–2514.

NRC Branch Chief: Lawrence J. Burkhart.

South Carolina Electric and Gas Company, Docket Nos.: 52–027 and 52–028, Virgil C. Summer Nuclear Station (VSNS), Units 2 and 3, Fairfield County, South Carolina

Date of amendment request: May 18, 2015. A publicly-available version is in ADAMS under Accession No. ML15138A458.

Description of amendment request: The amendment request proposes a change to the VSNS, Units 2 and 3, Radiation Emergency Plan (Plan). Changes include expansion of the Emergency Planning Zone (EPZ) boundary, and revisions to the Evacuation Time Estimates (ETE) analysis and the Alert and Notification System (ANS) design reports to encompass the expanded EPZ boundary.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes, which include expansion of the EPZ boundary and revision of the ETE analysis and ANS design reports to encompass the expanded EPZ boundary, do not impact the physical function of plant structures, systems, or components (SSC) or the manner in which SSCs perform their design function. The proposed changes neither adversely affect accident initiators or precursors, nor alter design assumptions. The proposed changes do not alter or prevent the ability of SSCs to perform their intended function to mitigate the consequences of an initiating event within assumed acceptance limits. No operating procedures or administrative controls that function to prevent or mitigate accidents are affected by the proposed changes.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not involve a physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed or removed) or a change in the method of plant operation. The proposed changes will not introduce failure modes that could result in a new accident, and the change does not alter assumptions made in the safety analysis. The proposed changes, which include expansion of the EPZ boundary and revision of the ETE analysis and ANS design reports to encompass the expanded EPZ boundary, are not initiators of any accidents. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is associated with the ability of the fission product barriers (*i.e.,* fuel cladding, reactor coolant system pressure boundary, and containment structure) to limit the level of radiation dose to the public. The proposed changes, which include expansion of the EPZ boundary and revision of the ETE analysis and ANS design reports to encompass the expanded EPZ boundary, do not impact operation of the plant or its response to transients or accidents. The proposed changes do not alter requirements of the Technical Specifications or the Combined Licenses. The proposed changes do not involve a change in the method of plant operation and no accident analyses will be affected by the proposed changes.

Additionally, the proposed changes will not relax any criteria used to establish safety limits and will not relax any safety system settings. The safety analysis acceptance criteria are not affected by these proposed changes. The proposed changes will not result in plant operation in a configuration outside the design basis. The proposed changes do not adversely affect systems that respond to safely shut down the plant and to maintain the plant in a safe shutdown condition.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Kathryn M. Sutton, Morgan, Lewis & Bockius LLC, 1111 Pennsylvania Avenue NW., Washington, DC 20004–2514.

NRC Branch Chief: Lawrence J. Burkhart.

III. Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Entergy Operations, Inc., Docket Nos. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: July 2, 2015, as supplemented by letter dated August 14, 2015. Publicly-available versions are in ADAMS under Accession Nos. ML15197A106 and ML15226A346.

Brief Description of amendment: The proposed amendment will modify the Technical Specification (TS) 3.1.3.4, ''Control Element Assembly Drop Time'' [CEA] and Final Safety Analysis Report, Chapter 15, ''Accident Analyses.'' The proposed amendment would change TS 3.1.3.4 to revise the arithmetic average of all CEA drop times to be less than or equal to 3.5 seconds.

Date of publication of individual notice in the ***Federal Register****:* September 8, 2015 (80 FR 53892).

Expiration date of individual notice: October 8, 2015 (public comments); and November 9, 2015 (hearing requests).

Amendment No: 205. A publicly-available version is in ADAMS under Accession No. ML15229A219; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–29: The amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register****:* December 2, 2014 (79 FR 71453). The original Notice considered the September 25, 2013, application and supplemental by letters dated December 30, 2013, March 10, April 11, 2014. The supplemental letters dated July 31, August 14, August 26, September 4, September 10, October 2, November 20, November 21 (two letters), and December 15, 2014; and January 6, January 20, February 9, February 18, February 19, March 3, and August 13, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 31, 2015.

No significant hazards consideration comments received: Yes. The comments

received on Amendment No. 205 are addressed in the Safety Evaluation dated August 31, 2015.

IV. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

Duke Energy Florida, Inc., et al., Docket No. 50–302, Crystal River, Unit 3, Nuclear Generating Plant (CR–3), Citrus County, Florida

Date of application for amendment: October 29, 2013, as supplemented by letters dated May 7, 2014; June 17, 2014; and March 6, 2015.

Brief description of amendment: The amendment revised the CR–3 Facility Operating License to remove and revise certain License Conditions. The amendment also extensively revised the CR–3 Improved Technical Specifications (TSs) to create the CR–3 Permanently Defueled TSs.

Date of issuance: September 4, 2015.

Effective date: As of the date of its issuance, to be implemented within 30 days from the date of issuance.

Amendment No.: 247. A publicly-available version is in ADAMS under Accession No. ML15224B286; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. DPR–72: Amendment revised the Facility Operating License and TSs.

Date of initial notice in ***Federal Register****:* October 28, 2014 (79 FR 64222). The supplement dated March 6, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 4, 2015.

No significant hazards consideration comments received: No.

Duke Energy Progress, Inc., Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Hartsville, South Carolina

Date of amendment request: September 10, 2013, as supplemented by letters dated January 30, June 1, and December 16, 2014.

Brief description of amendment: The amendment revised Technical Specification (TS) 3.8.1 Required Action (RA) B.3.2.2, ''One DG [Diesel Generator] Inoperable—Perform SR [Surveillance Requirement] 3.8.1.2 for OPERABLE DG within 96 hours,'' by a NOTE clarifying RA B.3.2.2 that states, ''Not required to be performed when the cause of the inoperable DG is pre-planned maintenance and testing.''

Date of issuance: September 8, 2015.

Effective date: As of the date of issuance and shall be implemented within 120 days of issuance.

Amendment No.: 242. A publicly-available version is in ADAMS under Accession No. ML15222B175; documents related to this amendment are listed in the Safety Evaluation (SE) enclosed with the amendment.

Renewed Facility Operating License No. DPR–23: Amendment revised the Facility Operating License and TSs.

Date of initial notice in ***Federal Register****:* December 10, 2013 (78 FR 74179). The supplemental letter(s) dated January 30, June 1, and December 16, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in an SE dated September 8, 2015.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1 (GGNS), Claiborne County, Mississippi

Date of application for amendment: September 25, 2013, as supplemented by letters dated December 30, 2013, March 10, April 11, July 31, August 14, August 26, September 4, September 10, October 2, November 20, November 21 (two letters), and December 15, 2014; and January 6, January 20, February 9, February 18, February 19, March 3, and August 13, 2015.

Brief description of amendment: The amendment modified the GGNS Technical Specifications to allow plant operation from the currently licensed Maximum Extended Load Line Limit Analysis (MELLLA) domain to plant operation in the expanded MELLLA Plus domain under the previously approved extended power uprate conditions of 4408 megawatts thermal rated core thermal power.

Date of issuance: August 31, 2015.

Effective date: As of the date of issuance and shall be implemented within 180 days of issuance.

Amendment No: 205. A publicly-available version is in ADAMS under Accession No. ML15229A219; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–29: The amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register****:* December 2, 2014 (79 FR 71453). The original Notice considered the September 25, 2013, application and supplemental by letters dated December 30, 2013, March 10, April 11, 2014. The supplemental letters dated July 31, August 14, August 26, September 4, September 10, October 2, November 20, November 21 (two letters), and December 15, 2014; and January 6, January 20, February 9, February 18,

February 19, March 3, and August 13, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 31, 2015.

No significant hazards consideration comments received: Yes. The comments received on Amendment No. 205 are addressed in the Safety Evaluation dated August 31, 2015.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1 (GGNS), Claiborne County, Mississippi

Date of application for amendment: August 1, 2014, as supplemented by letters dated March 3, and June 30, 2015.

Brief description of amendment: The amendment revised the following five non-conservative Technical Specification Allowable Values (AVs) in the GGNS Technical Specifications (TSs):

- Automatic Depressurization System Initiation Timer (TS Table 3.3.5.1–1)
- System A and B Containment Spray Timers (TS Table 3.3.6.3–1)
- Division 1 and 2 Degraded 4.16 kiloVolt (KV) Bus Voltage (TS Table 3.3.8.1–1)
- Division 3 Degraded 4.16 KV Bus Voltage (TS Table 3.3.8.1–1)
- Division 3 Degraded 4.16 KV Bus Voltage Time Delay-LOCA (loss of coolant accident) (TS Table 3.3.8.1–1)

Date of issuance: August 31, 2015.

Effective date: As of the date of issuance and shall be implemented within 90 days of issuance.

Amendment No: 207. A publicly-available version is in ADAMS under Accession No. ML15195A355; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–29: The amendment revised the Updated Final Safety Analysis Report.

Date of initial notice in ***Federal Register****:* November 25, 2014 (79 FR 70214). The supplemental letters dated March 3, and June 30, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 31, 2015.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, (GGNS) Claiborne County, Mississippi

Date of application for amendment: January 6, 2015, as supplemented by letter dated March 27, 2015.

Brief description of amendment: The amendment modified the GGNS Technical Specification 5.6.5.b, ''Core Operating Limits Report (COLR),'' by adding the reference NEDC–33075P–A, Revision 8, ''GE [General Electric] Hitachi Boiling Water Reactor Detect and Suppress Solution—Confirmation Density'' as Reference 27. The amendment was submitted in support of the NRC's approval of the Maximum Extended Load Line Limit Analysis Plus amendment.

Date of issuance: August 31, 2015.

Effective date: As of the date of issuance and shall be implemented within 180 days of issuance.

Amendment No: 206. A publicly-available version is in ADAMS under Accession No. ML15180A170; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–29: The amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register****:* April 28, 2015 (80 FR 23604).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 31, 2015.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–286, Indian Point Nuclear Generating, Unit No. 3, Westchester County, New York

Date of amendment request: February 12, 2015, as supplemented by letter dated August 11, 2015.

Brief description of amendment: The amendment revises Technical Specifications 3.4.3, ''RCS [reactor coolant system] Pressure and Temperature (P/T) Limits,'' and 3.4.12, ''Low Temperature Overpressure Protection (LTOP),'' to include new RCS P/T limit curves for heatup, cooldown, and pressure test operations and LTOP system setpoints. The proposed P/T limit curves and LTOP system setpoints will be valid for 37 effective full power years of facility operation, which is the accumulated burnup estimated to occur in December 2023 during the period of extended plant operation.

Date of issuance: September 3, 2015.

Effective date: As of the date of issuance, and shall be implemented within 30 days.

Amendment No.: 258. A publicly-available version is in ADAMS under Accession No. ML15226A159; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. DPR–64: The amendment revised the Facility Operating License and the Technical Specifications.

Date of initial notice in ***Federal Register****:* June 9, 2015 (80 FR 32619). The supplemental letter provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 3, 2015.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: November 11, 2013, as supplemented by letters dated October 23, 2014, January 13, 2015, January 21, 2015, April 1, 2015, and May 27, 2015.

Brief description of amendment: The amendment changed the Waterford Steam Electric Station, Unit 3, Updated Final Safety Analysis Report (UFSAR). This change clarified, in the UFSAR, how the pressurizer heaters function is met for natural circulation at the onset of a loss-of-offsite power concurrent with the specific single point vulnerability.

Date of issuance: August 31, 2015.

Effective date: As of the date of issuance and shall be implemented 90 days from the date of issuance.

Amendment No.: 245. A publicly-available version is in ADAMS under Accession No. ML15139A483; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–38: The amendment revised the UFSAR.

Date of initial notice in ***Federal Register****:* August 5, 2014 (79 FR 45474). The supplements dated October 23, 2014, January 13, 2015, January 21, 2015, April 1, 2015, and May 27, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 31, 2015.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 2 (NMP2), Oswego County, New York

Date of application for amendment: November 1, 2013, as supplemented by letters dated January 21, February 14, February 25, March 10, May 14, June 13, October 10, December 11, 2014, and February 18, 2015.

Brief description of amendment: The amendment includes changes to the NMP2 Technical Specifications (TSs) necessary to: (1) Implement the Maximum Extended Load Line Limit Analysis Plus (MELLLA+) expanded operating domain; (2) change the stability solution to Detect and Suppress Solution—Confirmation Density (DSS–CD); (3) use the TRACG04 analysis code; and (4) increase the Safety Limit Minimum Critical Power Ratio (SLMCPR) for two recirculation loops in operation.

Date of issuance: September 2, 2015.

Effective date: As of the date of issuance and shall implemented within 90 days of issuance.

Amendment No.: 151. A publicly-available version is in ADAMS under Accession No. ML15223B144; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–69: Amendment revised the Renewed Facility Operating License and TS.

Date of initial notice in ***Federal Register****:* August 5, 2014 (79 FR 45491).

The supplemental letters dated January 21, February 14, February 25, March 10, May 14, June 13, December 11, 2014, and February 18, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 2, 2015.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC and PSEG Nuclear LLC, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units 2 and 3, York and Lancaster Counties, Pennsylvania

Date of amendment request: November 7, 2014, as supplemented by letters dated April 13, 2015, and August 10, 2015.

Brief description of amendments: The amendments revised the Technical Specifications (TSs) associated with the primary containment leakage rate testing program. Specifically, the amendments extend the frequencies for performance of the Type A containment integrated leakage rate test and the Type C containment isolation valve leakage rate test, which are required by 10 CFR part 50, appendix J, ''Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors.''

Date of issuance: September 8, 2015.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendments Nos.: 302 and 306. A publicly-available version is in ADAMS under Accession No. ML15196A559; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–44 and DPR–56: The amendments revised the Renewed Facility Operating Licenses and TSs.

Date of initial notice in ***Federal Register****:* January 20, 2015 (80 FR 2749). The supplemental letters dated April 13, 2015, and August 10, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 8, 2015.

No significant hazards consideration comments received: No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: November 21, 2013, as supplemented by letters dated December 8, 2014, and January 21, 2015.

Brief description of amendment: The amendment revised Paragraph 2.C.(5)(a) of the renewed facility operating license and the approved Fire Protection Program as described in the Updated Safety Analysis Report, based on the reactor coolant system thermal hydraulic response evaluation of a postulated control room fire, performed for changes to the alternative shutdown methodology.

Date of issuance: September 11, 2015.

Effective date: As of the date of issuance and shall be implemented within 45 days from the date of issuance.

Amendment No.: 214. A publicly-available version is in ADAMS under Accession No. ML15183A052; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–42. The amendment revised the Operating License.

Date of initial notice in ***Federal Register****:* March 18, 2014 (79 FR 15151). The supplemental letters dated December 8, 2014, and January 21, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 11, 2015.

No significant hazards consideration comments received: No.

V. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual notice of consideration of issuance of amendment, proposed no significant hazards consideration determination, and opportunity for a hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License or Combined License, as applicable, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

A. Opportunity To Request a Hearing and Petition for Leave to Intervene

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, and electronically on the Internet at the NRC's Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If there are problems in accessing the document, contact the PDR's Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

PSEG Nuclear LLC, Docket No. 50–272, Salem Nuclear Generating Station, Unit No. 1, Salem County, New Jersey

Date of amendment request: August 31, 2015, as supplemented by letter dated September 2, 2015.

Description of amendment: The amendment removes the pressurizer power operated relief valve position indication instrumentation from the accident monitoring instrumentation Technical Specifications (TSs) and the associated surveillance requirements.

Date of issuance: September 4, 2015.

Effective date: September 4, 2015.

Amendment No.: 310. A publicly-available version is in ADAMS under Accession No. ML15245A636; documents related to this amendment are listed in the Safety Evaluation (SE) enclosed with the amendment.

Facility Operating License Nos. DPR–70: Amendment revised the Facility Operating License and TSs.

Public comments requested as to proposed no significant hazards consideration (NSHC): No.

The Commission's related evaluation of the amendment, finding of emergency circumstances, State consultation, and final NSHC determination are contained in an SE dated September 4, 2015.

Attorney for licensee: Jeffrie J. Keenan, PSEG Nuclear LLC—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Branch Chief: Douglas A. Broaddus.

Dated at Rockville, Maryland, this 18th day of September 2015.

For the Nuclear Regulatory Commission.

Anne T. Boland,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2015–24472 Filed 9–28–15; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2015–142; Order No. 2727]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an additional Global Expedited Package Services 3 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 1, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

On September 23, 2015, the Postal Service filed notice that it has entered into an additional Global Expedited Package Services 3 (GEPS 3) negotiated service agreement (Agreement).[1]

To support its Notice, the Postal Service filed a copy of the Agreement, a copy of the Governors' Decision authorizing the product, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket No. CP2015–142 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than October 1, 2015. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints JP Klingenberg to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2015–142 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, JP Klingenberg is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than October 1, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2015–24679 Filed 9–28–15; 8:45 am]

BILLING CODE 7710–FW–P

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, September 23, 2015 (Notice).

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) is an forwarding Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collections of information to determine (1) the practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to the RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if the RRB and OIRA receive them within 30 days of the publication date.

1. Title and purpose of information collection: Nonresident Questionnaire; OMB 3220–0145. Under Public Laws 98–21 and 98–76, benefits under the Railroad Retirement Act payable to annuitants living outside the United States may be subject to taxation under United States income tax laws. Whether the social security equivalent and non-social security equivalent portions of Tier I, Tier II, vested dual benefit, or supplemental annuity payments are subject to tax withholding, and whether the same or different rates are applied to each payment, depends on a beneficiary's citizenship and legal residence status, and whether exemption under a tax treaty between the United States and the country in which the beneficiary is a legal resident has been claimed. To effect the required tax withholding, the Railroad

Retirement Board (RRB) needs to know a nonresident's citizenship and legal residence status.

To secure the required information, the RRB utilizes Form RRB–1001, *Nonresident Questionnaire,* as a supplement to an application as part of the initial application process, and as an independent vehicle for obtaining the needed information when an annuitant's residence or tax treaty status changes. Completion is voluntary. One response is requested of each respondent.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (80 FR 36862 on June 26, 2015) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Nonresident Questionnaire.

OMB Control Number: 3220–0145.

Form(s) submitted: RRB–1001.

Type of request: Extension without change of a currently approved collection.

Affected public: Individuals or Households.

Abstract: Under the Railroad Retirement Act, the benefits payable to an annuitant living outside the United States may be subject to withholding under Public Laws 98–21 and 98–76. The form obtains the information needed to determine the amount to be withheld.

Changes proposed: The RRB proposes no changes to Form RRB–1001.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
RRB–1001 (Initial Filing)	300	30	250
RRB–1001 (Tax Renewal)	1,000	30	400
Total	1,300		650

2. Title and purpose of information collection: Statement of Claimant or Other Person; OMB 3220–0183.

To support an application for an annuity under Section 2 of the Railroad Retirement Act (RRA) or for unemployment benefits under Section 2 of the Railroad Unemployment Insurance Act (RUIA), pertinent information and proofs must be furnished for the RRB to determine benefit entitlement. Circumstances may require an applicant or other person(s) having knowledge of facts relevant to the applicant's eligibility for an annuity or benefits to provide written statements supplementing or changing statements previously provided by the applicant. Under the railroad retirement program these statements may relate to a change in an annuity beginning date(s), date of marriage(s), birth(s), prior railroad or non-railroad employment, an applicant's request for reconsideration of an unfavorable RRB eligibility determination for an annuity or various other matters. The statements may also be used by the RRB to secure a variety of information needed to determine eligibility to unemployment and sickness benefits. Procedures related to providing information needed for RRA annuity or RUIA benefit eligibility determinations are prescribed in 20 CFR parts 217 and 320 respectively.

The RRB utilizes Form G–93, *Statement of Claimant or Other Person,* to obtain from applicants or other persons, the supplemental or corrective information needed to determine applicant eligibility for an RRA annuity or RUIA benefits. Completion is voluntary. One response is requested of each respondent.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (80 FR 36862 on June 26, 2015) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Statement of Claimant or Other Person.

OMB Control Number: 3220–0183.

Form(s) submitted: G–93.

Type of request: Extension without change of a currently approved collection.

Affected public: Individuals or Households.

Abstract: Under Section 2 of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, pertinent information and proofs must be submitted by an applicant so that the Railroad Retirement Board can determine his or her entitlement to benefits. The collection obtains information supplementing or changing information previously provided by an applicant.

Changes proposed: The RRB proposes no revisions to Form G–93.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–93	200	15	50

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV.*

Comments regarding the information collection should be addressed to Charles Mierzwa, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 or *Charles.Mierzwa@RRB.GOV* and to the OMB Desk Officer for the RRB, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

Charles Mierzwa,

Chief of Information Resources Management.

[FR Doc. 2015–24651 Filed 9–28–15; 8:45 am]

BILLING CODE 7905–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and

Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collection of information to determine (1) the practical utility of the collection; (2) the accuracy of the estimated burden of the collection; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to the RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if the RRB and OIRA receive them within 30 days of the publication date.

Under Section 6 of the Railroad Retirement Act (RRA), lump-sum death benefits are payable to surviving widow(er)s, children, and certain other dependents. Lump-sum death benefits are payable after the death of a railroad employee *only* if there are no qualified survivors of the employee immediately eligible for annuities. With the exception of the residual death benefit, eligibility for survivor benefits depends on whether the deceased employee was ''insured'' under the RRA at the time of death. If the deceased employee was not insured, jurisdiction of any survivor benefits payable is transferred to the Social Security Administration and survivor benefits are paid by that agency instead of the RRB. The requirements for applying for benefits are prescribed in 20 CFR 217, 219, and 234.

The collection obtains the information required by the RRB to determine entitlement to and amount of the survivor death benefits applied for. To collect the information, the RRB uses Forms AA–11a, *Designation for Change of Beneficiary for Residual Lump-Sum;* AA–21, *Application for Lump-Sum Death Payment and Annuities Unpaid at Death;* AA–21cert, *Application Summary and Certification;* G–131, *Authorization of Payment and Release of All Claims to a Death Benefit or Accrued Annuity Payment;* and G–273a, *Funeral Director's Statement of Burial Charges.* One response is requested of each respondent. Completion is required to obtain benefits.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (80 FR 44402 on July 27, 2015) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Application for Survivor Death Benefits.

OMB Control Number: 3220–0031.

Form(s) submitted: AA–11a, AA–21cert, AA–21, G–131, G–273a.

Type of request: Revision of an approved collection.

Affected public: Individuals or Households.

Abstract: The collection obtains the information needed to pay death benefits and annuities due but unpaid at death under the Railroad Retirement Act. Benefits are paid to designated beneficiaries or to survivors in a priority designated law.

Changes proposed: The RRB proposes the following changes to the forms in the information collection:

- Form AA–11a—Remove from the information collection due to less than 10 responses a year.
- Form AA–21—Add clarifying language to better define who qualifies for a child's annuity and other minor editorial changes.
- Form G–131—For clarity, add an Instructions section and space for the RRB to enter the applicant's name and the waived share amount.
- Form G–273a—Add clarifying language to Item 2, regarding the total amount of charges the funeral home should enter; and what the funeral home should list as types of payments received or expected to be received to Item 3.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
AA–21 (without assistance)	200	40	133
AA–21cert (with assistance)	3,500	20	1,167
G–131	100	5	8
G–273a	4,000	10	667
Total	7,800		1,975

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV.*

Comments regarding the information collection should be addressed to Charles Mierzwa, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or *Charles.Mierzwa@RRB.GOV* and to the OMB Desk Officer for the RRB, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

Charles Mierzwa,

Chief of Information Resources Management.

[FR Doc. 2015–24641 Filed 9–28–15; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75970; File No. SR–BATS–2015–57]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Adopt New Rule 8.17 To Provide a Process for an Expedited Suspension Proceeding and Rule 12.15 To Prohibit Layering and Spoofing on BATS Exchange, Inc.

September 23, 2015.

On July 30, 2015, BATS Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt an expedited proceeding for issuing suspension orders, and if necessary, imposing other sanctions, to prohibit Exchange Members, or their clients, from engaging in trading activities that constitute continued layering or spoofing on the Exchange. On August 11, 2015, the Exchange filed Amendment No. 1 to the proposal.[3] The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 amended and replaced the original proposal in its entirety.

August 19, 2015.[4] The Commission received five comment letters regarding the proposed rule change.[5]

Section 19(b)(2) of the Act[6] provides that, within 45 days of the publication of the notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is October 3, 2015. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change, the comments received, and any response to the comments submitted by the Exchange. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[7] designates November 17, 2015 as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–BATS–2015–57).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–24599 Filed 9–28–15; 8:45 am]

BILLING CODE 8011–01–P

[4] *See* Securities Exchange Act Release No. 75693 (August 13, 2015), 80 FR 50370.

[5] *See* letters from: Teresa Machado B., dated August 19, 2015; Samuel F. Lek, Chief Executive Officer, Lek Securities Corporation, dated September 3, 2015; R.T. Leuchtkafer to Brent J. Fields, Secretary, Commission, dated September, 4, 2015; Mary Ann Burns, Chief Operating Officer, FIA Principal Traders Group, to Brent J. Fields, Secretary, Commission, dated September, 9, 2015; and Samuel F. Lek, Chief Executive Officer, Lek Securities Corporation, dated September 18, 2015.

[6] 15 U.S.C. 78s(b)(2).

[7] *Id.*

[8] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–9927; 34–75973; File No. 265–27]

Advisory Committee on Small and Emerging Companies

AGENCY: Securities and Exchange Commission.

ACTION: Notice of Federal Advisory Committee Renewal.

SUMMARY: The Securities and Exchange Commission is publishing this notice to announce the renewal of the Securities and Exchange Commission Advisory Committee on Small and Emerging Companies.

FOR FURTHER INFORMATION CONTACT: Julie Davis, Senior Special Counsel, Office of Small Business Policy, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, (202) 551–3460.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C.—App., the Commission is publishing this notice that the Chair of the Commission, with the concurrence of the other Commissioners, has approved the renewal of the Securities and Exchange Commission Advisory Committee on Small and Emerging Companies (the ''Committee''). The Chair of the Commission affirms that the renewal of the Committee is necessary and in the public interest.

The Committee's objective is to provide the Commission with advice on its rules, regulations, and policies, with regard to its mission of protecting investors, maintaining fair, orderly, and efficient markets, and facilitating capital formation, as they relate to the following:

(1) Capital raising by emerging privately held small businesses (''emerging companies'') and publicly traded companies with less than $250 million in public market capitalization (''smaller public companies'') through securities offerings, including private and limited offerings and initial and other public offerings;

(2) trading in the securities of emerging companies and smaller public companies; and

(3) public reporting and corporate governance requirements of emerging companies and smaller public companies.

Up to 20 voting members will be appointed to the Committee who can effectively represent those directly affected by, interested in, and/or qualified to provide advice to the Commission on its rules, regulations, and policies as set forth above. The Committee's membership will continue to be balanced fairly in terms of points of view represented and functions to be performed. Non-voting observers for the Committee from the North American Securities Administrators Association and the U.S. Small Business Administration may also be named.

The charter provides that the duties of the Committee are to be solely advisory. The Commission alone will make any determinations of action to be taken and policy to be expressed with respect to matters within the Commission's authority as to which the Committee provides advice or makes recommendations. The Committee will meet at such intervals as are necessary to carry out its functions. The charter contemplates that the full Committee will meet four times annually. Meetings of subgroups or subcommittees of the full Committee may occur more frequently.

The Committee will operate for two years from the date it was renewed or such earlier date as determined by the Commission unless, before the expiration of that time period, it is renewed in accordance with the Federal Advisory Committee Act. A copy of the charter for the Committee has been filed with the Chair of the Commission, the Committee on Banking, Housing, and Urban Affairs of the United States Senate, the Committee on Financial Services of the United States House of Representatives, the Committee Management Secretariat of the General Services Administration, and the Library of Congress. It also has been posted on the Commission's Web site at *www.sec.gov.*

By the Commission.

Dated: September 24, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–24634 Filed 9–28–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, October 1, 2015 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Gallagher, as duty officer, voted to consider the items listed for the Closed Meeting in closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: September 24, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–24732 Filed 9–25–15; 11:15 am]

BILLING CODE 8011–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2015–57]

Petition for Exemption; Summary of Petition Received; Delta Air Lines, Inc.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Title 14 of the Code of Federal Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before October 19, 2015.

ADDRESSES: Send comments identified by docket number FAA–2015–3932 using any of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.

• *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: 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 *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Keira Jones (202) 267–4025, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on September 23, 2015.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2015–3932

Petitioner: Delta Air Lines, Inc.

Section(s) of 14 CFR Affected: § 93.123

Description of Relief Sought: Delta Air Lines seeks relief to permit Delta Air Lines or any of its duly authorized ''Delta Connection'' carriers to operate two slots to maintain the daily nonstop service between Ronald Reagan Washington National Airport (DCA) and Lansing, Michigan's Capital Region International Airport (LAN) currently authorized by FAA Exemption Number 10466.

[FR Doc. 2015–24598 Filed 9–28–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–26367]

Motor Carrier Safety Advisory Committee; Charter Renewal

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Announcement of charter renewal of the Motor Carrier Safety Advisory Committee (MCSAC).

SUMMARY: FMCSA announces the charter renewal of the MCSAC, a Federal Advisory Committee that provides the Agency with advice and recommendations on motor carrier safety programs and motor carrier safety regulations through a consensus process. This charter renewal will take effect on October 1, 2015, and will expire after 2 years.

FOR FURTHER INFORMATION CONTACT: Ms. Shannon L. Watson, Senior Advisor to the Associate Administrator for Policy, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 385–2395, *mcsac@dot.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), FMCSA is giving notice of the charter renewal for the MCSAC. The MCSAC was established to provide FMCSA with advice and recommendations on motor carrier safety programs and motor carrier safety regulations.

The MCSAC is composed of up to 20 voting representatives from safety advocacy, safety enforcement, labor, and industry stakeholders of motor carrier safety. The diversity of the Committee ensures the requisite range of views and expertise necessary to discharge its responsibilities. See the MCSAC Web site for details on pending tasks at *http://mcsac.fmcsa.dot.gov/.*

Issued on: September 22, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–24616 Filed 9–28–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–2015–0027]

Notice of Proposed Buy America Waiver for Voith Propulsion Unit

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of Proposed Buy America waiver and request for comment.

SUMMARY: The Federal Transit Administration (FTA) received a request from the Virginia Department of Transportation (VDOT) for a Buy America waiver for Voith Turbo Schneider Propeller GmbH (Voith) 21/R5 propulsion units based on non-availability. Voith, located in Germany, is the sole manufacturer of the required propulsion units. VDOT is procuring the propulsion units as part of an engine and drive system replacement for the Ferry Boat Pocahontas, which is operated by VDOT. There are no domestic manufacturers of equivalent propulsion units. FTA is providing notice of the non-availability waiver request and seeks public comment before deciding whether to grant the request. If granted, the waiver would apply to the purchase of two (2) Voith 21/R5 propulsion units. FTA is also providing notice that it will be conducting a supplier scouting search to determine whether there are domestic alternatives to the propulsion units via the process described at the end of this Notice.

DATES: Comments must be received by October 29, 2015. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Please submit your comments by one of the following means, identifying your submissions by docket number FTA–2015–0027:

1. *Web site: http://www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site.
2. *Fax:* (202) 493–2251.
3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must make reference to the ''Federal Transit Administration'' and include docket number FTA–2015–0027. Due to the security procedures in effect since October 2011, mail received through the U.S. Postal Service may be subject to delays. Parties making submissions responsive to this notice should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand. Note that all submissions received, including any personal information therein, will be posted without change or alteration to *http://www.regulations.gov.* For more information, you may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000 (65 FR 19477), or you may visit *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Laura Goldin, FTA Attorney-Advisor, at (202) 366–2743 or *laura.goldin@dot.gov.*

SUPPLEMENTARY INFORMATION: The purpose of this notice is to provide notice and seek public comment on whether the FTA should grant a Buy America waiver to VODT for the purchase of two (2) Voith 21/R5 propulsion units based on non-availability.

On August 12, 2015, VDOT requested a Buy America waiver for the procurement of the propulsion units. VDOT's request identified Voith, located in Germany, as the sole manufacturer of the required propulsion units. No known domestic equivalents exist. VDOT is procuring the propulsion units as part of an engine and drive system replacement for the Ferry Boat Pocahontas, which is operated by VDOT on the Jamestown-Scotland ferry route crossing the James River in Virginia.

The original propulsion units have reached the end of their useful life. Although the new ferry engines will be manufactured domestically by Caterpillar, Inc., the vessel has a specific propulsion design utilizing a vertical axis cycloidal propeller. The Pocahontas was designed around the vertical propeller configuration. The entirety of the vessel's hull, the engine housing, the dimensions of the vessel, and the ballast locations, are all configured to work with a vertical propulsion unit, which ensures proper piloting and vessel stability. As part of the procurement planning, VDOT contracted with Alion Science and Technology Corp. (Alion) to develop the design of the entire engine replacement. Alion concluded that the Voith propulsion units were paired appropriately (in terms of performance and cost) with the engines manufactured domestically by Caterpillar.

With certain exceptions, FTA's Buy America requirements prevent FTA from obligating an amount that may be appropriated to carry out its program for a project unless ''the steel, iron, and manufactured goods used in the project are produced in the United States.'' 49 U.S.C. 5323(j)(1). If, however, FTA determines that ''the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality,'' then FTA may issue a non-availability waiver. 49 U.S.C. 5323(j)(2)(B); 49 CFR 661.7(c).

Before FTA determines whether to issue a non-availability waiver to VDOT for the Voith propulsion units, FTA seeks public comment from all interested parties in accordance with 49 U.S.C. 5323(j)(3)(A). Comments will help FTA understand completely the facts surrounding the request, including the merit of the request. Full copies of the VDOT's request have been placed in docket number FTA–2015–0027.

Concurrent with the publication of this Notice, FTA will be conducting a scouting search through its Interagency Agreement with the U.S. Department of Commerce's National Institute of Standards and Technology (NIST) that is intended to assist manufacturers and transit agencies identify domestically made products. Interested domestic manufacturers should contact Samm Bowman, Business Specialist, NIST Manufacturing Extension Partnership, at *samm@nist.gov* or 301–975–5978.

Issued on September 21, 2015.

Dana Nifosi,

Deputy Chief Counsel.

[FR Doc. 2015–24642 Filed 9–28–15; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–2015–0026]

Notice of Proposed Buy America Waiver for Proposed Innovative Electronic Platform Track Intrusion System

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of Proposed Buy America waiver and request for comment.

SUMMARY: The Federal Transit Administration (FTA) received a request from the Los Angeles County Metropolitan Transportation Authority (LACMTA) for a Buy America non-availability waiver for the procurement of a proposed innovative electronic

platform track intrusion system (PTIDS). LACMTA seeks to procure the PTIDS for research and testing purposes to determine whether such a system will help to increase rail safety by identifying obstacles in the right-of-way. PTIDS uses radar transponder technology, such as sensors, to detect intrusions on rail tracks. If an object is detected, the sensors immediately send notification to personnel who may then stop the train and take appropriate action. LACMTA seeks a waiver for the PTIDS because it contains twelve components, six of which only are available from a single source and currently are not manufactured in the United States. FTA is providing notice of the non-availability waiver request and seeks public comment before deciding whether to grant the request. If granted, the waiver only would apply to this one procurement of the specific PTIDS components identified in this waiver request, and not to any future procurement by LACMTA or others. FTA also is providing notice that it will conduct a supplier scouting search for domestic alternatives to the foreign components via the process described in this Notice.

DATES: Comments must be received by October 13, 2015. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Please submit your comments by one of the following means, identifying your submissions by docket number FTA–2015–0026:

1. *Web site: http://www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site.
2. *Fax:* (202) 493–2251.
3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must make reference to the ''Federal Transit Administration'' and include docket number FTA–2015–0026. Due to the security procedures in effect since October 2011, mail received through the U.S. Postal Service may be subject to delays. Parties making submissions responsive to this Notice should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand. Note that all submissions received, including any personal information therein, will be posted without change or alteration to *http://www.regulations.gov.* For more information, you may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000 (65 FR 19477), or you may visit *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Laura Goldin, FTA Attorney-Advisor, at (202) 366–2743 or *laura.goldin@dot.gov.*

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to provide notice and seek public comment on whether the FTA should grant a non-availability waiver to LACMTA for the procurement of a PTIDS. On May 1, 2015, LACMTA requested a Buy America non-availability waiver for the PTIDS because several components are only available from a single source and are not produced in sufficient and reasonably available quantities of a satisfactory quality in the United States. 49 U.S.C. 5323(j)(2)(A); 49 CFR 661.7(c).

LACMTA operates both heavy rail and light rail for 80 stations spanning 87 service miles. In December 2013, LACMTA entered into a partnership with Honeywell International, Inc. (Honeywell) and ProTran Technology LLC to submit an application in response to FTA's Notice of Funding Availability Solicitation of Project Proposals for Innovative Safety, Resiliency, and All-Hazards Emergency Response and Recovery Research Demonstrations. The goal of LACMTA's proposal is to demonstrate that the PTIDS is the most reliable, efficient, and secure system available and can immediately identify any right-of-way obstacles. The PTIDS relies on radar transponder technology to send an instant warning to rail operation safety systems and personnel. If an intrusion is detected, the PTIDS sensors trigger safety systems and notify personnel, so that the train can be stopped. Due to the accuracy and immediacy of the technology, LACMTA claims that the PTIDS allows for the greatest response time so more accidents will be avoided. PTIDS also has fail-safe mechanisms and uses algorithms to prevent false alarms, which plague many other platform intrusion detection systems on the market. In addition, LACMTA states that some components of this system are custom-designed. For instance, the PTIDS uses a radio-wave based sensor sub-system, a signal processing sub-system, a video sub-system, and a communications sub-system that provides alerts to operators. All of these sub-systems work together and are connected to one another by custom cables that are designed for the particular rail system and equipment. Honeywell currently manufactures the safety system equipment in Germany. LACMTA states that some PTIDS components currently are not available in the United States and no U.S. manufacturers make acceptable substitutes. Therefore, LACMTA is requesting a Buy America non-availablily waiver for certain PTIDS components that are manufactured abroad. 49 CFR 661.7.

According to LACMTA's request, six of the 12 components that comprise the PTIDS are foreign-made and require a non-availability waiver under 49 CFR 661.7. Those components requiring a waiver are: The AXIS fixed outdoor dome camera manufactured in Sweden; the AXIS wall mount for dome cameras manufactured in Sweden; the Honeywell Module Radar Sensor Modules Pair manufactured in Germany; the Honeywell GPC/CCU controller units manufactured in Germany; the Honeywell GPC Cabinet for equiptment manufactured in Germany and; the Honeywell Custom Cables for interconnection manufactured in Germany.

With certain exceptions, FTA's Buy America requirements prevent FTA from obligating an amount that may be appropriated to carry out its program for a project unless ''the steel, iron, and manufactured goods used in the project are produced in the United States.'' 49 U.S.C. 5323(j)(1). A manufactured product is considered produced in the United States if: (1) All of the manufacturing processes for the product take place in the United States; and (2) all of the components of the product are of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents. 49 CFR 661.5(d). If, however, FTA determines that ''the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality,'' then FTA may issue a waiver (non-availability waiver). 49 U.S.C. 5323(j)(2)(B); 49 CFR 661.7(c).

LACMTA is requesting a Buy America non-availability waiver in order to conduct research on and test the PTIDS for future use. LACMTA also notes that Honeywell may consider domestic manufacturing of certain elements of the PTIDS if this research and testing is successful and if there is adequate industry demand.

The purpose of this Notice is to publish LACMTA's request and seek public comment from all interested parties in accordance with 49 U.S.C. 5323(j)(3)(A). Comments will help FTA understand completely the facts surrounding the request, including the merits of the request. A full copy of the request has been placed in docket number FTA–2015–0026. Concurrent with the publication of this Notice, FTA will be conducting a scouting search through its Interagency Agreement with the U.S. Department of Commerce's National Institute of Standards and Technology (NIST) that is intended to assist manufacturers and transit agencies identify domestically made products. Interested domestic manufacturers should contact Samm Bowman, Business Specialist, NIST Manufacturing Extension Partnership, at *samm@nist.gov* or 301–975–5978.

Issued on September 21, 2015.

Dana Nifosi,

Deputy Chief Counsel.

[FR Doc. 2015–24643 Filed 9–28–15; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

AGENCY: Department of the Treasury.

ACTION: Notice.

The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before October 29, 2015 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by emailing *PRA@treasury.gov* or viewing the entire information collection request at *www.reginfo.gov.*

Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506–0014.

Type of Review: Extension without change of a currently approved collection.

Title: Report of International Transportation of Currency or Monetary Instruments.

Form: FinCEN 105.

Abstract: FinCEN, and the Department of Homeland Security (DHS) and the DHS Bureaus, are required under 31 U.S.C. 5316(a) to collect information regarding mailing, shipment, or transportation of currency or monetary instruments of more than $10,000 in value into or out of the United States.

Affected Public: Individuals or Households.

Estimated Annual Burden Hours: 140,000.

OMB Number: 1506–0026.

Type of Review: Revision of a currently approved collection.

Title: Customer Identification Programs for Banks, Savings Associations, Credit Unions, and Certain Non-federally Regulated Banks.

Abstract: Banks, savings associations, credit unions, and certain non-federally regulated banks are required to develop and maintain customer identification programs. See 31 CFR 1020.100.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 160,380.

OMB Number: 1506–0030.

Type of Review: Extension without change of a currently approved collection.

Title: Anti-Money Laundering Programs for Dealers in Precious Metals, Precious Stones, or Jewels.

Abstract: Desires in precious metals, stones, or jewels are required to establish and maintain a written anti-money laundering program. A copy of the written program must be maintained for five years. See 31 CFR 1027.100.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 20,000.

OMB Number: 1506–0033.

Type of Review: Revision of a currently approved collection.

Title: Customer Identification Programs for Mutual Funds.

Abstract: Mutual Funds are required to establish and maintain customer identification programs. A copy of the written program must be maintained for five years. See 31 CFR 1024.220.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 603,750.

OMB Number: 1506–0034.

Type of Review: Revision of a currently approved collection.

Title: Customer Identification Programs for Broker-Dealers.

Abstract: Broker-dealers are required to establish and maintain a customer identification program. A copy of the program must be maintained for five years. See 31 CFR 1023.220.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 520,500.

Dated: September 24, 2015.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2015–24633 Filed 9–28–15; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

AGENCY: Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before October 29, 2015 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by emailing *PRA@treasury.gov,* or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Alcohol and Tobacco Tax and Trade Bureau (TTB)

OMB Number: 1513–0027.

Type of Review: Extension without change of a currently approved collection.

Title: Removals of Tobacco Products, Cigarette Papers and Tubes Without Payment of Tax.

Form: TTB F 5200.14.

Abstract: Manufacturers of tobacco products, cigarette papers, or cigarette tubes, cigar manufacturers operating in a customs bonded manufacturing warehouse, and export warehouse proprietors may remove such products without payment of the Federal tobacco excise tax for export or for consumption beyond the jurisdiction of the internal revenue laws of the United States, under 26 U.S.C. 5704(b). The manufacturer or export warehouse proprietor records these removals on TTB F 5200.14, which is also signed by the recipient or a customs officer, certifying the appropriate receipt of the products. The form, therefore, is used to show that these tax-free removals are in fact delivered in compliance with the law.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 61,600.

Dated: September 24, 2015.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2015–24637 Filed 9–28–15; 8:45 am]

BILLING CODE 4810–31–P

FEDERAL REGISTER

Vol. 80 Tuesday,

No. 188 September 29, 2015

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Endangered Species Status for *Chamaecrista Lineata* Var. *Keyensis* (Big Pine Partridge Pea), *Chamaesyce Deltoidea* Ssp. *Serpyllum* (Wedge Spurge), and *Linum Arenicola* (Sand Flax), and Threatened Species Status for *Argythamnia Blodgettii* (Blodgett's Silverbush); Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2015–0137]; [4500030113]

RIN 1018–AZ95

Endangered and Threatened Wildlife and Plants; Endangered Species Status for Chamaecrista lineata var. keyensis (Big Pine Partridge Pea), Chamaesyce deltoidea ssp. serpyllum (Wedge Spurge), and Linum arenicola (Sand Flax), and Threatened Species Status for Argythamnia blodgettii (Blodgett's Silverbush)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service or USFWS), propose to list four plants from south Florida under the Endangered Species Act of 1973, as amended (Act): *Chamaecrista lineata* var. *keyensis* (Big Pine partridge pea), *Chamaesyce deltoidea* ssp. *serpyllum* (wedge spurge), and *Linum arenicola* (sand flax) as endangered species, and *Argythamnia blodgettii* (Blodgett's silverbush) as a threatened species. If we finalize this rule as proposed, it would extend the Act's protections to these plants.

DATES: We will accept comments received or postmarked on or before November 30, 2015. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by November 13, 2015.

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

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R4–ES–2015–0137, which is the docket number for this rulemaking. Then, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rules link to locate this document. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R4–ES–2015–0137; U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see *Public Comments,* below, for more information).

FOR FURTHER INFORMATION CONTACT: Larry Williams, State Supervisor, U.S. Fish and Wildlife Service, South Florida Ecological Services Field Office, 1339 20th Street, Vero Beach, FL 32960; by telephone 772–562–3909; or by facsimile 772–562–4288. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Act, if we determine that a species is an endangered or threatened species throughout all or a significant portion of its range, we must publish a proposed rule to list the species in the **Federal Register** and make a determination on our proposal within 1 year. Listing a species as an endangered or threatened species can only be completed by issuing a rule.

This rule proposes the listing of *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum,* and *Linum arenicola* as endangered species, and *Argythamnia blodgettii* as a threatened species. The four plants are candidate species for which we have on file sufficient information on biological vulnerability and threats to support preparation of a listing proposal, but for which development of a listing rule has until now been precluded by other higher priority listing activities. This rule reassesses all available information regarding status of and threats to the four plants.

The basis for our action. Under the Act, we may determine that a species is an endangered or threatened species based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We have determined that the threats to *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* consist primarily of habitat loss and modification through urban and agricultural development, and lack of adequate fire management (Factor A); and the proliferation of nonnative invasive plants, stochastic events (hurricanes and storm surge), maintenance practices used on roadsides and disturbed sites, and sea level rise (Factor E). Existing regulatory mechanisms have not been adequate to reduce or remove these threats (Factor D).

We will seek peer review. We will seek comments from independent specialists to ensure that our determinations are based on scientifically sound data, assumptions, and analyses. We will invite these peer reviewers to comment on this listing proposal.

Information Requested

Public Comments

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned governmental agencies, Native American tribes, the scientific community, industry, or any other interested parties concerning this proposed rule. We particularly seek comments concerning:

(1) The four plants' biology, range, and population trends, including:

(a) Biological or ecological requirements of these plants, including habitat requirements for establishment, growth, and reproduction;

(b) Genetics and taxonomy;

(c) Historical and current ranges, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the plants, their habitats, or both.

(2) Factors that may affect the continued existence of these plants, which may include habitat modification or destruction, overutilization, disease, predation, the inadequacy of existing regulatory mechanisms, or other natural or manmade factors.

(3) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to these plants and existing regulations that may be addressing those threats.

(4) Current or planned activities in the areas occupied by these plants and possible impacts of these activities on these plants.

(5) Additional information concerning the biological or ecological requirements

of these plants, including pollination and pollinators.

(6) Scientific information or analysis informing whether these plants more closely meet the definition of endangered or of threatened under the Act.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*) directs that determinations as to whether any species is an endangered or threatened species must be made ''solely on the basis of the best scientific and commercial data available.''

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We request that you send comments only by the methods described in the **ADDRESSES** section.

If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, South Florida Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Public Hearing

Section 4(b)(5) of the Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days after the date of publication of this proposed rule in the **Federal Register**. Such requests must be sent to the address shown in the **FOR FURTHER INFORMATION CONTACT** section. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings, as well as how to obtain reasonable accommodations, in the **Federal Register** and local newspapers at least 15 days before the hearing.

Peer Review

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of peer review is to ensure that our listing determinations are based on scientifically sound data, assumptions, and analyses. The peer reviewers have expertise in the biology, habitat, and conservation status of these plants, which will inform our determinations. We invite comment from the peer reviewers during the public comment period.

Previous Federal Actions

On January 9, 1975, as directed by the Act, the Secretary for the Smithsonian Institution submitted a report to Congress on potential endangered and threatened plant species of the United States (Smithsonian 1975, entire). The report identified more than 3,000 plant species as potentially either endangered or threatened, including *Argythamnia blodgettii, Chamaecrista lineata* var. *keyensis* (under the former name *Cassia keyensis*), *Chamaesyce deltoidea* ssp. *serpyllum* (under the name *Chamaesyce* (*Euphorbia*) *deltoidea* ssp. *serpyllum*), and *Linum arenicola* (Smithsonian 1975, pp. 56, 58, 61, 81). On July 1, 1975, we published in the **Federal Register** (40 FR 27824) our notification that we considered this report to be a petition to list the identified plants as either endangered or threatened under the Act. The 1975 notice solicited information from Federal and State agencies, and the public, on the status of the species.

On December 15, 1980, we published in the **Federal Register** (45 FR 82480) our notice of review of plant taxa for listing as endangered or threatened species. In that document, *Argythamnia blodgettii, Chamaecrista lineata* var. *keyensis* (under the former name *Cassia keyensis*), *Chamaesyce deltoidea* ssp. *serpyllum* (under the former name *Euphorbia deltoidea* ssp. *serpyllum*), and *Linum arenicola* were identified as Category 1 species (taxa for which we had enough biological information to support listing as either endangered or threatened). As a result, we considered all four plants to be candidates for addition to the Federal List of Endangered and Threatened Plants. The 1980 notice solicited information from Federal and State agencies, and the public, on the status of the four plant species.

On November 28, 1983, we published a document in the **Federal Register** (48 FR 53640) assigning a listing priority number (LPN) to two of the four plant species in accordance with our Listing Priority Guidance (48 FR 43098; September 21, 1983). *Argythamnia blodgettii* and *Linum arenicola* were assigned an LPN of 2, which meant that information that the Service possessed indicated that proposing to list as endangered or threatened was possibly appropriate but we lacked substantial information on biological vulnerability and threat(s) to support a proposed listing.

On September 27, 1985, we published a document in the **Federal Register** (50 FR 39526) assigning LPNs to all four of the plant species in accordance with our Listing Priority Guidance (48 FR 43098; September 21, 1983). *Argythamnia blodgettii* and *Linum arenicola* both retained an LPN of 2, which meant that information that the Service possessed indicated that proposing to list as endangered or threatened was possibly appropriate but we lacked substantial information on biological vulnerability and threat(s) to support a proposed listing. *Chamaecrista lineata* var. *keyensis* (under the former name *Cassia keyensis*) and *Chamaesyce deltoidea* ssp. *serpyllum* (under the former name *Euphorbia deltoidea* ssp. *serpyllum*) were both assigned an LPN of 1, which meant the Service had on file substantial information on biological vulnerability and threat(s) to support the appropriateness of proposing to list as endangered or threatened. We recognized at that time that any proposed listing action may take ''some years'' because of the ''large number of taxa'' at issue.

The 1990 candidate notice of review (CNOR) published in the **Federal Register** on February 21, 1990 (55 FR 6184). In that CNOR, *Argythamnia blodgettii* and *Linum arenicola* both retained an LPN of 2, and *Chamaecrista lineata* var. *keyensis* and *Chamaesyce deltoidea* ssp. *serpyllum* both retained an LPN of 1. Candidate species are assigned LPNs based on immediacy and magnitude of threats, as well as taxonomic status. The lower the LPN, the higher priority that species is for us to determine appropriate action using our available resources. We determined at that time that proposing to list was warranted, but was precluded due to workloads and priorities.

All four plants remained on the candidate list in the 1993 CNOR (58 FR 51144; September 30, 1993), with *Argythamnia blodgettii* and *Linum arenicola* both retaining an LPN of 2, and *Chamaecrista lineata* var. *keyensis*

and *Chamaesyce deltoidea* ssp. *serpyllum* being assigned an LPN of 3C (taxa that have proven to be more abundant or widespread than previously believed and/or those that are not subject to any identifiable threat).

The 1999 CNOR (64 FR 57534; October 25, 1999) retained *Chamaecrista lineata* var. *keyensis* and *Chamaesyce deltoidea* ssp. *serpyllum* as candidates and assigned an LPN of 6 to both, retained *Linum arenicola* as a candidate and assigned an LPN of 2, and retained *Argythamnia blodgettii* as a candidate and assigned an LPN of 11.

Chamaecrista lineata var. *keyensis* and *Chamaesyce deltoidea* ssp. *serpyllum* remained on the candidate list from 2001 to 2006, with the LPN of 6 (66 FR 54808, October 30, 2001; 67 FR 40657, June 13, 2002; 69 FR 24876, May 4, 2004; 70 FR 24870, May 11, 2005; 71 FR 53756, September 12, 2006). In the December 6, 2007, CNOR (72 FR 69034), we changed the LPN of *Chamaecrista lineata* var. *keyensis* and *Chamaesyce deltoidea* ssp. *serpyllum* from a 6 to a 9 because the threats to the species were found to be of lower magnitude than previously known. *Chamaecrista lineata* var. *keyensis* and *Chamaesyce deltoidea* ssp. *serpyllum* remained on the candidate list as published in the CNORs from 2008 to 2014 with the LPN of 9 (73 FR 75176, December 10, 2008; 74 FR 57804, November 9, 2009; 75 FR 69222, November 10, 2010; 76 FR 66370, October 26, 2011; 77 FR 69994, November 21, 2012; 78 FR 70104, November 22, 2013; 79 FR 72450, December 5, 2014).

Linum arenicola remained on the candidate list from 2001 to 2009, with the LPN of 2 (66 FR 54808, October 30, 2001; 67 FR 40657, June 13, 2002; 69 FR 24876, May 4, 2004; 70 FR 24870, May 11, 2005; 71 FR 53756, September 12, 2006; 72 FR 69034, December 6, 2007; 73 FR 75176, December 10, 2008; 74 FR 57804, November 9, 2009). In the November 10, 2010, CNOR (75 FR 69222), we changed the LPN of *L. arenicola* from a 2 to a 5 because of the threats to the species were found to be of lower magnitude than previously known and new data showing a larger population. *L. arenicola* remained on the candidate list as published in the CNORs from 2011 to 2014 with the LPN of 5 (76 FR 66370, October 26, 2011; 77 FR 69994, November 21, 2012; 78 FR 70104, November 22, 2013; 79 FR 72450, December 5, 2014).

Argythamnia blodgettii remained on the candidate list from 2001 to 2014, with the LPN of 11 (66 FR 54808, October 30, 2001; 67 FR 40657, June 13, 2002; 69 FR 24876, May 4, 2004; 70 FR 24870, May 11, 2005; 71 FR 53756; September 12, 2006; 72 FR 69034, December 6, 2007; 73 FR 75176, December 10, 2008; 74 FR 57804, November 9, 2009; 75 FR 69222, November 10, 2010; 76 FR 66370, October 26, 2011; 77 FR 69994, November 21, 2012; 78 FR 70104, November 22, 2013; 79 FR 72450, December 5, 2014).

For all four of the plant species, the 2005 CNOR (70 FR 24870; May 11, 2005) included a ''warranted but precluded'' finding in response to a May 11, 2004, petition to list the species.

On May 10, 2011, as part of a settlement agreement with a plaintiff, the Service filed a proposed work plan with the U.S. District Court for the District of Columbia. The work plan would enable the agency to, over a period of 6 years, systematically review and address the needs of more than 250 species listed within the 2010 CNOR, including *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii,* to determine if these species should be added to the Federal Lists of Endangered and Threatened Wildlife and Plants. This work plan would enable the Service to again prioritize its workload based on the needs of candidate species, while also providing State wildlife agencies, stakeholders, and other partners clarity and certainty about when listing determinations will be made. On July 12, 2011, the Service reached an agreement with another plaintiff group and further strengthened the work plan, which would allow the agency to focus its resources on the species most in need of protection under the Act. These agreements were approved by the court on September 9, 2011. The four species are proposed for listing pursuant to these agreements.

Background

It is our intent to discuss below only those topics directly relevant to the listing of *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum,* and *Linum arenicola* as endangered, and *Argythamnia blodgettii* as threatened, in this proposed rule.

Chamaecrista lineata var. *keyensis* (Big Pine partridge pea)

Species Description

Chamaecrista lineata var. *keyensis* is a small, prostrate to ascending, perennial, herbaceous shrub that is 10–80 centimeters (cm) (3.9–31.5 inches (in)) tall, with yellow flowers and pinnately compound leaves (each leaf consists of a main stem with multiple leaflets lined up along on each side). It has one to several branched stems arising from a contorted rootstock. New branches are covered in soft, fuzzy hairs. The leaves are 1.7–4.0 cm (0.7–1.6 in) long, with 5 to 9 pairs of leaflets. Flowers consist of five sepals 9–20 mm (0.4–0.8 in) long that are fused together near their bases; five yellow petals 11–15 mm (0.4–0.6 in) long, with one slightly larger than the others; 10 reddish-purple stamens; and a single, elongate style. The fruit is an elongate pod, roughly similar to that of a pea, 33–45 mm (1.3–1.8 in) long and 4.5–5.0 mm (0.19–0.17 in) wide, with a soft fuzzy texture, which turns gray with age and eventually split open to release seeds (Irwin and Barneby 1982, p. 757; Small 1933, pp. 662–663).

Taxonomy

John Loomis Blodgett was the first to collect *Chamaecrista lineata* var. *keyensis,* sometime between 1838 and 1852, on Big Pine Key (Bradley and Gann 1999, p. 17). Pollard (1894, p. 217) assigned the plants on Big Pine Key to the existing taxon *Cassia grammica.* John K. Small (1903, p. 587; 1913, p. 58) followed this usage, but used the genus *Chamaecrista* (considered a subgenus within *Cassia* or a genus unto itself variously by many authors). In 1917, Pennell (p. 344) recognized the Big Pine Key plant as a distinct endemic species, naming it *Chamaecrista keyensis.* This name was retained by Small (1933, p. 663) in his Manual of the Southeastern Flora. In an exhaustive study of *Cassia* and *Chamaecrista,* Irwin and Barneby (1982, p. 757) assigned plants in Florida and parts of the West Indies to the existing taxon *Chamaecrista lineata,* and assigned the Big Pine Key plants to var. *keyensis,* retaining them as endemic to the Florida Keys. Isely (1990, p. 33), Wunderlin (1998, p. 348), and Wunderlin and Hansen (2003, p. 441) have followed this treatment. The online Atlas of Florida Vascular Plants (Wunderlin and Hansen 2014, p. 1) uses *Chamaecrista lineata* var. *keyensis.* The Integrated Taxonomic Information System (2015, p. 1) uses the name *Chamaecrista lineata* var. *keyensis* and indicates that this taxonomy is accepted. Based upon the best available scientific information, *Chamaecrista lineata* var. *keyensis* is a distinct taxon, endemic to the lower Keys in Monroe County, Florida. Synonyms are *Cassia keyensis* (Pennell) J.F. Macbr and *Chamaecrista keyensis* Pennell. *Chamaecrista lineata* var. *keyensis* is related to, and superficially resembles, *Chamaecrista fasciculata,* the partridge pea, a common species which occurs throughout Florida.

Climate

The climate of south Florida where *Chamaecrista lineata* var. *keyensis* occurs is classified as tropical savanna and is characterized by distinct wet and dry seasons and a monthly mean temperature above 18 degrees Celsius (°C) (64.4 degrees Fahrenheit (°F)) in every month of the year (Gabler *et al.* 1994, p. 211). Freezes can occur in the winter months, but are rare at this latitude in south Florida. Rainfall in the lower Keys, where *C. lineata* var. *keyensis* occurs exclusively, varies from an annual average of 89–102 cm (35–40 in). Approximately 75 percent of yearly rainfall occurs during the wet season from June through September (Snyder *et al.* 1990, p. 238).

Habitat

Chamaecrista lineata var. *keyensis* occurs in pine rocklands of the lower Florida Keys, and adjacent disturbed sites, including roadsides.

Pine Rocklands: Pine rocklands are a unique and highly imperiled ecosystem found on limestone substrates in south Florida and a few islands in the Bahamas. In Florida, pine rocklands are located on the Miami Rock Ridge in present day Miami and in Everglades National Park, in the Florida Keys, and in the Big Cypress Swamp. While all four plants in this proposed rule occur primarily in pine rocklands, they have not been recorded in the Big Cypress Swamp area. Pine rocklands differ to some degree between and within these areas with regard to substrate (*e.g.,* amount of exposed limestone, type of soil), elevation, hydrology, and species composition (both plant and animal).

Pine rocklands occur in a mosaic with primarily two other natural community types—rockland hammock and marl prairie. Pine rocklands grade into rockland hammock; pine rocklands have an open pine canopy, and rockland hammock has a closed, hardwood canopy. Marl prairies differ from pine rocklands in having no pines, an understory dominated by grasses and sedges, and a minimal cover of shrubs (FNAI 2010, p. 63).

The total remaining acreage of pine rocklands in Miami-Dade and Monroe Counties is now 8,981 hectares (ha) (22,079 acres (ac)) (approximately 8,140 ha (20,100 ac)) in Miami-Dade County, and 801 ha (1,979 ac) in the Florida Keys (Monroe County).

Pine rocklands are characterized by an open canopy of *Pinus elliottii* var. *densa* (South Florida slash pine) with a patchy understory of tropical and temperate shrubs and palms and a rich herbaceous layer of mostly perennial species, including numerous species endemic to South Florida. Outcrops of weathered oolitic (small, rounded particles or grains) limestone are common, and solution holes may be present. This subtropical, pyrogenic flatland can be mesic or xeric depending on landscape position and associated natural communities (FNAI 2010a, p. 1).

Pine rocklands occur on relatively flat, moderately to well-drained terrain from 2–7 meters (m) (6.5 to 23 feet (ft)) above sea level (FNAI 2010a, p. 2). The oolitic limestone is at or very near the surface, and there is very little soil development. Soils are generally composed of small accumulations of nutrient-poor sand, marl, clayey loam, and organic debris in depressions and crevices in the rock surface. Organic acids occasionally dissolve the surface limestone causing collapsed depressions in the surface rock called solution holes (FNAI 2010a, p. 1). Drainage varies according to the porosity of the limestone substrate, but is generally rapid. Consequently, most sites are wet for only short periods following heavy rains. During the rainy season, however, some sites may be shallowly inundated by slow-flowing surface water for up to 60 days each year (FNAI 2010a, p. 1).

Pine rocklands have an open canopy of South Florida slash pine, generally with multiple age classes. The diverse, open shrub and subcanopy layer is composed of more than 100 species of palms and hardwoods (FNAI 2010a, p. 1), most derived from the tropical flora of the West Indies (FNAI 2010a, p. 1). Many of these species vary in height depending on fire frequency, getting taller with time since fire. These may include *Serenoa repens* (saw palmetto), *Sabal palmetto* (cabbage palm), *Coccothrinax argentata* (silver palm), *Thrinax morrisii* (Key thatch palm), *Myrica cerifera* (wax myrtle), *Rapanea punctata* (myrsine), *Metopium toxiferum* (poisonwood), *Byrsonima lucida* (locustberry), *Dodonaea viscosa* (varnishleaf), *Tetrazygia bicolor* (tetrazygia), *Guettarda scabra* (rough velvetseed), *Ardisia escallonioides* (marlberry), *Psidium longipes* (longstalked stopper), *Sideroxylon salicifolium* (willow bustic), and *Rhus copallinum* (winged sumac). Short-statured shrubs may include *Quercus elliottii* (running oak), *Randia aculeata* (white indigoberry), *Crossopetalum ilicifolium* (Christmas berry), *Morinda royoc* (redgal), and *Chiococca alba* (snowberry).

Grasses, forbs, and ferns make up a diverse herbaceous layer ranging from mostly continuous in areas with more soil development and little exposed rock to sparse where more extensive outcroppings of rock occur. Typical herbaceous species may include *Andropogon* spp.; *Schizachyrium gracile, S. rhizomatum,* and *S. sanguineum* (bluestem grasses); *Aristida purpurascens* (arrowleaf threeawn); *Sorghastrum secundum* (lopsided indiangrass); *Muhlenbergia capillaris* (hairawn muhly); *Rhynchospora floridensis* (Florida white-top sedge); *Tragia saxicola* (pineland noseburn); *Echites umbellata* (devil's potato); *Croton linearis* (pineland croton); several species of *Chamaesyce* spp. (sandmats); *Chamaecrista fasciculata* (partridge pea); *Zamia pumila* (coontie); *Anemia adiantifolia* (maidenhair pineland fern); *Pteris bahamensis* (Bahama brake); and *Pteridium aquilinum* var. *caudatum* (lacy bracken) (FNAI 2010a, p. 1).

There are noticeable differences in species composition between the pine rocklands found in the Florida Keys and the mainland. The shrub layer in pine rocklands occurring in the northern end of the Miami Rock Ridge more closely resembles pine flatwoods as a result of the amount of sandy soils in this area, with species such as *Lyonia fruticosa* (staggerbush), *Quercus minima* (dwarf live oak), *Quercus pumila* (running oak), and *Vaccinium myrsinites* (shiny blueberry) becoming more common (Snyder *et al.* 1990, p. 255). Pine rocklands in the lower Florida Keys have a subcanopy composed of several palms such as *Thrinax morrisii, Thrinax radiata* (Florida thatch palm), and *Coccothrinax argentata,* and hardwoods such as *Byrsonima lucida* and *Psidium longipes* (Bradley 2006, p. 3). The diversity of the herbaceous layer decreases as the density of the shrub layer increases (*i.e.,* as understory openness decreases), and pine rocklands on the mainland have a more diverse herbaceous layer due to the presence of temperate species and some tropical species that do not occur in the Florida Keys (FNAI 2010, p. 63).

Pine rocklands are maintained by regular fire, and are susceptible to other natural disturbances such as hurricanes, frost events, and sea level rise (SLR) (Ross *et al.* 1994). Fires historically burned on an interval of approximately every 3 to 7 years, and were typically started by lightning strikes during the frequent summer thunderstorms (FNAI 2010a, p. 3). Mature South Florida slash pine is highly fire-resistant (Snyder *et al.* 1990, p. 259). Above-ground portions of hardwood shrubs are typically killed by fire, but often resprout below ground; palms typically produce new growth post-fire from their unaffected apical buds. The amount of woody understory growth is directly related to the length

of time since the last fire. Herbaceous diversity declines with time since last fire. The ecotone between pine rocklands and rockland hammock is abrupt when regular fire is present in the system. However, when fire is removed, the ecotone becomes more gradual and subtle as hardwoods encroach into the pineland (FNAI 2010a, p. 3). If fire is excluded for 20 to 30 years, hardwoods will come to dominate the community and hammock conditions will prevail, which further discourage fires from spreading except in drought conditions. Presently, prescribed fire must be periodically introduced into pine rocklands to sustain community structure, prevent invasion by woody species, maintain high herbaceous diversity (Loope and Dunevitz 1981, pp. 5–6; FNAI 2010a, p. 3), and prevent succession to rockland hammock.

Pine rocklands are also susceptible to natural disturbances such as hurricanes and other severe storms, during which trees may be killed, thereby helping to maintain the open canopy that is essential to pine rocklands plants. During such events, pine rocklands near the coast may be temporarily inundated by saltwater, which can also kill or damage vegetation (Snyder *et al.* 1990, p. 251). These sporadic but potentially major disturbances, along with burning, create the dynamic nature of the pine rocklands habitat. Some currently unsuitable areas may become open in the future, while areas currently open may develop more dense canopy over time, eventually rendering that portion of the pine rocklands unsuitable for pine rocklands endemic plants.

Within pine rocklands habitat, *Chamaecrista lineata* var. *keyensis* is associated with areas that have few hardwoods and overstory palms are abundant (Bradley and Gann 1999, p 17–18). *C. lineata* var. *keyensis* plants are often in a clumped distribution surrounded by large areas of bare, open rock that do not support plant growth (Bradley 2006, p. 3). *C. lineata* var. *keyensis* is widespread in pine rocklands of Big Pine Key, but more frequent in the northern part of the island (Bradley 2006, p. 13). It is also more frequent in the interior of pine rocklands than on coastal edges (Bradley 2006, p. 13; Bradley and Saha 2009, p. 9). *C. lineata* var. *keyensis* is more abundant in areas with relatively higher elevation (Bradley and Saha 2009, p. 26), low shrub density, and a diverse herb layer (Bradley 2006, p. 37).

Roadsides: Roadsides are a potentially important habitat for *Chamaecrista lineata* var. *keyensis* (Bradley 2006, p. 21). Where pine rocklands endemics such as *C. lineata* var. *keyensis* are found on road shoulders, the ground cover is dominated mostly by native herbs and grasses, and exotic lawn grasses have not been planted. Maintaining the roadsides in this condition through regular mowing, without planting sod, should continue to provide suitable habitat for *C. lineata* var. *keyensis* (Bradley 2006, p. 37).

Historical Range

Chamaecrista lineata var. *keyensis* is endemic to the lower Florida Keys in Monroe County, Florida. Historical records exist for occurrences on five islands: Big Pine Key, No Name Key, Ramrod Key, Cudjoe Key, and Sugarloaf Key (Hodges and Bradley 2006, pp. 20–21).

Current Range, Population Estimates, and Status

The current range of *Chamaecrista lineata* var. *keyensis* is Big Pine Key and Cudjoe Key. In 2007, Bradley and Saha (2009, pp. 9–11) surveyed Big Pine Key, Cudjoe Key, Little Pine Key, No Name Key, and Sugarloaf Key (the five islands in the Florida Keys containing pine rocklands) and observed *C. lineata* var. *keyensis* only on Big Pine Key and Cudjoe Key. It has not been reported from other islands for some time (Ramrod Key in 1911, No Name Key in 1916 (Hodges and Bradley 2006, p. 45), and Lower Sugarloaf Key in 2005 (Hodges and Bradley 2006, p. 21)). Accordingly, *C. lineata* var. *keyensis* is considered extirpated from Ramrod Key, No Name Key, and Lower Sugarloaf Key—3 of 5 (60 percent) of the islands where it was historically recorded (Bradley and Gann 1999, p. 18; Hodges and Bradley 2006, p. 21). Big Pine Key, Cudjoe Key, Little Pine Key, No Name Key, and Sugarloaf Key presently contain pine rocklands habitat. No pine rocklands currently exist on Ramrod Key.

Population data for *Chamaecrista lineata* var. *keyensis* have been collected periodically on Big Pine Key since 1955. Because of the size of Big Pine Key, sample study plots were used, as opposed to a complete search of all potential habitat. Multiple indicators show that the population on Big Pine Key has declined over the past 60 years (Bradley 2006, p. 35). Dickson (1955) and Alexander and Dickson (1972) reported densities of *C. lineata* var. *keyensis* from plots they established on Big Pine Key in 1951 and 1969, respectively. Dickson (1955) reports a mean density of 10,764 plants/ha (26,599 plants/ac). Alexander and Dickson (1972) report a mean density of 27,871 plants/ha (68,872 plants/ac). In 2005, Bradley (2006, p. 35) recorded 2,339 plants/ha (5,780 plants/ac), 23.4 percent and 9.0 percent of the 1955 and 1972 estimates, respectively. Hurricane Wilma, which passed over Big Pine Key on October 24, 2005, generated storm surge in the lower Keys of up to 10 feet (Bradley 2006, p. 11; Hodges 2010, p. 4). In 2007, density had dropped to 820 plant/ha (2,026 plants/ac) and had not fully rebounded after 9 years (Bradley *et al.* 2015, pp. 21–22). By 2013, density had fallen to 657 plants/ha (1,624 plants/ac) (Bradley *et al.* 2015, p. 21). In summary, the data from 2005 to 2013 demonstrate a 63.8 percent decline in the density of *C. lineata* var. *keyensis* on Big Pine Key (Bradley *et al.* 2015, p. 48).

A second indicator, the frequency which *Chamaecrista lineata* var. *keyensis* occurred in sample plots on Big Pine Key from data collected in 2005, 2007, and 2013, also show a decline. *Chamaecrista lineata* var. *keyensis* was present in 37 percent of plots in 2005, and 19 percent of plots in 2013, respectively. This represents a 49 percent reduction in the species frequency in study plots (Bradley *et al.* 2015, p. 48).

A third indicator, total population size for *Chamaecrista lineata* var. *keyensis* on publicly owned pine rocklands on Big Pine Key (478 ha (1,181 ac)), was estimated to be 866,659 plants in 2005 (pre-Hurricane Wilma), 391,944 in 2007 (2 years post-Wilma), and 313,914 in 2013 (8 years post-Wilma). This represents a population decrease of 64 percent (Bradley *et al.* 2015, p. 21).

The most recent estimate (2013) of the *Chamaecrista lineata* var. *keyensis* population on Big Pine Key is 313,914 plants (Bradley *et al.* 2015, p. 21). Since 82 percent of the pine rocklands on Big Pine Key are publicly owned, this estimate likely accounts for the majority of the population. The most recent estimate of the population on Cudjoe Key is 150 plants (Hodges and Bradley 2006, p. 21).

The decline in *Chamaecrista lineata* var. *keyensis* can be largely attributed to loss of pine rocklands habitat to development and modification of this habitat due to inadequate fire management. Folk (1991, p. 188) estimated that pine rocklands historically covered 1,049 ha (2,592 ac), about 44 percent of Big Pine Key. Pine rocklands now cover approximately 582 ha (1,438 ac) of Big Pine Key, 56 percent of the historical estimate by Folk (1991) (Bradley 2006, p. 4). Hurricanes and associated storm surge have also impacted population levels. These factors are discussed in detail below,

under Summary of Biological Status and Threats.

TABLE 1—SUMMARY OF THE STATUS AND TRENDS OF THE KNOWN OCCURRENCES OF CHAMAECRISTA LINEATA VAR. KEYENSIS

Population	Ownership	Most recent population estimate	Status	Trend
Big Pine Key	USFWS,[1] FWC[2] Monroe County, private.	313, 914 (2014)[4]	Extant[4]	Declining.[4]
Cudjoe Key	USFWS,[1] FWC[2]	150 (2005)[3]	Extant[3]	Insufficient data.
Lower Sugar Loaf Key	USFWS,[1] FWC[2], Monroe County.	3 (2005)[3]	Extirpated[3].	
No Name Key	unknown	no data (1916)[3]	Extirpated[3].	
Ramrod Key	unknown	no data (1911)[3]	Extirpated[3].	

[1] U.S. Fish and Wildlife Service.
[2] Florida Fish and Wildlife Conservation Commission.
[3] Hodges and Bradley 2006, p. 45.
[4] Bradley *et al.* 2015, p. 21.

Biology

The reproductive biology and relationship to fire of *Chamaecrista lineata* var. *keyensis* has received a considerable amount of study. Significant findings are summarized below.

Life History and Reproduction: Chamaecrista lineata var. *keyensis* is a perennial, but some stems will die back every year, and a small proportion of plants may go dormant for a year or more. Peak flowering and fruiting occurs in the summer from May to August, corresponding with increased rainfall during these months in the Florida Keys. Mature seedpods may contain 1 to 10 seeds. Seedlings may appear throughout the year, with a peak in the fall during September to October, immediately following seed dispersal. Seeds may persist in the soil seed bank for up to 3 years (Liu and Menges 2005, p. 1484).

Chamaecrista lineata var. *keyensis* flowers require insect visitation for pollination. The anthers (pollen-bearing structures) have small pores from which pollen escapes when a visiting insect's wings vibrate the structure, a phenomenon known as buzz-pollination. Though many types of insects visit *C. lineata* var. *keyensis* flowers, effective pollination can be performed only by buzz-pollinating bees. Of the numerous bee species that visit the flowers, only *Xylocopa micans* and *Melissodes* spp. bees have been observed performing effective buzz-pollination (Liu and Koptur 2003, pp. 1184–1186).

Chamaecrista lineata var. *keyensis* flowers are self-compatible (an individual can be fertilized with its own pollen), and seeds are generated both by self- and cross-pollination. However, seed set is higher when cross-pollination occurs. Seed germination rates are higher from cross-pollinated flowers, suggesting that inbreeding depression occurs in seeds produced through self-pollination (Liu and Koptur 2003, pp. 1184–1186). Taken together, these findings confirm that insect pollination is crucial to the plant's reproduction and progeny fitness.

Fire Ecology and Demography: Chamaecrista lineata var. *keyensis* grows in the understory of pine rocklands, a fire-dependent ecosystem. The seeds have a hard seed coat that may help them survive fire (Liu *et al.* 2005a, p. 216). Fire has important effects on survival and regeneration of *C. lineata* var. *keyensis.* Fire may immediately kill some of the plants, but populations rebound during the first and second years after fire. Three years post-fire, survival in burned areas can equal that of unburned areas, suggesting that *C. lineata* var. *keyensis* can recover completely after fire. Fire stimulates stem growth, fruiting, and seedling establishment. Fire seasonality may produce different responses in *C. lineata* var. *keyensis.* Overall, winter and early summer fires produce more favorable results compared with late summer fires (Liu and Menges 2005, p. 1848).

Demographic modeling by (Liu *et al.* 2005a, p. 210) found that fire return intervals of 5 to 7 years generated the lowest extinction and population decline probabilities for *Chamaecrista lineata* var. *keyensis,* regardless of burn season. Bradley and Saha (2009, p. 20) found that both fire frequency and time since the last fire had significant effects on the density of *C. lineata* var. *keyensis* in study plots. The highest densities were found in plots that were burned three or more times over a 45-year period from 1960 to 2005, and in plots that had burned recently, while lower densities were associated with plots that had not been burned in 45 years.

Liu *et al.* (2005b, p. 71) found that differences in fire intensity (as measured by maximum ground temperature) did not have a significant long-term effect on survival, growth, or seedling recruitment. However, the number of fruits produced and percentage of fruiting plants increased as fire intensity increased. This suggests that low-intensity fires associated with shorter fire return intervals (less than 3 years) may not provide the most favorable conditions for post-fire recovery.

Taken together, these results indicate that *Chamaecrista lineata* var. *keyensis* can tolerate and may benefit from periodic fire. As discussed above under ''Habitat,'' fire is a crucial element in maintaining the pine rocklands habitat. Periodic fires eliminate the shrub subcanopy, remove litter from the ground, recycle nutrients, and are necessary to prevent succession to a hardwood-dominated ecosystem (rockland hammock) that is unsuitable for *C. lineata* var. *keyensis* (Bradley and Gann 1999, pp. 17–18).

Chamaesyce deltoidea ssp. *serpyllum* (wedge spurge)

Species Description

Chamaesyce deltoidea ssp. *serpyllum* is a small, prostrate, perennial herb. The stems are slender and numerous, radiating out from the taproot. The leaves are 2 to 5 mm (0.08 to 0.19 in) long, more or less triangular, and covered with fine short fuzz, giving the plant a silvery appearance. The flowers are cyathia, the specialized inflorescences characteristic of the genus *Euphorbia* and its close relatives. The fruit is a capsule about 1.5 mm (0.06 in) wide (Small 1933, p. 795; Herndon 1993, p. 50).

Taxonomy

John K. Small collected plants on Big Pine Key and first described *Chamaesyce deltoidea* ssp. *serpyllum* as *C. serpyllum* (Small 1913, p. 81). Burch (1966, p.99) included *C. serpyllum* as a subspecies of *C. deltoidea,* assigning the currently accepted name *C. deltoidea* ssp. *serpyllum.* The online Atlas of Florida Vascular Plants uses the name *C. deltoidea* ssp. *serpyllum* (Wunderlin and Hansen 2008, p. 1), and the Integrated Taxonomic Information System (ITIS 2015, p. 1) indicates that its taxonomic status is accepted. We have carefully reviewed all taxonomic data to determine that *Chamaesyce deltoidea* (Engelm. ex Chapm.) Small ssp. *serpyllum* (Small) D.G. Burch is a valid taxon. Synonyms include *Chamaesyce serpyllum* Small; *Euphorbia deltoidea* Engelmann ex Chapman ssp. *serpyllum* (Small) Y. Yang; and *Chamaesyce serpyllum* Small, *Euphorbia deltoidea* Engelmann ex Chapman var. *serpyllum* (Small) Oudejans (Wunderlin and Hansen 2008, p. 3).

Climate

The climate of south Florida where *Chamaesyce deltoidea* ssp. *serpyllum* occurs is classified as tropical savanna, as described above for *Chamaecrista lineata* var. *keyensis*.

Habitat

Chamaesyce deltoidea ssp. *serpyllum* occurs in pine rocklands and adjacent disturbed sites on Big Pine Key, including roadsides. It most often grows directly from crevices in the oolitic limestone substrate (Bradley and Gann 1999, p. 31). Pine rocklands are described in detail for *Chamaecrista lineata* var. *keyensis,* above. Within pine rocklands, *Chamaesyce deltoidea* ssp. *serpyllum* is associated with areas of relatively higher elevation, extensive exposed rock substrate, where the understory is open, hardwood and palm density is low, and native herbaceous species cover and richness are high (Bradley and Saha 2009, p. 26; Ross and Ruiz 1996, p. 6; Bradley 2006, p. 27). Roadsides dominated mostly by native herbs and grasses where exotic lawn grasses are not established are a potentially important habitat for *C. deltoidea* ssp. *serpyllum* (Bradley 2006, p. 37).

Historical Range

Chamaesyce deltoidea ssp. *serpyllum* is historically known from only Big Pine Key in the Florida Keys in Monroe County, Florida.

Current Range, Population Estimates, and Status

The current range of *Chamaesyce deltoidea* ssp. *serpyllum* is on Big Pine Key. Small groups of plants are scattered widely across the island (Herndon 1993, in Bradley and Gann 1999, p. 31).

Population data for *Chamaesyce deltoidea* ssp. *serpyllum* have been collected on Big Pine Key periodically since 1996. Indicators show that the population on Big Pine Key has declined over the past 19 years. Using study plots across Big Pine Key, Ross and Ruiz (1996, p. 6) found *C. deltoidea* ssp. *serpyllum* was present in 22 percent of study plots in 1996. When sampled again by Bradley (2006, p. 11; Bradley *et al.* 2015, p. 21) in 2005, 2007, and 2013, the species was present in 7.4, 5.5, and 3.7 percent of study plots, respectively. This represents an 83 percent reduction of the species' frequency in study plots from 1996 to 2013, and a 50 percent reduction from 2005 to 2013. The decrease in frequency is attributed in large part to the total disappearance of the species from study plots in the southern portion of Big Pine Key after Hurricane Wilma in 2005 (Bradley *et al.* 2013, p. 24).

Total population size for *Chamaesyce deltoidea* ssp. *serpyllum* on publicly owned pine rocklands on Big Pine Key (478 ha (1,181 acres)) was estimated to be 352,993 plants in 2005 (pre-Hurricane Wilma), 343,255 in 2007 (post-Wilma), and 368,557 in 2013. This represents a slight (4.4 percent) increase in the known population size of from 2005 to 2013 (Bradley *et al.* 2013, p. 21). The slight increase in 2013 is due to the Blue Hole Fire in 2011. Prior to this fire, the species had not been detected in plots in the Blue Hole area of Big Pine Key, but was found in one plot after the 2011 fire. This single plot contained 134 plants, 17.3 percent of the plants recorded across all 646 plots in 2013. If this single plot is taken out of the analysis, density per plot would be 1.3, 10.3 percent lower than that recorded in 2005, and 18.6 percent lower than 2007 (Bradley *et al.* 2015, pp. 24–25; Bradley and Saha 2009, p. 12). Since 82 percent of the pine rocklands on Big Pine Key are publicly owned, this estimate likely accounts for the majority of the population. Taken together, the data suggest that the population declined significantly due to Hurricane Wilma but rebounded by 2013. However, the frequency of the plant in study plots has decreased from 1996 to 2013, suggesting that fewer areas now support the species. While there have been significant changes between sampling events, the 9-year pattern of total population size is stable (Bradley *et al.* 2015, pp. 21, 24, 49). At the same time, there has been a reduction in the species' range on Big Pine Key and frequency of the plant in study plots (Bradley *et al.* 2015, pp. 25, 49), suggesting that while there has been a small increase in the total number of plants, the area occupied by the plant is shrinking.

Table 2 summarizes the status and trends of the known occurrences of *Chamaesyce deltoidea* ssp. *serpyllum.*

TABLE 2—SUMMARY OF THE STATUS AND TRENDS OF THE KNOWN OCCURRENCES OF CHAMAESYCE DELTOIDEA SSP. SERPYLLUM

Population	Ownership	Most recent population estimate	Status	Trend
Big Pine Key	USFWS, FWC, private	368,557 [1]	Extant [1]	Declining.[1]

[1] Bradley *et al.* 2015, pp. 24–25.

Biology

Life History and Reproduction: Reproduction is sexual, and the plant produces seeds. No studies of reproductive biology or ecology have been conducted for *Chamaesyce deltoidea* ssp. *serpyllum.* Other species of *Chamaesyce* are completely reliant on insects for pollination and seed production, while others are capable of self-pollination. Pollinators may include bees, flies, ants, and wasps (Ehrenfeld 1976, pp. 406, 95–97).

Fire Ecology and Demography: The assemblage of endemic plants of the pine rocklands, which includes *Chamaesyce deltoidea* ssp. *serpyllum,* tends to be shade-intolerant and benefits from periodic burning to reduce competition from woody vegetation

(*e.g.,* shading, leaf litter accumulation) (Carlson *et al.* 1993, p. 922; Liu *et al.* 2005a, p. 210, Liu *et al.* 2005b, p. 71). *C. deltoidea* ssp. *serpyllum* is found more frequently in recently burned areas (Slapcinsky *et al.* 2010, p. 11). Populations of *C. deltoidea* ssp. *serpyllum* may decline without periodic fires, and fire has been shown to stimulate significant population growth (Slapcinsky and Gordon 2007, p. 5).

Linum arenicola (sand flax)

Species Description

Linum arenicola is a small, perennial herb that is 35 to 53 cm (14 to 21 in) tall with yellow flowers that are similar in appearance those of a buttercup (*Ranunculus* spp.). When not in flower, it resembles a short, wiry grass. Plants have one to several stems arising from their base. Leaves are linear in shape, 7–10 millimeters (mm) (0.3–0.4 in) long, 0.6–1 mm (0.02–0.04 in) wide, and arranged alternately along stems, and they have glands scattered along their edges. Flowers are produced on stems consisting of a few slender, spreading branches. The individual flowers are on small stalks 2 mm (0.08 in) long or shorter. The flowers have five yellow, egg-shaped petals that are 4.5–5.5 mm (0.18–0.22 in) long, and five green, lance-shaped to egg-shaped sepals that are 2.4–3.2 mm (0.09–0.13 in) long. The fruit is a woody capsule, 2.1–2.5 mm (0.08–0.1 in) long, 2–2.3 mm (0.08–0.09 in) diameter, which dries and splits into 10 segments. The seeds are ovate, 1.2–1.4 mm (0.05–0.06 in) long, and 0.7- 0.8 mm (0.027–0.031 in) wide (Rogers 1963, pp. 103–104).

Taxonomy

Linum arenicola was first described by Small in 1907 as *Cathartolinum arenicola* from plants he collected in Miami-Dade County in 1904. This treatment was consistently followed by Small (1913a, p. 69; 1913b, p. 96; 1933, p. 752). In 1931, Winkler included *Cathartolinum* within the genus *Linum,* renaming the plants *Linum arenicola* (Winkler 1931, p. 30). Others have followed this treatment, including Rogers (1963, p. 103), Long and Lakela (1971, p. 505), Robertson (1971, p. 649), Wunderlin (1998, p. 100), and Wunderlin & Hansen (2003, p. 100) (Hodges and Bradley 2006, p. 37).

Synonyms include *Cathartolinum arenicola* Small (Wunderlin and Hansen 2004, p. 5). The Integrated Taxonomic Information System (2015, p. 1) uses the name *Linum arenicola* and indicates that this species' taxonomic standing is accepted. The online Atlas of Florida Vascular Plants (Wunderlin and Hansen 2008, p. 1) uses the name *L. arenicola.* There is consensus that *L. arenicola* is a distinct taxon. We have carefully reviewed the available taxonomic information to reach the conclusion that the species is a valid taxon.

Climate

The climate of south Florida where *Linum arenicola* occurs is classified as tropical savanna, as described above for *Chamaecrista lineata* var. *keyensis* and *Chamaesyce deltoidea* ssp. *serpyllum.*

Rainfall within the range of *Linum arenicola* varies from an annual average of 153–165 cm (60–65 in) in the northern portion of the Miami Rock Ridge to an average of 89–102 cm (35–40 in) in the lower Florida Keys (Snyder *et al.* 1990, p. 238).

Habitat

Pine Rocklands: *Linum arenicola* occurs in pine rocklands, disturbed pine rocklands, dry marl prairie, and disturbed areas on rocky soils adjacent to these habitats (Bradley and Gann 1999, p. 61; Hodges and Bradley 2006, p. 37). *L. arenicola* grows in thin soil over limestone or in small soil patches caught in surface irregularities of exposed limestone (Kernan and Bradley, 1996, p. 2). Sites most likely to support *L. arenicola* have a grass- and herb-dominated understory, abundant pine regeneration, and high cover of exposed rock (Ross and Ruiz 1996, pp. 5–6). The pine rocklands and marl prairies where this species occurs require periodic fire to maintain an open, shrub-free subcanopy, and to reduce litter levels (Bradley and Saha 2009, p. 4). Pine rocklands habitat is described in detail for *Chamaecrista lineata* var. *keyensis,* above.

Roadsides and Other Disturbed Sites: While pine rocklands historically were the primary habitat of *Linum arenicola,* the species is currently rare in relatively undisturbed pine rocklands, with the exception of plants on Big Pine Key. Several occurrences are in scraped (scarified) pine rocklands remnants that are dominated by native pine rocklands species, but have little or no pine canopy or subcanopy (Bradley and Van Der Heiden 2013, pp. 9–12). Two populations in Miami-Dade County occur entirely on levees composed of crushed oolitic limestone that are surrounded by sawgrass marsh (Bradley and Gann 1999, p. 61; Bradley and Van Der Heiden 2013, pp. 7–9). Roadsides and other disturbed sites are important habitat for *L. arenicola* because they imitate upland herbaceous habitat (Hodges and Bradley 2006, p. 40). The most robust roadside populations occur in areas adjacent to pine rocklands or rockland hammocks (Hodges 2010, p. 3). Where *L. arenicola* is found on roadsides, the ground cover is dominated mostly by native herbs and grasses where exotic lawn grasses have not been planted (Bradley 2006, p. 37). Infrequent mowing of some roadsides, and of disturbed sites such as Homestead Air Reserve Base (HARB) and U.S. Special Operations Command South Headquarters (SOCSOUTH), a unified command of all four services in the Department of Defense (DOD) has likely allowed the species to persist by preventing these sites from being taken over by hardwoods.

Because *Linum arenicola* seems to only rarely occur within intact pine rocklands, but more frequently adjacent to this habitat, developing conservation and management plans for this species is exceptionally difficult. Its persistence on roadsides is not fully understood. *L. arenicola* was at one time more common in pine rocklands in Miami-Dade County, but a lack of periodic fires in most pine rocklands fragments over the last century have pushed this species into more sunny, artificial environments (Bradley and Gann 1999, p. 61). It is also possible that the species has evolved to persist along roadsides as fire regimes and natural areas were altered and destroyed over the last century (Hodges and Bradley 2006, p. 41).

Dry Marl Prairie: Marl prairie is a sparsely vegetated, grass-dominated community found on marl substrates in South Florida. Marls are fine, white, calcareous muds formed from calcite precipitated by a mixture of green algae, blue green algae, and diatoms, known as periphyton. It is seasonally inundated (2 to 4 months) to a shallow depth averaging about 20 cm (8 in). Marl prairie is a diverse community that may contain over 100 species. Marl prairie normally dries out during the winter and is subject to fires at the end of the dry season (FNAI 2010, p. 1). Occurrences reported from marl prairie are at sites that have been artificially drained (Bradley and Van Der Heiden 2013, p. 11), or are scraped pine rocklands that function more like marl prairie (Kernan and Bradley 1996, p. 11). As with roadside populations of *Linum arenicola,* it is possible that dry marl prairies have become refugia for the species as fire regimes and natural areas were altered and destroyed over the last century. Accordingly, the Service does not consider marl prairie to be a primary habitat for *L. arenicola.*

Historical Range

The historical range of *Linum arenicola* consists of central and southern Miami-Dade County and

Monroe County in the lower Florida Keys (Bradley and Gann 1999, p. 61). In Miami-Dade County, records for the species were widespread from the Coconut Grove area to the southern part of the County, close to what is now the main entrance to Everglades National Park and Turkey Point (Bradley and Gann 1999, p. 61). In the Florida Keys (Monroe County), there are records of the species from Big Pine Key, Ramrod Key, Upper and Lower Sugarloaf Keys, Park Key, Boca Chica Key, Middle Torch Key (Bradley and Gann 1999, p. 61), and Big Torch Key (Hodges 2010, p. 10).

Current Range, Population Estimates, and Status

The current range of *Linum arenicola* consists of eight extant populations in Miami-Dade County and four extant populations in the Florida Keys (see Table 3, below). In Miami-Dade County, the current distribution of *Linum arenicola* is from just north of SW 184 Street (in the Richmond Pinelands), south to the intersection of Card Sound Road and the C–102 canal, and west to SW 264 Street and 177 Avenue (Everglades Archery Range at Camp Owaissa Bauer). This distance is approximately 30 km (19 mi) north to south, and 14 km (9 mi) east to west. In the Florida Keys (Monroe County), the current distribution of *L. arenicola* includes four islands: Big Pine Key, Upper and Lower Sugarloaf Keys, and Big Torch Key.

Multiple surveys have been conducted for *Linum arenicola* in Miami-Dade and Monroe Counties over the past 30 years. However, most surveys only cover one county and not the other. The large area of potential habitat and scarcity and diminutive size of *L. arenicola* make thorough surveys for this species difficult (Hodges and Bradley 2006, p. 37).

Based on a compilation of all survey work through 2013, including Austin (1980), Kernan and Bradley (1996, pp.1–30), Bradley and Gann (1999, pp. 61–65), Hodges and Bradley (2006, pp. 37–41), Bradley and Saha (2009, p. 10), Bradley (2009, p. 3), Hodges (2010, pp. 4–5, 15), Bradley and van der Heiden (2013, pp. 6–12,19), and Bradley *et al.* (2015, pp. 28–29), of 26 historical population records for *Linum arenicola,* 12 populations are extant and 14 are extirpated (see Table 3), a loss of roughly 54 percent of known populations, from the early 1900s to the present.

Table 3 summarizes the status and trends of the known occurrences of *Linum arenicola*.

TABLE 3—SUMMARY OF THE STATUS AND TRENDS OF THE KNOWN OCCURRENCES OF LINUM ARENICOLA

Population	Ownership	Most recent population estimate	County	Trend
		Extant 12 records		
Big Pine Key	USFWS, FWC, TNC [12], Private.	2,676 (2007) [1]	Monroe	declining.
Upper Sugarloaf Key	FDOT [13], USFWS	73 (2010) [2]	Monroe	insufficient data.
Lower Sugarloaf Key	FDOT [13], USFWS	531 (2010) [2]	Monroe	stable.
Big Torch Key	FDOT [13], Private	1 (2010) [2]	Monroe	declining.
Richmond Pineland	Private	56 (2014) [5]	Miami-Dade	insufficient data.
Martinez Pineland	Miami-Dade County	100–200 (2013) [6]	Miami-Dade	insufficient data.
Everglades Archery Range (Camp Owaissa Bauer).	Miami-Dade County	23 (2012) [7]	Miami-Dade	insufficient data.
HAFB [15] 1—S of Naizare BLVD.	DOD [14], Miami-Dade County.	24,000 (2013) [7]	Miami-Dade	stable.
SOCSOUTH (HAFB 2—NW side of Bikini BLVD).	DOD [14] (leased from Miami-Dade County).	74,000 (2009) [7 10]	Miami-Dade	stable.
HARB (SW 288 St. and 132 Ave).	DOD [14]	37 (2011) [7]	Miami-Dade	insufficient data.
C–102 Canal SW 248 St. to U.S. 1.	SFWMD [11]	1,000–10,000 (2013) [7]	Miami-Dade	insufficient data.
L–31E canal, from SW 328 St. to Card Sound Road.	SFWMD [11]	Plants occur along 14 km (8.7 mi) of levee (2013) [7].	Miami-Dade	insufficient data.
		Extirpated 14 records		
Middle Torch Key	FWC, FDOT [13]	3 (2005) [3]	Monroe.	
Ramrod Key	FDOT [13]	110 (1979) [4]	Monroe.	
Park Key	FDOT [13]	unknown (1961) [3]	Monroe.	
Boca Chica	DOD [14], other (unknown)	unknown (1912) [3]	Monroe.	
Camp Jackson	unknown	unknown (1907) [9]	Miami-Dade.	
Big Hammock Prairie	unknown	unknown (1911) [9]	Miami-Dade.	
Camp Owaissa Bauer	Miami-Dade County	10 (1983) [7]	Miami-Dade.	
Allapatah Drive and Old Cutler Road.	Private	256 (1996) [8]	Miami-Dade.	
Bauer Drive (Country Ridge Estates).	Miami-Dade County	8 (1996) [8]	Miami-Dade.	
Silver Green Cemetery	Private	47 (1996) [8]	Miami-Dade.	
Palmetto Bay Village Center.	Private	12 (1996) [8]	Miami-Dade.	
HAFB (Community Partnership Drive).	DOD [14], Miami-Dade County.	unknown (2010) [7]	Miami-Dade.	
Coco Plum Circle (corner of Robles Street & Vista Mar Street).	Private	75 (1996) [8]	Miami-Dade.	

TABLE 3—SUMMARY OF THE STATUS AND TRENDS OF THE KNOWN OCCURRENCES OF LINUM ARENICOLA—Continued

Population	Ownership	Most recent population estimate	County	Trend
George Avery Pineland Preserve.	Private	"small colony" (2002) [7]	Miami-Dade.	

[1] Bradley and Saha 2009, p. 10
[2] Hodges 2010, p. 10
[3] Hodges and Bradley 2006, pp. 39–48
[4] Austin *et al.* 1980 in FNAI
[5] FTBG 2014, p. 2
[6] Possely 2014, pers. comm.
[7] Bradley and Van Der Heiden 2013, pp. 6–11
[8] Kernan and Bradley 1996, p. 9
[9] Bradley and Gann 1999, p. 65
[10] Bradley 2009, p. 3
[11] South Florida Water Management District (SFWMD)
[12] The Nature Conservancy (TNC)
[13] Florida Department of Transportation (FDOT)
[14] Department of Defense (DOD)
[15] Homestead Air Force Base (HAFB; decommissioned)

Based on the data presented in Table 3, reliable population trends can be derived from past surveys for 5 of the 12 extant populations. Populations on Big Pine Key and Big Torch Key have shown clear declines. Three populations appear to be stable (data suggest they have not declined appreciably). Data are insufficient to determine trends for the remaining seven populations. The data also show that 5 of the 12 extant populations are rather small, having fewer than 100 plants.

Miami-Dade County: The first survey for *Linum arenicola,* conducted in 1980 in Miami-Dade County, reported two extant and eight extirpated populations, but population sizes were not reported (Austin *et al.,* 1980, p. 3). A 1996 survey conducted in Miami-Dade County reported seven populations, representing about 1,000 plants (Kernan and Bradley 1996, p. 5). A 1999 status survey reported five extant populations and seven extirpated populations in Miami-Dade County (Bradley and Gann 1999, p. 65).

A comprehensive field survey of *Linum arenicola* sites in Miami-Dade was conducted in 2013 (Bradley and van der Heiden 2013, p. 4). *L. arenicola* populations were found at six sites, containing an estimated total of 107,060 plants. Populations ranged in size from 23 plants to 74,000 plants, with a median population size of approximately 4,500. All but one of the Miami-Dade *L. arenicola* populations occur on public lands, but only the Martinez Pineland site is managed for conservation. The remaining sites are owned by the DOD (military bases), State of Florida (canal banks; SFWMD), and Miami-Dade County (a public archery range). A seventh small population located in 2014 at the Richmond pinelands is located on private land that is currently slated for development (Fairchild Tropical Botanic Garden (FTBG) 2014, p. 2). The largest *Linum arenicola* population in Miami-Dade County, estimated at 74,000 plants in 2009 (Bradley 2009, p. 3), is located on property owned by the Miami-Dade County Homeless Trust and leased to Special Operations Command South (SOCSOUTH; a DOD facility).

In Miami-Dade County, of 18 records for *Linum arenicola,* 8 populations are extant, while 10 are extirpated, a loss of roughly 56 percent of known populations. The loss of these populations corresponds to a contraction of the species' historical range in Miami-Dade County by approximately 20 km (12 mi) at its northern extent (40 percent reduction in north to south range), and approximately 15 km (9 mi) of its east to west extent (50 percent reduction in east to west range).

Monroe County (Florida Keys): A 1999 status survey reported four *Linum arenicola* populations in Monroe County (Bradley and Gann 1999, p. 65). In 2006, Hodges and Bradley (2006, pp. 37–41) conducted the first comprehensive survey of the distribution and abundance of *L. arenicola* in the Florida Keys, including extant occurrences, historical records, and exploratory surveys of potential habitat. Four extant populations were observed (Big Pine Key, Big Torch Key, Middle Torch Key, and Lower Sugarloaf Key) and three historical populations were confirmed extirpated (Boca Chica Key, Ramrod Key, and Park Key). The surveys did not find *L. arenicola* in potential habitat on No Name Key, Little Torch Key, or Upper Sugarloaf Key (Hodges and Bradley 2006, pp. 37, 48). However, in 2010, Hodges (2010, p. 10) resurveyed Upper Sugarloaf and rediscovered the population.

Linum arenicola is extirpated from 4 of 8 (50 percent) of the islands that once supported it. Its historical range spanned approximately 36 km (22 mi) from northeast to southwest. The loss of populations on Boca Chica, Park, Middle Torch, and Ramrod Keys represents a 14-km (9-mi) loss of the western extent of the species' range, corresponding to a 39 percent contraction of the species' historical range.

The total population of *Linum arenicola* in Monroe County is estimated at 2,676 plants in pine rocklands on Big Pine Key (Bradley and Saha 2009, p. 10), and 100 to 1,000 plants across the remainder of the Florida Keys (Hodges and Bradley 2006, pp. 37, 48; Hodges 2010, p. 10).

The largest population in Monroe County is located on Big Pine Key within the National Key Deer Refuge (NKDR) and surrounding lands, where there are approximately 478 ha (1,181 ac) of publicly owned pine rocklands (Gann *et al.* 2002, p. 806; Bradley 2006, p. 4; Hodges and Bradley 2006, pp. 37–38). It is also the best studied population. On Big Pine Key, *Linum arenicola* occurs at the Terrestris Preserve, which is owned by TNC; this occurrence is included within the Big Pine Key site in Table 3.

Linum arenicola on Big Pine Key has been surveyed multiple times since 1996, with the most recent being 2014. Because of the size of Big Pine Key, sample study plots were utilized for these surveys, as opposed to a complete search of all potential habitats. Ross and Ruiz (1996, p. 5) found the species in 11 percent of their study plots. Subsequent surveys in 2005, 2007, and 2013 have found *L. arenicola* to be extremely rare, being recorded in 4.1, 2.0, and 1.4

percent of study plots, respectively, representing an 87 percent reduction from 1996 to 2013 (Bradley *et al.* 2015, pp. 28–29).

The decline in the Big Pine Key population of *Linum arenicola* from 2005 to 2007 can be largely attributed to the effects of Hurricane Wilma (Bradley 2006, p. 11; Hodges 2010, p. 4). Prior to Wilma, there was a maximum of 56,404 individuals of *L. arenicola* in the 478 ha (1,181 ac) of publicly owned pine rocklands on Big Pine Key (Bradley 2006, p. 19). As of 2007, there were just 2,676 plants, representing a 95 percent decline (Bradley and Saha 2009, p. 10). Significantly, the species virtually disappeared from the southern half of Big Pine Key after Hurricane Wilma (Bradley and Saha 2009, p. 10).

Historically, the population has declined due to habitat loss and fire suppression. Approximately half of the historical pine rocklands on Big Pine Key have been lost (Bradley 2006, p. 35). Long-term ecological changes associated with fire suppression, land clearing, SLR, changes in hydrology, fluctuations in Key deer (*Odocoileus virginianus clavium*) densities, and invasion of exotic plants likely have impacted the population sizes of this species (Bradley 2006, p. 2; Bradley and Saha 2009, p. 2).

The population on Big Torch Key also declined after Hurricane Wilma, but this decline may have been due to herbicide applications or frequent mowing associated with road shoulder maintenance (Hodges 2010, p. 4).

Biology

Life History and Reproduction: Little is known about the life history of *Linum arenicola,* including pollination biology, seed production, or dispersal. Reproduction is sexual, with new plants generated from seeds. The species produces flowers from February to September, with a peak around March and April. *L. arenicola* population demographics or longevity have not been studied (Bradley and Gann, 1999, p. 65; Hodges and Bradley 2006, p. 41; Hodges 2007, p. 2).

Fire Ecology and Demography: There have been no studies of *Linum arenicola* population demographics or relationship to fire, though historical declines have been partially attributed to habitat loss from fire suppression or inadequate fire management.

Argythamnia blodgettii (Blodgett's silverbush)

Species Description

Argythamnia blodgettii, in the Euphorbia family, is an erect, perennial shrub or herb, 10 to 60 cm (4 to 24 in) tall, with a woody base and small, green flowers. The stems and leaves are covered with small hairs. The leaves, arranged alternately along the stems, are 1.5 to 4.0 cm (0.6 to 1.6 in) long, have smooth (or rarely toothed) edges, are oval or elliptic in shape, and often are colored a distinctive, metallic bluish green. The plants have separate male and female flowers. Staminate (male) flowers have a calyx 7 to 8 mm (0.27 to 0.31 in) wide, consisting of 4 to 5 lance-shaped sepals that are larger than the petals. The petals are broadly elliptic and shorter than the sepals. There are 10 stamens. Pistillate (female) flowers have 4 to 5 sepals that are 5 to 6 mm (0.19 to 0.24 in) long, lance-shaped, and often more narrow than those of male flowers. The petals are broadly elliptic, shorter than the sepals. The fruit is a woody capsule 4 to 5 mm (0.16 to 0.19 in) wide, which contains the seeds (Adapted from Small 1933, pp. 784–785; Bradley and Gann 1999, p. 2).

Taxonomy

Botanist John Torrey first described the species in Chapman (1884, p. 100) as *Aphora blodgettii,* reporting it for South Florida. In an 1896 (p. 100) revision of the genus, Pax placed it in the genus *Ditaxis.* In 1897 (p. 100), Chapman placed it in the genus *Argythamnia.* In 1903, Small placed it again in the genus *Ditaxis.* In 1914, Pax (p. 100) placed it in synonymy under *Ditaxis fendleri,* a plant of Colombia, Venezuela, Curacao, and Trinidad. Small (1933, pp. 784–785) retained it as *Ditaxis blodgettii,* treating it as a southern Florida endemic. Subsequent authors (Webster 1967, p. 100; Long and Lakela 1971, p. 558; Wunderlin 1998, p. 100; Wunderlin and Hansen 2003, p. 100) have retained it as a southern Florida endemic *Argythamnia blodgettii* (from Hodges and Bradley 2006, p. 10).

The Integrated Taxonomic Information System (2015, p. 1) uses the name *Argythamnia blodgettii* and indicates that this species' taxonomic standing is accepted. The online Atlas of Florida Vascular Plants (Wunderlin and Hansen 2008, p. 1) uses the name *A. blodgettii.* In summary, there is consensus that *A. blodgettii* is a distinct taxon. We have carefully reviewed the available taxonomic information to reach the conclusion that the species is a valid taxon. Synonyms include *Aphora blodgettii* Torr. ex Chapm.; *Ditaxis blodgettii* (Torr. ex Chapm.) Pax; *Argyrothamnia blodgettii* (Torr. ex Chapm.) Chapm.; and *Ditaxis fendleri* Pax, not (Müll. Arg.) Pax and K. Hoof.

Climate

The climate of south Florida where *Argythamnia blodgettii* occurs is classified as tropical savanna, as described above for *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum,* and *Linum arenicola.*

Rainfall within the range of *Argythamnia blodgettii* varies from an annual average of 153–165 cm (60–65 in) in the northern portion of the Miami Rock Ridge to an average of 89–102 cm (35–40 in) in the lower Florida Keys (Snyder *et al.* 1990, p. 238).

Habitat

Argythamnia blodgettii grows in pine rocklands, in sunny gaps or edges of rockland hammock and coastal berm, and on roadsides (Bradley and Gann 1999, p. 3). It grows from crevices on oolitic limestone or on sand. The pine rocklands habitat where it occurs requires periodic fire to maintain an open, sunny understory with a minimum amount of hardwoods. Bradley and Gann (1999, p. 3) indicated that this species does tolerate some degree of human-induced disturbance. It can often be found along disturbed edges of pine rocklands, rockland hammock, and coastal berm, or in completely scarified pine rocklands (Bradley and Gann, 1999, p. 3). Pine rocklands are described in detail for *Chamaecrista lineata* var. *keyensis,* above.

Coastal Berm: Coastal berms are landscape features found along low-energy coastlines in south Florida and the Florida Keys. Coastal berm is a short forest or shrub thicket found on long, narrow, storm-deposited ridges of loose sediment formed by a mixture of coarse shell fragments, pieces of coralline algae, and other coastal debris. These ridges parallel the shore and may be found on the seaward edge or landward edge of the mangroves or farther inland depending on the height of the storm surge that formed them. They range in height from 0.30 to 3.05 m (1 to 10 ft). Structure and composition of the vegetation is variable depending on height and time since the last storm event. The most stable berms may share some tree species with rockland hammocks, but generally have a greater proportion of shrubs and herbs. Tree species may include *Bursera simaruba* (gumbo limbo), *Coccoloba uvifera* (seagrape), *Coccothrinax argentata* (silver palm), *Guapira discolor* (blolly), *Drypetes diversifolia* (milkbark), *Genipa clusiifolia* (seven year apple), and *Metopium toxiferum* (poisonwood). Characteristic tall shrub and short tree

species include *Eugenia foetida* (Spanish stopper), *Ximenia americana* (hog plum), *Randia aculeata* (white indigoberry), *Pithecellobium keyense* (Florida Keys blackbead), and *Sideroxylon celastrinum* (saffron plum). Short shrubs and herbs include *Hymenocallis latifolia* (perfumed spiderlily), *Capparis flexuosa* (bayleaf capertree), *Lantana involucrata* (buttonsage), and *Rivina humilis* (rougeplant). More seaward berms or those more recently affected by storm deposition may support a suite of plants similar to beaches, including shoreline *Sesuvium portulacastrum* (sea purslane), *Distichlis spicata* (saltgrass), and *Sporobolus virginicus* (seashore dropseed), or scattered to dense shrub thickets with *Conocarpus erectus* (buttonwood*),* stunted *Avicennia germinans* (black mangrove), *Rhizophora mangle* (red mangrove), *Laguncularia racemosa* (white mangrove), *Suriana maritima* (bay cedar), *Manilkara jaimiqui* (wild dilly), *Jacquinia keyensis* (joewood), and *Borrichia frutescens* (bushy seaside oxeye) (Florida Natural Areas Inventory (FNAI) 2010a, p. 1).

Coastal berms are deposited by storm waves along low-energy coasts. Their distance inland depends on the height of the storm surge. Tall berms may be the product of repeated storm deposition. Coastal berms that are deposited far enough inland and remain long-undisturbed may in time succeed to hammock. This is a structurally variable community that may appear in various stages of succession following storm disturbance, from scattered herbaceous beach colonizing plants to a dense stand of tall shrubs (FNAI 2010a, p. 2).

Rockland Hammock: Rockland hammock is a species-rich, tropical hardwood forest on upland sites in areas where limestone is very near the surface and often exposed. The forest floor is largely covered by leaf litter with varying amounts of exposed limestone and has few herbaceous species. Rockland hammocks typically have larger, more mature trees in the interior, while the margins can be almost impenetrable in places with dense growth of smaller shrubs, trees, and vines. Typical canopy and subcanopy species include *Bursera simaruba, Lysiloma latisiliquum* (false tamarind), *Coccoloba diversifolia* (pigeon plum), *Sideroxylon foetidissimum* (false mastic), *Ficus aurea* (strangler fig), *Piscidia piscipula* (Jamaican dogwood), *Ocotea coriacea* (lancewood), *Drypetes diversifolia, Simarouba glauca* (paradisetree), *Sideroxylon salicifolium* (willow bustic), *Krugiodendron ferreum* (black ironwood), *Exothea paniculata* (inkwood), *Metopium toxiferum,* and *Swietenia mahagoni* (West Indies mahogany). Mature hammocks may be open beneath a tall, well-defined canopy and subcanopy. More commonly, in less mature or disturbed hammocks, dense woody vegetation of varying heights from canopy to short shrubs is often present. Species that generally make up the shrub layers within rockland hammock include several species of *Eugenia* (stoppers), *Thrinax morrisii* and *T. radiata* (thatch palms), *Amyris elemifera* (sea torchwood), *Ardisia escallonioides* (marlberry), *Psychotria nervosa* (wild coffee), *Chrysophyllum oliviforme* (satinleaf), *Sabal palmetto* (cabbage palm), *Guaiacum sanctum* (lignum-vitae), *Ximenia americana, Colubrina elliptica* (soldierwood), *Pithecellobium unguis-cati* and *Pithecellobium keyense, Coccoloba uvifera,* and *Colubrina arborescens* (greenheart). Vines can be common and include *Toxicodendron radicans* (eastern poison ivy), *Smilax auriculata* (earleaf greenbrier), *Smilax havanensis* (Everglades greenbrier), *Parthenocissus quinquefolia* (Virginia creeper), *Hippocratea volubilis* (medicine vine), and *Morinda royoc* (redgal). The typically sparse short shrub layer may include *Zamia pumila* (coontie) and *Acanthocereus tetragonus* (triangle cactus). Herbaceous species are occasionally present and generally sparse in coverage. Characteristic species include *Lasiacis divaricata* (smallcane), *Oplismenus hirtellus* (basketgrass), and many species of ferns (FNAI 2010e, p. 1).

Rockland hammock occurs on a thin layer of highly organic soil covering limestone on high ground that does not regularly flood, but it is often dependent upon a high water table to keep humidity levels high. Rockland hammocks are frequently located near wetlands; in the Everglades, they can occur on organic matter that accumulates on top of the underlying limestone; in the Keys, they occur inland from tidal flats (FNAI 2010e, p. 1).

Rockland hammock is susceptible to fire, frost, canopy disruption, and ground water reduction. Rockland hammock can be the advanced successional stage of pine rocklands, especially in cases where rockland hammock is adjacent to pine rocklands. In such cases, when fire is excluded from pine rocklands for 15 to 25 years, it can succeed to rockland hammock vegetation. Historically, rockland hammocks in south Florida evolved with fire in the landscape. Fire most often extinguished near the edges when it encountered the hammock's moist microclimate and litter layer. However, rockland hammocks are susceptible to damage from fire during extreme drought or when the water table is lowered. In these cases, fire can cause tree mortality and consume the organic soil layer (FNAI 2010e, p. 2).

Rockland hammocks are also sensitive to the strong winds and storm surge associated with infrequent hurricanes. Canopy damage often occurs, which causes a change in the microclimate of the hammock. Decreased relative humidity and drier soils can leave rockland hammocks more susceptible to fire. Rockland hammock can transition into glades marsh, mangrove swamp, salt marsh, coastal rock barren, pine rocklands, maritime hammock, or marl prairie (FNAI 2010e, p. 2).

The sparsely vegetated edges or interior portions laid open by canopy disruption are the areas of rockland hammock that have light levels sufficient to support *Argythamnia blodgettii.* However, the dynamic nature of the habitat means that areas not currently open may become open in the future as a result of canopy disruption from hurricanes, while areas currently open may develop more dense canopy over time, eventually rendering that portion of the hammock unsuitable for *A. blodgettii.*

Historical Range

Argythamnia blodgettii historically occurred from central and southern Miami-Dade County from Brickell Hammock to Long Pine Key in Everglades National Park, and in Monroe County throughout the Florida Keys from Totten Key south to Key West (Bradley and Gann 1999, p. 2).

Current Range, Population Estimates, and Status

Argythamnia blodgettii is currently known from central Miami-Dade County from Coral Gables and southern Miami-Dade County to Long Pine Key in Everglades National Park, and the Florida Keys from nine islands, from Windley Key (Bradley and Gann 1999, p. 3) southwest to Boca Chica Key (Hodges and Bradley 2006, pp. 10, 43).

Previous status surveys of *Argythamnia blodgettii* include Bradley and Gann (1999, pp. 2–6) and Hodges and Bradley (2006, pp. 11–20, 43). Bradley and Gann (1999, p. 3) reported 18 extant occurrences of *A. blodgettii* in 1999 (4 in Monroe County, 14 in Miami-Dade County), representing approximately 10,000 plants. Hodges and Bradley (2006, pp. 11–20, 43) verified that *A. blodgettii* is extant on nine islands in the Florida Keys

(Monroe County), and has an estimated population of between 10,000 and 100,000 plants (Hodges and Bradley, p. 2). The FNAI element tracking summary data indicated a total of 31 element occurrence records in 2 counties, with 24 occurrences in management areas (FNAI 2008, p. 1). There is insufficient data available to identify trends in any populations of *A. blodgettii.*

Although we do not know the total extent of the former range of *Argythamnia blodgettii,* approximately 12 miles (19 kilometers) of the species' range has been lost near the northern end of the range in Miami-Dade County and 43 miles (69 kilometers) has been lost in Monroe County on the southern edge of the species' range (Bradley and Gann 1999, p. 3).

Miami-Dade County: According to data from the Institute for Regional Conservation (IRC), the estimated population of *Argythamnia blodgettii* in Miami-Dade County is 375 to 13,650 plants (*i.e.,* total of low and high estimates) (K. Bradley 2007, pers. comm.); however, this may be an overestimate of the actual population size because it was based upon a log10 scale. In Everglades National Park (ENP), the current estimated population size is 2,000 plants (J. Sadle 2015, pers. comm.).

Based on the data presented below in Table 4, there are 31 records for *Argythamnia blodgettii* in Miami-Dade County. Six populations are extant, 11 are extirpated, and the status of 14 is uncertain because they have not been surveyed in 15 years or more.

Monroe County: In the Keys, *Argythamnia blodgettii* is extant on nine islands, with three others of uncertain status (Hodges and Bradley 2006, p. 43). The largest population surveyed is on Big Munson Island and is estimated to be 8,000 to 9,000 plants (Hodges and Bradley 2006, p. 17). On Big Pine Key, a population of *A. blodgettii* estimated at 2,200 plants is found scattered across the island. Occurrences are known from the Koehn's subdivision, Long Beach, Cactus Hammock, and Watson Hammock. Sizable populations also occur at Key West Naval Air Station on Boca Chica Key. The total population size in the Florida Keys is estimated to be approximately 13,200 plants (Hodges and Bradley 2006, pp. 10–13, 17).

Argythamnia blodgettii is extirpated from 3 of 16 (23 percent) of the islands that once supported it. Based on the data presented in Table 4, there are 18 records for *A. blodgettii* in Monroe County. Eleven populations are extant, three are extirpated, and the status of four is uncertain because they have not been surveyed in 15 years or more.

TABLE 4—SUMMARY OF THE STATUS AND TRENDS OF THE KNOWN OCCURRENCES OF ARGYTHAMNIA BLODGETTII

Population	Ownership	Most recent population estimate	County	Trend
		Extant 17 records		
Plantation Key, Snake Creek Hammock.	FWC	101–1,000 (2005)[2]	Monroe	Insufficient data.
Lower Matecumbe Key—Klopp Tract.	FDEP[6]	11–100 (2000)[2]	Monroe	Insufficient data.
Lignumvitae Key	FDEP[6]	101–1,000 (2005)[2]	Monroe	Insufficient data.
Big Munson Island	Private (Boy Scouts of America).	1,001–10,000 (2005)[2]	Monroe	Insufficient data.
North Key Largo	DOD, FDOT	No estimate (2005)[8]	Monroe	Insufficient Data.
Key Largo—Dove Creek Hammock.	FWC, FDOT	11–100 (2005)[2]	Monroe	Insufficient data.
Vaca Key (Marathon)—Blue Heron Hammock.	FWC, FDOT	11–100 (2005)[2]	Monroe	Insufficient data.
Windley Key—State Park	FDEP[6]	11–100 (2005)[2]	Monroe	Insufficient data.
Boca Chica KWNAS[7] Runway 25.	DOD	1,001–10,000 (2004)[2]	Monroe	Insufficient data.
Boca Chica Key KWNAS[7] Weapons Hammock.	DOD	200 (2004)[2]	Monroe	Insufficient data.
Big Pine Key	USFWS, FWC, private	~2,200 (2005)[2]	Monroe	Insufficient data.
ENP Long Pine Key Deer Hammock area (Pine Block A), Turkey Hammock area (Pine Block B), Pine Block E.	NPS[5]	2,000 (2015)[4]	Miami-Dade	Insufficient data.
Camp Choee	Private (Girl Scout Council of Tropical Florida).	3 (2005)[3]	Miami-Dade	Insufficient data.
Crandon Park—Key Biscayne.	Miami Dade Parks and Recreation.	4 (2005)[3]	Miami-Dade	Insufficient data.
Martinez Pineland/Larry and Penny Thompson Park.	Miami Dade Parks and Recreation.	6 (2005)[3]	Miami-Dade	Insufficient data.
Tropical Park Pineland	Miami Dade Parks and Recreation.	20 (2005)[3]	Miami-Dade	Insufficient data.
Boystown Pineland	Private	No estimate (2005)[3]	Miami-Dade	Insufficient data.
		Uncertain 18 records		
Crawl Key, Forestiera Hammock.	Private	10 (1982)[3]	Monroe	Insufficient data.
Long Key State Park	FDEP	No estimate (1999)[2]	Monroe	Insufficient data.
Stock Island	Private	No estimate (1981)[2]	Monroe	Insufficient data.
Boot Key	Private	11–100 (1998)[2]	Monroe	Insufficient data.
Deering Estate	State of Florida	11–100 (1991)[1]	Miami-Dade	Insufficient data.

TABLE 4—SUMMARY OF THE STATUS AND TRENDS OF THE KNOWN OCCURRENCES OF ARGYTHAMNIA BLODGETTII—Continued

Population	Ownership	Most recent population estimate	County	Trend
Castellow Hammock	Miami Dade Parks and Recreation.	11–100 (1991) [1]	Miami-Dade	Insufficient data.
Owaissa Bauer County Park.	Miami Dade Parks and Recreation.	101–1,000 (1991) [1]	Miami-Dade	Insufficient data.
Pine Ridge Sanctuary	Private	2–10 (1992) [1]	Miami-Dade	Insufficient data.
County Ridge Estates	Private	11–100 (1999) [1]	Miami-Dade	Insufficient data.
Epmore Drive pineland	Private	2–10 (1999) [1]	Miami-Dade	Insufficient data.
Gifford Arboretum Pineland	Private	2–10 (1999) [1]	Miami-Dade	Insufficient data.
Ned Glenn Nature Preserve.	Miami Dade Parks and Recreation.	11–100 (1999) [1]	Miami-Dade	Insufficient data.
Natural Forest Community #317.	Private	2–10 (1999) [1]	Miami-Dade	Insufficient data.
Old Dixie pineland	Private	11–100 (1999) [1]	Miami-Dade	Insufficient data.
Owaissa Bauer Addition #1	Miami Dade Parks and Recreation.	11–100 (1991) [1]	Miami-Dade	Insufficient data.
SW 184th St. and 83rd Ave..	Private	11–100 (1999) [1]	Miami-Dade	Insufficient data.
Castellow #33	Private	12 (1995) [3]	Miami-Dade	Insufficient data.
Castellow #31	Private	30–50 (1995) [3]	Miami-Dade	Insufficient data.
Extirpated 14 records				
Upper Matecumbe Key	unknown	No estimate (1967) [3]	Monroe.	
Totten Key	NPS	No estimate (1904) [1]	Monroe.	
Key West	City of Key West	No estimate (1965) [1]	Monroe.	
Fuch's Hammock	Miami-Dade County	No estimate (1991) [1]	Miami-Dade.	
Brickell Hammock	unknown	Extirpated 1937 [1]	Miami-Dade.	
Carribean Park	Miami-Dade County	Extirpated 1998 [1]	Miami-Dade.	
Coconut Grove	Miami-Dade County	Extirpated 1901 [1]	Miami-Dade.	
Coral Gables area	unknown	Extirpated 1967 [1]	Miami-Dade.	
Miller and 72nd Ave	unknown	Extirpated 1975 [1]	Miami-Dade.	
Orchid Jungle	Miami-Dade County	Extirpated 1930 [1]	Miami-Dade.	
Palms Woodlawn Cemetery.	Private	Extirpated 1992 [1]	Miami-Dade.	
South of Miami River	unknown	Extirpated 1913 [1]	Miami-Dade.	
Bauer Drive Pineland	Private	No estimate (1985) [3]	Miami-Dade.	
Naranja	Private	No estimate (1974) [3]	Miami-Dade.	

[1] Bradley and Gann 1999, p. 6.
[2] Hodges and Bradley 2006, pp. 10–17.
[3] FNAI 2011.
[4] Sadle 2015, pers. comm., p. 1.
[5] National Park Service (NPS).
[6] Florida Department of Environmental Protection (FDEP).
[7] Key West Naval Air Station (KWNAS).
[8] Henize and Hipes 2005, p. 25.

Biology

Life History and Reproduction: Reproductive biology of *Argythamnia blodgettii* has not been studied. Reproduction is sexual and flowering and fruiting apparently takes place throughout the year (Bradley and Gann 1999, p. 3).

Fire Ecology and Demography: The fire ecology and demography of *Argythamnia blodgettii* have not been studied. Populations of *A. blodgettii* can be ephemeral (Hodges and Bradley 2006, p. 14).

Summary of Biological Status and Threats

The Act directs us to determine whether any species is an endangered species or a threatened species because of any one of five factors affecting its continued existence. In this section, we summarize the biological condition of each of the plant species and its resources, and the factors affecting them, to assess the species' overall viability and the risks to that viability.

Factor A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Chamaecrista lineata var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* have experienced substantial destruction, modification, and curtailment of their habitats and ranges (see Background, above). Specific threats to these plants included in this factor include habitat loss, fragmentation, and modification caused by development (*i.e.,* conversion to both urban and agricultural land uses) and inadequate fire management. Each of these threats and its specific effects on these plants are discussed in detail below.

Human Population Growth, Development, and Agricultural Conversion

The modification and destruction of the habitats that support *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* has been extreme in most areas of Miami-Dade and Monroe Counties, thereby reducing these plants' current ranges and abundance in Florida. The

pine rocklands community of south Florida, in which all four plants primarily occur, is critically imperiled locally and globally (FNAI 2012, p. 27). Destruction of pine rocklands and rockland hammocks has occurred since the beginning of the 1900s. Extensive land clearing for human population growth, development, and agriculture in Miami-Dade and Monroe Counties has altered, degraded, or destroyed thousands of acres of these once abundant ecosystems.

In Miami-Dade County, development and agriculture have reduced pine rocklands habitat by 90 percent in mainland south Florida. Pine rocklands habitat decreased from approximately 74,000 ha (183,000 ac) in the early 1900s, to only 8,140 ha (20,100 ac) in 1996 (Kernan and Bradley 1996, p. 2). The largest remaining intact pine rocklands (approximately 2,313 ha (5,716 ac)) is Long Pine Key in ENP. Outside of ENP, only about 1 percent of the pine rocklands on the Miami Rock Ridge have escaped clearing, and much of what is left are small remnants scattered throughout the Miami metropolitan area, isolated from other natural areas (Herndon 1998, p. 1).

Similarly, most of the pine rocklands in the Florida Keys (Monroe County) have been impacted (Hodges and Bradley 2006, p. 6). Pine rocklands historically covered 1,049 ha (2,592 ac) of Big Pine Key (Folk 1991, p. 188), the largest area of pine rocklands in the Florida Keys. Pine rocklands now cover approximately 582 ha (1,438 ac) of the island, a reduction of 56 percent (Bradley and Saha 2009, p. 3). There were no estimates of pine rocklands area on the other islands historically, but each contained much smaller amounts of the habitat than Big Pine Key. Remaining pine rocklands on Cudjoe Key cover 72 ha (178 ac), Little Pine has 53 ha (131 ac), No Name has 56 ha (138 ac), and Sugarloaf has 38 ha (94 ac). The total area of remaining pine rocklands in the Florida Keys is approximately 801 ha (1,979 ac). Currently, about 478 ha (1,181 ac) (82 percent) of the pine rocklands on Big Pine Key, and most of the pine rocklands on these other islands, are protected within the National Key Deer Refuge and properties owned by the Nature Conservancy, the State of Florida, and Monroe County (Bradley and Saha 2009, pp. 3–4). Based on the data presented above, the total remaining acreage of pine rocklands in Miami-Dade and Monroe Counties is now 8,981 ha (22,079 ac) (approximately 8,140 ha (20,100 ac) in Miami-Dade County, and 801 ha (1,979 ac) in the Florida Keys (Monroe County)).

The marl prairies that also support *Linum arenicola* have similarly been destroyed by the rapid development of Miami-Dade and Monroe Counties. At least some of the occurrences reported from this habitat may be the result of colonization that occurred after they were artificially dried-out due to local or regional drainage.

Likewise, habitat modification and destruction from residential and commercial development have severely impacted rockland hammocks, and coastal berm, that support *Argythamnia blodgettii.* Rockland hammocks were once abundant in Miami-Dade and Monroe Counties but are now considered imperiled locally and globally (FNAI 2010x, pp. 24–26). The tremendous development and agricultural pressures in south Florida have resulted in significant reductions of rockland hammock, which is also susceptible to fire, frost, hurricane damage, and groundwater reduction (Phillips 1940, p. 167; Snyder *et al.* 1990, pp. 271–272; FNAI 2010, pp. 24–26).

Pine rocklands, rockland hammock, marl prairie, and coastal habitats on private land remain vulnerable to development, which could lead to the loss of populations of these four species. As noted earlier, all four plants have been impacted by development. The sites of Small's 1907 and 1911 *L. arenicola* collections in Miami-Dade County are now agricultural fields (Kernan and Bradley 1996, p. 4). A pine rocklands site that supported *L. arenicola* on Vistalmar Street in Coral Gables (Miami-Dade County) was cleared and developed in 2005, as the Cocoplum housing development. A second pine rocklands site that supported *L. arenicola,* located on private land on Old Cutler Road, was developed into the Palmetto Bay Village Center. *L. arenicola* has not been observed at either site since they were developed. A former marl prairie site supporting a sizable population of *L. arenicola* near Old Cutler Road and Allapatah Drive (SW 112 Ave3.) in Miami-Dade County was extirpated when the site was developed in the 1990s (Bradley and van der Heiden 2013, pp. 6–12, 19). The Boca Chica Key population of *L. arenicola* was also likely lost due to development (Hodges and Bradley 2006, p. 48).

Bradley and Gann (1999, p. 6) list 12 populations of *Argythamnia blodgettii* in Miami-Dade County that were lost when the site that supported them was developed. An *A. blodgettii* population on Key West was likely lost due to the near complete urbanization of the island (Hodges and Bradley 2006, p. 43). Any development related to the Boy Scout camp on Big Munson Island is a potential threat to the largest population *A. blodgettii.*

The largest *Linum arenicola* population in Miami-Dade County is located on property owned by the Miami-Dade County Homeless Trust. SOCSOUTH, a unified command of all four services of DOD, has entered into a 50-year agreement with Miami-Dade County to lease this 90-ac (36.4-ha) area, where they are building a permanent headquarters on approximately 28 ac (11.3 ha) (DOD 2009, p. 1). As stated above, the population of *L. arenicola* is spread across the site and was estimated at 74,000 plants in 2009 (Bradley 2009, p. 3). In consultation with the Service, the DOD developed a plan that avoided the majority of the population with accompanying protection and management of approximately 57,725 individuals of sand flax (about 78 percent of the estimated onsite population) (Service 2011, p. 13). The plan will manage 5.95 ha (14.7 ac) of habitat, though most of it is scraped, and only a small portion has a pine canopy (Van der Heiden and Johnson 2013, p. 2). An additional 1.3 ha (3.2 ac) is being managed and supports 13,184 individuals of sand flax (about 18 percent of the estimated onsite population) (Service 2011, p. 13).

Currently there are plans to develop 55 ha (137 ac) of the largest remaining parcel of pine rocklands habitat in Miami-Dade County, the Richmond pine rocklands, with a shopping center and residential construction (RAM 2014, p. 2). Bradley and Gann (1999, p. 4) called the 345-ha (853-ac) Richmond pine rocklands, ''the largest and most important area of pine rockland in Miami-Dade County outside of Everglades National Park.'' Populations of *Argythamnia blodgettii* and *Linum arenicola,* along with numerous federally listed species, occur there. The Miami-Dade County Department of Environmental Resources Management (DERM) has completed a management plan for portions of the Richmond pine rocklands under a grant from the Service and is leading the restoration and management of the Richmond pine rocklands (Bradley and Gann 1999, p. 4). The developer has proposed to enter into a habitat conservation plan in conjunction with their plans to develop their portion of the site and was required by Miami-Dade County Natural Forest Community (NFC) regulations to set aside and manage 15 ha (39 ac) of pine rocklands and 2 ha (4 ac) of rockland hammock. A second project that would result in the loss of pine rocklands habitat is also planned for the

Richmond pine rocklands. It includes expanding the Miami Zoo complex to develop an amusement park and large retail mall.

Approximately 25 percent of extant *Linum arenicola* occurrences (3 of 12 sites), and 44 percent of extant *Argythamnia blodgettii* occurrences (13 of 34 sites), are located on private land; no extant populations of *Chamaecrista lineata* var. *keyensis* or *Chamaesyce deltoidea* ssp. *serpyllum* are located entirely on private land. It is possible that the plants on private lands will be lost from most of these sites in the future with increased pressure from development and the other threats described below. *Argythamnia blodgettii* is the only one of the four plants species which occurs in ENP, where a population of over 2,000 plants is stable and prescribed fire and other management activities that benefit *A. blodgettii* are conducted on a regular basis.

Most pine rocklands and rockland hammock habitat is now limited to public conservation lands, where future development and habitat alteration are less likely than on private lands. However, public lands could be sold off (or leased) in the future and become more likely to be developed or altered in a way that negatively impacts the habitat. For example, at the SOCSOUTH site noted above (leased to DOD by Miami-Dade County), ongoing development of headquarters buildings SOCSOUTH has resulted in the loss of *L. arenicola* and pine rocklands habitat (Bradley and van der Heiden 2013, pp. 8–10). Construction of visitor facilities such as parking lots, roads, trails, and buildings can result in habitat loss on public lands that are set aside as preserves or parks.

Roadside populations of *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* are vulnerable to habitat loss and modification stemming from infrastructure projects such as road widening, and installation of underground cable, sewer, and water lines. The Lower Sugarloaf Key population of *Linum arenicola* was impacted by repaving of the road, which placed asphalt on top of and adjacent to the population (Hodges and Bradley 2006, p. 41).

Although no entire populations of *Chamaecrista lineata* var. *keyensis* or *Chamaesyce deltoidea* ssp. *serpyllum* have been extirpated by habitat loss due to development, the size and extent of these populations have been reduced on Big Pine Key (and surrounding islands for *Chamecrista lineata* var. *keyensis*). The total area of pine rockland on Big Pine Key has decreased by 56 percent from 1955 to the present (Bradley and Saha 2009, p. 3).

The human population within Miami-Dade County is currently greater than 2.4 million people, and is expected to grow to more than 4 million by 2060, an annual increase of roughly 30,000 people (Zwick and Carr 2006, p. 20). Overall, the human population in Monroe County is expected to increase from 79,589 to more than 92,287 people by 2060 (Zwick and Carr 2006, p. 21). All vacant land in the Florida Keys is projected to be developed by then, including lands currently inaccessible for development, such as islands not attached to the Overseas Highway (U.S. 1) (Zwick and Carr 2006, p. 14). However, in an effort to address the impact of development on federally listed species, Monroe County implemented a habitat conservation plan (HCP) for Big Pine and No Name Keys in 2006. In order to fulfill the HCP's mitigation requirements, the County has been actively acquiring parcels of high-quality pine rocklands, such as The Nature Conservancy's 20-acre Terrestris Tract on Big Pine Key, and managing them for conservation. Although the HCP has helped to limit the impact of development, land development pressure and habitat losses may resume when the HCP expires in 2023. If the HCP is not renewed, residential or commercial development could increase to pre-HCP levels.

While Miami-Dade and Monroe County both have developed a network of public conservation lands that include pine rocklands, rockland hammocks, marl prairies, and coastal habitats, much of the remaining habitat occurs on private lands as well as publicly owned lands not managed for conservation. Species occurrences and suitable habitat remaining on these lands are threatened by habitat loss and degradation, and threats are expected to accelerate with increased development. Further losses will seriously affect the four plant species' ability to persist in the wild and decrease the possibility of their recovery or recolonization.

Habitat Fragmentation

The remaining pine rocklands in the Miami metropolitan area are severely fragmented and isolated from each other by vast areas of development. Remaining pine rockland areas in the Florida Keys are fragmented and are located on small islands separated by ocean. Habitat fragmentation reduces the size of plant populations and increases spatial isolation of remnants. Barrios *et al.* (2011, p. 1062) investigated the effects of fragmentation on a pine rocklands plant, *Angadenia berteroi* (pineland golden trumpet), which is recognized by the State of Florida as threatened, and found that abundance and fragment size were positively related. Possley *et al.* (2008, p. 385) studied the effects of fragment size on species composition in south Florida pine rocklands, and found that plant species richness and fragment size were positively correlated (although some small fragments supported nearly as many species as the largest fragment). Composition of fragmented habitat typically differs from that of intact forests; as isolation and edge effects increase, there is increased abundance of disturbance-adapted species (weedy species, nonnative invasive species) and lower rates of pollination and propagule dispersal (Laurence and Bierregaard 1997, pp. 347–350; Noss and Csuti 1997, pp. 284–299). The degree to which fragmentation threatens the dispersal abilities of *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* is unknown. In the historical landscape, where pine rocklands occurred within a mosaic of wetlands, water may have acted as a dispersal vector for all pine rocklands seeds. In the current, fragmented landscape, this type of dispersal would no longer be possible for any of the Miami-Dade populations. While additional dispersal vectors may include animals and (in certain locations) mowing equipment, it is likely that fragmentation has effectively reduced these plants' ability to disperse and exchange genetic material.

While pollination research has not been conducted for *Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii,* research regarding other species and ecosystems, including *Chamaecrista lineata* var. *keyensis* (discussed below), provides valuable information regarding potential effects of fragmentation on these plants. Effects of fragmentation on pollinators may include changes to the pollinator community as a result of limitation of pollinator-required resources (*e.g.,* reduced availability of rendezvous plants, nesting and roosting sites, and nectar/pollen); these changes may include changes to pollinator community composition, species abundance and diversity, and pollinator behavior (Rathcke and Jules 1993, pp. 273–275; Kremen and Ricketts 2000, p. 1227; Harris and Johnson 2004, pp. 30–33). As a result, plants in fragmented habitats may experience lower visitation rates, which in turn may result in

reduced seed production of the pollinated plant (which may lead to reduced seedling recruitment), reduced pollen dispersal, increased inbreeding, reduced genetic variability, and ultimately reduced population viability (Rathcke and Jules 1993, p. 275; Goverde *et al.* 2002, pp. 297–298; Harris and Johnson 2004, pp. 33–34).

In addition to affecting pollination, fragmentation of natural habitats often alters other ecosystems' functions and disturbance regimes. Fragmentation results in an increased proportion of ''edge'' habitat, which in turn has a variety of effects, including changes in microclimate and community structure at various distances from the edge (Margules and Pressey 2000, p. 248), altered spatial distribution of fire (greater fire frequency in areas nearer the edge) (Cochrane 2001, pp. 1518–1519), and increased pressure from nonnative, invasive plants and animals that may out-compete or disturb native plant populations. Liu and Koptur (2003, p. 1184) reported decreases in *Chamaecrista lineata* var. *keyensis's* seed production in urban areas of Big Pine Key due to increased seed predation, compared with areas away from development.

The effects of fragmentation on fire go beyond edge effects and include reduced likelihood and extent of fires, and altered behavior and characteristics (*e.g.,* intensity) of those fires that do occur. Habitat fragmentation encourages the suppression of naturally occurring fires, and has prevented fire from moving across the landscape in a natural way, resulting in an increased amount of habitat suffering from these negative impacts. High fragmentation of small habitat patches within an urban matrix discourages the use of prescribed fire as well due to logistical difficulties (see ''Fire Management,'' below). Forest fragments in urban settings are also subject to increased likelihood of certain types of human-related disturbance, such as the dumping of trash (Chavez and Tynon 2000, p. 405). The many effects of habitat fragmentation may work in concert to threaten the local persistence of a species; when a species' range of occurrence is limited, threats to local persistence increase extinction risk.

Fire Management

One of the primary threats to *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* is habitat modification and degradation through inadequate fire management, which includes both the lack of prescribed fire and suppression of natural fires. Where the term ''fire-suppressed'' is used below, it describes degraded pine rocklands conditions resulting from a lack of adequate fire (natural or prescribed) in the landscape. Historically, frequent (approximately twice per decade), lightning-induced fires were a vital component in maintaining native vegetation and ecosystem functioning within south Florida pine rocklands (see Background, above). A period of just 10 years without fire may result in a marked decrease in the number of herbaceous species due to the effects of shading and litter accumulation (FNAI 2010, p. 63). Exclusion of fire for approximately 25 years will likely result in gradual hammock development over that time period, leaving a system that is very fire-resistant if additional pre-fire management (*e.g.,* mechanical hardwood removal) is not undertaken.

Today, natural fires are unlikely to occur or are likely to be suppressed in the remaining, highly fragmented pine rocklands habitat. The suppression of natural fires has reduced the size of the areas that burn, and habitat fragmentation has prevented fire from moving across the landscape in a natural way. Without fire, successional climax from pine rocklands to rockland hammock is rapid, and displacement of native species by invasive, nonnative plants often occurs. Understory plants such as *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola, and Argythamnia blodgettii* are shaded out by hardwoods and nonnatives alike. Shading may also be caused by a fire-suppressed pine canopy that has evaded the natural thinning effects that fire has on seedlings and smaller trees. Whether the dense canopy is composed of pine, hardwoods, nonnatives, or a combination, seed germination and establishment are inhibited in fire-suppressed habitat due to accumulated leaf litter, which also changes soil moisture and nutrient availability (Hiers *et al.* 2007, pp. 811–812). This alteration to microhabitat can also inhibit seedling establishment as well as negatively influence flower and fruit production (Wendelberger and Maschinski 2009, pp. 849–851), thereby reducing sexual reproduction in fire-adapted species such as *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, L. arenicola,* and *A. blodgettii* (Geiger 2002, pp. 78–79, 81–83).

After an extended period of inadequate fire management in pine rocklands, it becomes necessary to control invading native hardwoods mechanically, as excess growth of native hardwoods would result in a hot fire, which can kill mature pines. Mechanical treatments cannot entirely replace fire because pine trees, understory shrubs, grasses, and herbs all contribute to an ever-increasing layer of leaf litter, covering herbs and preventing germination, as discussed above. Leaf litter will continue to accumulate even if hardwoods are removed mechanically. In addition, the ashes left by fires provide important post-fire nutrient cycling, which is not provided via mechanical removal.

Federal (Service, NPS), State (FDEP, FWC), and County land managers (Miami-Dade DERM), and nonprofit organizations (IRC) implement prescribed fire on public and private lands within the ranges of these four plants. While management of some County conservation lands includes regular burning, other lands remain severely fire-suppressed. Even in areas under active management, some portions are typically fire-suppressed.

Miami-Dade County: Implementation of a prescribed fire program in Miami-Dade County has been hampered by a shortage of resources, as well as by logistical difficulties and public concern related to burning next to residential areas. Many homes have been built in a mosaic of pine rocklands, so the use of prescribed fire in many places has become complicated because of potential danger to structures and smoke generated from the burns. Nonprofit organizations such as IRC have similar difficulties in conducting prescribed burns due to difficulties with permitting and obtaining the necessary permissions as well as hazard insurance limitations (Gann 2013a, pers. comm.). Few private landowners have the means or desire to implement prescribed fire on their property, and doing so in a fragmented urban environment is logistically difficult and may be costly.

All occurrences of *Linum arenicola* and *Argythamnia blodgettii* in Miami-Dade County are affected by some degree of inadequate fire management of pine rocklands and marl prairie habitat, with the primary threat being the modification and loss of habitat due to an increase in shrub and hardwood dominance, eliminating suitable conditions for the four plants, and eventual succession to rockland hammock.

In Miami-Dade County, *Linum arenicola* occurred along the south edge of Bauer Drive on the northern border of a pine rockland owned by Miami-Dade County. The property is occupied by a communications tower, and is not a managed preserve. Kernan and Bradley (1996) reported eight plants. At the time

(1992 through 1996), the road shoulder was dominated by native grasses. Since then, native canopy hardwoods have invaded the site and eliminated the sunny conditions required by *L. arenicola.* It has not been seen since, despite multiple surveys between 1997 and 2012, and is considered to be extirpated. *L. arenicola* was discovered at Camp Owaissa Bauer by George N. Avery in 1983. Since that time, the pine rocklands habitat where he found the plants in the park suffered extremely heavy hardwood recruitment due to fire suppression. Despite recent hardwood control and reintroduction of fire, no plants have been relocated. At the Martinez pineland, a population of *L. arenicola* in a marl prairie that became overgrown due to lack of fire has not been observed since 2011. Plants may reappear at this site if prescribed fire is implemented and viable seeds remain in the soil (Bradley and van der Heiden 2013, pp. 8–11). Bradley and Gann (1999, pp. 71–72) suggested that the lack of fires in most forest fragments in Miami-Dade County during the last century may be one of the reasons why *L. arenicola* occurs primarily in disturbed areas.

Monroe County (Florida Keys): Fire management of pine rocklands of the lower Florida Keys, most of which are within NKDR, is hampered by a shortage of resources, technical challenges, and expense of conducting prescribed fire in a matrix of public and private ownership. Residential and commercial properties are embedded within or in close proximity to pine rocklands habitat (Snyder *et al.* 2005, p. 2; C. Anderson 2012a, pers. comm.). As a result, hand or mechanical vegetation management may be necessary at select locations on Big Pine Key (Emmel *et al.* 1995, p. 11; Minno 2009, pers. comm.; Service 2010, pp. 1–68) to maintain or restore pine rocklands. Mechanical treatments may be less beneficial than fire because they do not quickly convert debris to nutrients, and remaining leaf litter may suppress seedling development; fire has also been found to stimulate seedling germination (C. Anderson 2010, pers. comm.). Because mechanical treatments may not provide the same ecological benefits as fire, NKDR continues to focus efforts on conducting prescribed fire where possible (C. Anderson 2012a, pers. comm.). However, the majority of pine rocklands within NKDR are several years behind the ideal fire return interval (5–7 years) suggested for this ecosystem (Synder *et al.* 2005, p. 2; Bradley and Saha 2011, pp. 1–16). Tree ring and sediment data show that pine rocklands in the lower Keys have burned at least every 5 years and sometimes up to three times per decade historically (Albritton 2009, p. 123; Horn *et al.* 2013, pp. 1–67; Harley 2012, pp. 1–246). From 1985 to 1992, prescribed burns were conducted in the NKDR mainly for fuel reduction. There was no prescribed burning by Service staff in the NKDR from 1992–1997, in part because not enough was known about the ecological effects of prescribed fire in this system (Snyder *et al.* 1990, p. 2).

All occurrences of *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* in the Florida Keys are affected by some degree of inadequate fire management of pine rocklands habitat, with the primary threat being the modification and loss of habitat due to an increase in shrub and hardwood dominance, eliminating suitable conditions for the four plants, and eventual succession to rockland hammock.

Prescribed fire management over the past decade has not been sufficient to reverse long-term declines in *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum,* or *Linum arenicola* on Big Pine Key. Prescribed fire activity on Big Pine Key and adjacent islands within NKDR appears to be insufficient to prevent loss of pine rocklands habitat (Carlson *et al.* 1993, p. 914; Bergh and Wisby 1996, pp. 1–2; O'Brien 1998, p. 209; Bradley and Saha 2009, pp. 28–29; Bradley *et al.* 2011, pp. 1–16). As a result, many of the pine rocklands across NKDR are being compromised by succession to rockland hammock (Bradley and Saha 2009, pp. 28–29; Bradley *et al.* 2011, pp. 1–16).

Conservation Efforts To Reduce the Present or Threatened Destruction, Modification, or Curtailment of Habitat or Range

Miami-Dade County Environmentally Endangered Lands (EEL) Covenant Program: In 1979, Miami-Dade County enacted the Environmentally Endangered Lands (EEL) Covenant Program, which reduces taxes for private landowners of natural forest communities (NFCs; pine rocklands and tropical hardwood hammocks) who agree not to develop their property and manage it for a period of 10 years, with the option to renew for additional 10-year periods (Service 1999, p. 3–177). Although these temporary conservation easements provide valuable protection for their duration, they are not considered under Factor D, below, because they are voluntary agreements and not regulatory in nature. Miami-Dade County currently has approximately 59 pine rocklands properties enrolled in this program, preserving 69.4 ha (172 ac) of pine rocklands habitat (Johnson 2012, pers. comm.). The program also has approximately 21 rockland hammocks properties enrolled in this program, preserving 20.64 ha (51 ac) of rockland hammock habitat (Joyner 2013b, pers. comm.). The vast majority of these properties are small, and many are in need of habitat management such as prescribed fire and removal of nonnative, invasive plants. Thus, while EEL covenant lands have the potential to provide valuable habitat for these plants and reduce threats in the near term, the actual effect of these conservation lands is largely determined by whether individual land owners follow prescribed EEL management plans and NFC regulations (see ''Local'' under Factor D discussion, below).

Fee Title Properties: In 1990, Miami-Dade County voters approved a 2-year property tax to fund the acquisition, protection, and maintenance of natural areas by the EEL Program. The EEL Program purchases and manages natural lands for preservation. Land uses deemed incompatible with the protection of the natural resources are prohibited by current regulations; however, the County Commission ultimately controls what may happen with any County property, and land use changes may occur over time (Gil 2013b, pers. comm.). To date, the Miami-Dade County EEL Program has acquired a total of approximately 313 ha (775 ac) of pine rocklands, and 95 ha (236 ac) of rockland hammocks (Guerra 2015, pers. comm.; Gil 2013b, pers. comm.). The EEL Program also manages approximately 314 ha (777 ac) of pine rocklands, and 639 ha (1,578 ac) of tropical hardwood and rockland hammocks owned by the Miami-Dade County Parks, Recreation and Open Spaces Department, including some of the largest remaining areas of pine rocklands habitat on the Miami Rock Ridge outside of ENP (*e.g.,* Larry and Penny Thompson Park, Zoo Miami pinelands, Navy Wells Pineland Preserve), and some of the largest remaining areas of tropical hardwood and rockland hammocks (*e.g.,* Matheson Hammock Park, Castellow Hammock Park, Deering Estate Park and Preserves).

Conservation efforts in Miami's EEL Preserves have been underway for many years. In Miami-Dade County, conservation lands are and have been monitored by FTBG and IRC, in coordination with the EEL Program, to assess habitat status and determine any

changes that may pose a threat to or alter the abundance of these species. Impacts to habitat (*e.g.,* canopy) via nonnative species and natural stochastic events are monitored and actively managed in areas where the taxon is known to occur. These programs are long-term and ongoing in Miami-Dade County; however, programs are limited by the availability of annual funding.

Since 2005, the Service has funded IRC to facilitate restoration and management of privately owned pine rocklands habitats in Miami-Dade County. These programs included prescribed burns, nonnative plant control, light debris removal, hardwood management, reintroduction of pines where needed, and development of management plans. One of these programs, called the Pine Rockland Initiative, includes 10-year cooperative agreements between participating landowners and the Service/IRC to ensure restored areas will be managed appropriately during that time. Although most of these objectives have been achieved, IRC has not been able to conduct the desired prescribed burns, due to logistical difficulties as discussed earlier (see ''Fire Management,'' above).

Connect to Protect Program: Fairchild Tropical Botanic Garden (FTBG), with the support of various Federal, State, and local agencies and nonprofit organizations, has established the ''Connect to Protect Network.'' The objective of this program is to encourage widespread participation of citizens to create corridors of healthy pine rocklands by planting stepping stone gardens and rights-of-way with native pine rocklands species, and restoring isolated pine rocklands fragments. By doing this, FTBG hopes to increase the probability that pollination and seed dispersal vectors can find and transport seeds and pollen across developed areas that separate pine rocklands fragments to improve gene flow between fragmented plant populations and increase the likelihood that these plants will persist over the long term. Although these projects may serve as valuable components toward the conservation of pine rocklands species and habitat, they are dependent on continual funding, as well as participation from private landowners, both of which may vary through time.

National Wildlife Refuges: The National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd note) and the Fish and Wildlife Service Manual (601 FW 3, 602 FW 3) require maintaining biological integrity and diversity, require comprehensive conservation planning for each refuge, and set standards to ensure that all uses of refuges are compatible with their purposes and the Refuge System's wildlife conservation mission. The comprehensive conservation plans (CCP) address conservation of fish, wildlife, and plant resources and their related habitats, while providing opportunities for compatible wildlife-dependent recreation uses. An overriding consideration reflected in these plans is that fish and wildlife conservation has first priority in refuge management, and that public use be allowed and encouraged as long as it is compatible with, or does not detract from, the Refuge System mission and refuge purpose(s). The CCP for the Lower Florida Keys National Wildlife Refuges (NKDR, Key West National Wildlife Refuge, and Great White Heron National Wildlife Refuge) provides a description of the environment and priority resource issues that were considered in developing the objectives and strategies that guide management over the next 15 years. The CCP promotes the enhancement of wildlife populations by maintaining and enhancing a diversity and abundance of habitats for native plants and animals, especially imperiled species that are found only in the Florida Keys. The CCP also provides for obtaining baseline data and monitoring indicator species to detect changes in ecosystem diversity and integrity related to climate change. The CCP provides specifically for maintaining and expanding populations of candidate plant species, including *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii,* all four of which are found in this refuge complex.

Department of Defense Lands: The Sikes Act requires the DOD to develop and implement integrated natural resources management plans (INRMPs) for military installations across the United States (see also Factor D discussion, below). INRMPs are prepared in cooperation with the Service and State fish and wildlife agencies to ensure proper consideration of fish, wildlife, and habitat needs. The DOD has an approved INRMP for KWNAS on Boca Chica Key that includes measures that will protect and enhance *Argythamnia blodgettii* habitat, including nonnative species control (DOD 2014, p. 69). Furthermore, DOD is currently preparing an INRMP for HARB and SOCSOUTH. A previous biological opinion (Service 2011, entire) required SOCSOUTH to protect and manage 7.4 ha (18.3 ac) of pine rocklands habitat and 70,909 individuals of *Linum arenicola* (approximately 96 percent of the estimated onsite population) based on 2009 survey data. A conservation easement was established over the protected areas, and DOD has provided funds for management of the site, including fencing and nonnative species control.

Summary of Factor A

We have identified a number of threats to the habitat of *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* that have operated in the past, are impacting these species now, and will continue to impact them in the future. Habitat loss, fragmentation, and degradation, and associated pressures from increased human population, are major threats; these threats are expected to continue, placing these plants at greater risk. All four plants may be impacted when pine rocklands are converted to other uses or when lack of fire causes the conversion to hardwood hammocks or other unsuitable habitat conditions. Any populations of these species found on private property could be destroyed by development; the limited pine rocklands, rockland hammock, and coastal berm habitat on public lands can also be affected by development of recreational facilities or infrastructure projects. Although efforts are being made to conserve publicly and privately owned natural areas and apply prescribed fire, the long-term effects of large-scale and wide-ranging habitat modification, destruction, and curtailment will last into the future, while ongoing habitat loss due to population growth, development, and agricultural conversion continues to pose a threat. Therefore, based on the best information available, we have determined that the threats to the four plants from habitat destruction, modification, or curtailment are occurring throughout the entire range of the species and are expected to continue into the future.

Factor B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The best available data do not indicate that overutilization for commercial, recreational, scientific, or educational purposes is a threat to *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* or *Argythamnia blodgettii.* Threats to these plants related to other aspects of recreation and similar human activities (*i.e.,* not related to overutilization) are discussed under Factor E.

Factor C. Disease or Predation

No diseases or incidences of predation have been reported for *Chamaesyce deltoidea* ssp. *serpyllum* or *Argythamnia blodgettii.*

Key deer are known to occasional browse plants indiscriminately, including *Chamaecrista lineata* var. *keyensis* and *Linum arenicola.* Key deer do not appear to feed on *Argythamnia blodgettii,* probably due to potential toxicity (Hodges and Bradley 2006, p. 19).

Seed predation by an insect occurs in *Chamaecrista lineata* var. *keyensis,* and seems to be exacerbated by habitat fragmentation. Individuals at the urban edge suffer higher insect seed predation than those inside the forest (Liu and Koptur 2003, p. 1184).

While seed predation and occasional Key deer browsing may be a stressor, they do not appear to rise to the level of threat at this time. Therefore, the best available data do not indicate that disease or predation is a threat to *Chamaecrista lineata* var. *keyensis* or *Linum arenicola.*

Factor D. The Inadequacy of Existing Regulatory Mechanisms

Under this factor, we examine whether threats to these plants are discussed under the other factors are continuing due to an inadequacy of an existing regulatory mechanism. Section 4(b)(1)(A) of the Act requires the Service to take into account ''those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect such species.'' In relation to Factor D under the Act, we interpret this language to require the Service to consider relevant Federal, State, and tribal laws, regulations, and other such mechanisms that may minimize any of the threats we describe in threat analyses under the other four factors, or otherwise enhance conservation of the species. We give strongest weight to statutes and their implementing regulations and to management direction that stems from those laws and regulations. An example would be State governmental actions enforced under a State statute or constitution or Federal action under statute.

Having evaluated the impact of the threats as mitigated by any such conservation efforts, we analyze under Factor D the extent to which existing regulatory mechanisms are inadequate to address the specific threats to the species. Regulatory mechanisms, if they exist, may reduce or eliminate the impacts from one or more identified threats. In this section, we review existing Federal, State, and local regulatory mechanisms to determine whether they effectively reduce or remove threats to *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii.*

Federal

As Federal candidate species, the four plant species are afforded some protection through sections 7 and 10 of the Act and associated policies and guidelines. Service policy requires candidate species be treated as proposed species for purposes of intra-Service consultations and conferences where the Service's actions may affect candidate species. Other Federal action agencies (*e.g.,* NPS) are to consider the potential effects (*e.g.,* prescribed fire, pesticide treatments) to these plants and their habitat during the consultation and conference process. Applicants and Federal action agencies are encouraged to consider candidate species when seeking incidental take for other listed species and when developing habitat conservation plans. However, candidate species do not receive the same level of protection that a listed species would under the Act.

Populations of *Argythamnia blodgettii* within ENP are protected by NPS regulations at 36 CFR 2.1, which prohibit visitors from harming or removing plants, listed or otherwise, from ENP. However, the regulations do not address actions taken by NPS that cause habitat loss or modification.

Populations of the four plants within Florida Keys Wildlife Refuge Complex benefit from the National Wildlife Refuge System Improvement Act of 1997 and the Fish and Wildlife Service Manual (601 FW 3, 602 FW 3), which require the Service to maintain biological integrity and diversity, require comprehensive conservation planning for each refuge, and set standards to ensure that all uses of refuges are compatible with their purposes and the Refuge System's wildlife conservation mission. The CCP for a refuge addresses conservation of fish, wildlife, and plant resources and their related habitats, while providing opportunities for compatible wildlife-dependent recreation uses. An overriding consideration reflected in these plans is that fish and wildlife conservation has first priority in refuge management, and that public use be allowed and encouraged as long as it is compatible with, or does not detract from, the Refuge System mission and refuge purpose(s).

The CCP for the Lower Florida Keys National Wildlife Refuges (National Key Deer Refuge, Key West National Wildlife Refuge, and Great White Heron National Wildlife Refuge) and the CCP for the Crocodile Lake National Wildlife Refuge provide for *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* as described above. *Linum arenicola* occurs on DOD lands at HARB and SOCSOUTH. *L. arenicola* and *A. blodgettii* occur on Federal lands within the Richmond Pinelands Complex, including lands owned by the U.S. Coast Guard and the National Oceanic and Atmospheric Association (NOAA; small portion of Martinez Pineland).

As discussed under Factor A, above, the DOD has an approved INRMP for KWNAS on Boca Chica Key that includes measures that will protect and enhance *Argythamnia blodgettii* habitat, including nonnative species control (DOD 2014, p. 69). Furthermore, DOD is currently preparing an INRMP for HARB and SOCSOUTH. A 2011 Service biological opinion requires SOCSOUTH to protect and manage 7.4 ha (18.3 ac) of pine rocklands habitat and 70,909 individuals of *Linum arenicola* (approximately 96 percent of the estimated onsite population) based on 2009 survey data. A conservation easement was established over the protected areas, and DOD has provided funds for management of the site, including fencing and nonnative species control.

Populations of the four plants that occur on State- or County-owned properties and development of these areas will likely require no Federal permit or other authorization. Therefore, projects that affect them on State- and County-owned lands do not have Federal oversight, such as complying with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*), unless the project has a Federal nexus (Federal funding, permits, or other authorizations). Therefore, the four plants have no direct Federal regulatory protection in these areas.

State

Chamaecrista lineata var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* are listed on the Regulated Plant Index (Index) as endangered under chapter 5B–40, Florida Administrative Code. This listing provides little or no habitat protection beyond the State's development of a regional impact process, which discloses impacts from projects, but provides no regulatory protection for State-listed plants on private lands.

Florida Statutes 581.185 sections (3)(a) and (3)(b) prohibit any person from willfully destroying or harvesting any species listed as endangered or threatened on the Index, or growing such a plant on the private land of another, or on any public land, without first obtaining the written permission of the landowner and a permit from the Florida Department of Plant Industry. The statute further provides that any person willfully destroying or harvesting; transporting, carrying, or conveying on any public road or highway; or selling or offering for sale any plant listed in the Index as endangered must have a permit from the State at all times when engaged in any such activities. Further, Florida Statutes 581.185 section (10) provides for consultation similar to section 7 of the Act for listed species, by requiring the Department of Transportation to notify the FDACS and the Endangered Plant Advisory Council of planned highway construction at the time bids are first advertised, to facilitate evaluation of the project for listed plant populations, and to provide ''for the appropriate disposal of such plants'' (*i.e.,* transplanting).

However, this statute provides no substantive protection of habitat or protection of potentially suitable habitat at this time. Florida Statutes 581.185 section (8) waives State regulation for certain classes of activities for all species on the Index, including the clearing or removal of regulated plants for agricultural, forestry, mining, construction (residential, commercial, or infrastructure), and fire-control activities by a private landowner or his or her agent.

Local

In 1984, section 24–49 of the Code of Miami-Dade County established regulation of County-designated NFCs. These regulations were placed on specific properties throughout the County by an act of the Board of County Commissioners in an effort to protect environmentally sensitive forest lands. The Miami-Dade County Department of Regulatory and Economic Resources (RER) has regulatory authority over these County-designated NFCs and is charged with enforcing regulations that provide partial protection of remaining upland forested areas designated as NFC on the Miami Rock Ridge. NFC regulations are designed to prevent clearing or destruction of native vegetation within preserved areas. Miami-Dade County Code typically allows up to 20 percent of pine rocklands designated as NFC to be developed, and requires that the remaining 80 percent be placed under a perpetual covenant. The code requires that no more than 10 percent of a rockland hammock designated as NFC may be developed for properties greater than 5 acres and that the remaining 90 percent be placed under a perpetual covenant for preservation purposes (Joyner 2013a, 2014, pers. comm.; Lima 2014, pers. comm.). However, for properties less than 5 acres, up to one-half an acre may be cleared if the request is deemed a reasonable use of property; this allowance often may be greater than 20 percent (for pine rocklands) or 10 percent (for rockland hammock) of the property (Lima 2014, pers. comm.). NFC landowners are also required to obtain an NFC permit for any work, including removal of nonnatives within the boundaries of the NFC on their property. When RER discovers unpermitted work, it takes appropriate enforcement action and seeks restoration when possible. The NFC program is responsible for ensuring that NFC permits are issued in accordance with the limitations and requirements of the county code and that appropriate NFC preserves are established and maintained in conjunction with the issuance of an NFC permit when development occurs. The NFC program currently regulates approximately 600 pine rocklands or pine rocklands/hammock properties, comprising approximately 1,200 ha (3,000 ac) of habitat (Joyner 2013, pers. comm.).

Although the NFC program is designed to protect rare and important upland (non-wetlands) habitats in south Florida, it is a regulatory strategy with limitations. For example, in certain circumstances where landowners can demonstrate that limiting development to 20 percent (for pine rocklands) or 10 percent (for rockland hammock) does not allow for ''reasonable use'' of the property, additional development may be approved. Furthermore, Miami-Dade County Code provides for up to 100 percent of the NFC to be developed in limited circumstances for parcels less than 2.02 ha (5 ac) in size and only requires coordination with landowners if they plan to develop property or perform work within the NFC designated area. Therefore, many of the existing private forested NFC parcels remain fragmented, without management obligations or preserve designation, as development has not been proposed at a level that would trigger the NFC regulatory requirements. Often, nonnative vegetation over time begins to dominate and degrade the undeveloped and unmanaged NFC landscape until it no longer meets the legal threshold of an NFC, which applies only to land dominated by native vegetation. When development of such degraded NFCs is proposed, Miami-Dade County Code requires delisting of the degraded areas as part of the development process. Property previously designated as NFC is removed from the list even before development is initiated because of the abundance of nonnative species, making it no longer considered to be jurisdictional or subject to the NFC protection requirements of Miami-Dade County Code (Grossenbacher 2013, pers. comm.).

Summary of Factor D

Currently, *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* are found on Federal, State, and County lands; however, there is no regulatory mechanism in place that provides substantive protection of habitat or protection of potentially suitable habitat at this time. NPS and USFWS Refuge regulations provide protection at ENP and the Florida Keys Wildife Refuge Complex, respectively. The Act provides some protection for candidate species on NWRs and during intra-Service section 7 consultations. State regulations provide protection against trade, but allow private landowners or their agents to clear or remove species on the Florida Regulated Plant Index. State Park regulations provide protection for plants within Florida State Parks. The NFC program in Miami is designed to protect rare and important upland (non-wetlands) habitats in south Florida; however, this regulatory strategy has several limitations (as described above) that reduce its ability to protect the four plants and their habitats.

Although many populations of the four plants are afforded some level of protection because they are on public conservation lands, existing regulatory mechanisms have not led to a reduction or removal of threats posed to these plants by a wide array of sources (see discussions under Factor A, above, and Factor E, below).

Factor E. Other Natural or Manmade Factors Affecting Its Continued Existence

Other natural or manmade factors affect *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* to varying degrees. Specific threats to these plants included in this factor consist of the spread of nonnative, invasive plants;

potentially incompatible management practices (such as mowing and herbicide use); direct impacts to plants from recreation and other human activities; small population size and isolation; effects of pesticide spraying on pollinators; climate change and sea level rise (SLR); and risks from environmental stochasticity (extreme weather) on these small populations. Each of these threats and its specific effect on these plants is discussed in detail below.

Nonnative Plant Species

Nonnative, invasive plants compete with native plants for space, light, water, and nutrients, and make habitat conditions unsuitable for *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii,* which prefer open conditions. Bradley and Gann (1999, pp. 13, 71–72) indicated that the control of nonnative plants is one of the most important conservation actions for these plants and a critical part of habitat maintenance.

Nonnative plants have significantly affected pine rocklands, and threaten all occurrences of these four species to some degree (Bradley 2006, pp. 25–26; Bradley and Gann 1999, pp. 18–19; Bradley and Saha 2009, p. 25; Bradley and van der Heiden 2013, pp. 12–16). As a result of human activities, at least 277 taxa of nonnative plants have invaded pine rocklands throughout south Florida (Service 1999, p. 3–175). *Neyraudia neyraudia* (Burma reed) and *Schinus terebinthifolius* (Brazilian pepper) threaten all four species (Bradley and Gann 1999, pp. 13, 72). *S. terebinthifolius,* a nonnative tree, is the most widespread and one of the most invasive species. It forms dense thickets of tangled, woody stems that completely shade out and displace native vegetation (Loflin 1991, p. 19; Langeland and Craddock Burks 1998, p. 54). *Acacia auriculiformis* (earleaf acacia), *Rhynchelytrum repens* (natal grass), *Lantana camara* (shrub verbena), and *Albizia lebbeck* (tongue tree) are some of the other nonnative species in pine rocklands. More species of nonnative plants could become problems in the future, such as *Lygodium microphyllum* (Old World climbing fern), which is a serious threat throughout south Florida. Nonnative plants in pine rocklands can also affect the characteristics of a fire when it does occur. Historically, pine rocklands had an open, low understory where natural fires remained patchy with low temperature intensity, thus sparing many native plants such as *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii.* Dense infestations of *Neyraudia neyraudia* and *Schinus terebinthifolius* cause higher fire temperatures and longer burning periods. With the presence of invasive, nonnative species, it is uncertain how fire, even under a managed situation, will affect these plants.

At least 162 nonnative plant species are known to invade rockland hammocks; impacts are particularly severe on the Miami Rock Ridge (Service 1999, pp. 3–135). Nonnative plant species have significantly affected rockland hammocks where *Argythamnia blodgettii* occurs and are considered one of the threats to the species (Snyder *et al.* 1990, p. 273; Hodges and Bradley 2006, p. 14). In many Miami-Dade County parks, nonnative plant species comprise 50 percent of the flora in hammock fragments (Service 1999, pp. 3–135). Horvitz (*et al.* 1998, p. 968) suggests the displacement of native species by nonnative species in conservation and preserve areas is a complex problem with serious impacts to biodiversity conservation, as management in these areas generally does not protect native species and ecological processes, as intended. Problematic nonnative, invasive plants associated with rockland hammocks include *Leucaena leucocephala* (lead tree), *Schinus terebinthifolius, Bischofia javanica* (bishop wood), *Syngonium podophyllum* (American evergreen), *Jasminum fluminense* (Brazilian jasmine), *Rubus niveus* (mysore raspberry), *Thelypteris opulenta* (jeweled maiden fern), *Nephrolepis multiflora* (Asian swordfern), *Schefflera actinophylla* (octopus tree), *Jasminum dichotomum* (Gold Coast jasmine), *Epipremnum pinnatum* (centipede tongavine), and *Nephrolepis cordifolia* (narrow swordfern) (Possley 2013h–i, pers. comm.).

Management of nonnative, invasive plants in pine rocklands and rockland hammocks in Miami-Dade County is further complicated because the vast majority of pine rocklands and rockland hammocks are small, fragmented areas bordered by urban development. In the Florida Keys, larger fragments are interspersed with development. Developed or unmanaged areas that contain nonnative species can act as a seed source for nonnatives, allowing them to continue to invade managed pine rocklands or rockland hammocks (Bradley and Gann 1999, p. 13).

Nonnative plant species are also a concern on private lands, where often these species are not controlled due to associated costs, lack of interest, or lack of knowledge of detrimental impacts to the ecosystem. Undiscovered populations of the four plants on private lands could certainly be at risk. Overall, active management is necessary to control for nonnative species and to protect unique and rare habitats where the four plants occur (Snyder *et al.* 1990, p. 273).

Management of Roadsides and Disturbed Areas

All four plants occur in disturbed areas such as roadsides and areas that formerly were pine rocklands. *Linum arenicola* is particularly vulnerable to management practices in these areas because nearly all populations of the species are currently found on disturbed sites. The large *L. arenicola* population at HARB and SOCSOUTH is located largely in areas that are regularly mowed. Similarly, the small population of *L. arenicola* at the Everglades Archery Range, which is owned by Miami-Dade County and managed as a part of Camp Owaissa Bauer, is growing along the edges of the unimproved perimeter road that is regularly mowed. Finally, the two populations of *L. arenicola* on canal banks are subject to mowing, herbicide treatments, and revegetation efforts (sodding) (Bradley and van der Heiden 2013, pp. 8–10). The population of *Argythamnia blodgettii* at Lignumvitae Key Botanical State Park grows around the perimeter of the large lawn around the residence. Maintenance activities and encroachment of exotic lawn grasses are potential threats to this population (Hodges and Bradley 2006, p. 14). At Windley Key State Park, *A. blodgettii* grows in two quarry bottoms. In the first, larger quarry, to the east of the visitor center, plants apparently persist only in natural areas not being mowed. However, the majority of the plants are in the farthest quarry, which is not mowed (Hodges and Bradley 2006, p. 15).

While no studies have investigated the effect of mowing on the four plants, research has been conducted on the federally endangered *Linum carteri* var. *carteri* (Carter's small-flowered flax, a close relative of *Linum arenicola* that also occurs in pine rocklands and disturbed sites). The study found significantly higher densities of plants at the mown sites where competition with other plants is decreased (Maschinski and Walters 2007, p. 56). However, plants growing on mown sites were shorter, which may affect fruiting magnitude. While mowing did not usually kill adult plants, if mowing occurred prior to plants reaching reproductive status, it could delay

reproduction (Maschinski and Walters 2007, pp. 56–57). If such mowing occurs repeatedly, reproduction of those plants would be entirely eliminated. If, instead, mowing occurs at least 3 weeks after flowering, there would be a higher probability of adults setting fruit prior to mowing; mowing may then act as a positive disturbance by both scattering seeds and reducing competition (Maschinski and Walters 2007, p. 57). The exact impacts of mowing thus depend on the timing of the mowing event, rainfall prior to and following mowing, and the numbers of plants in the population that have reached a reproductive state.

Herbicide applications, the installation of sod, and dumping may affect populations of the four plants that occur on roadsides, canals banks, and other disturbed sites. Signs of herbicide application were noted at the site of the Big Torch Key roadside population of *Linum arenicola* in 2010 (Hodges 2010, p. 2). At the L–31 E canal site, plants of *L. arenicola* were lost on the levee close to Card Sound Road due to the installation of Bahia grass (*Paspalum conjugatum*) sod in recent years, an activity associated with the installation of new culverts. If similar projects are planned, other erosion control measures should be investigated that do not pose a threat to *L. arenicola* (Bradley and Van Der Heiden 2013, p. 10). Illegal dumping of storm-generated trash after Hurricane Wilma had a large impact on roadside populations of plants in the lower Florida Keys (Hodges and Bradley 2006, pp. 11–12, 19, 39).

All populations of the four plants that occur on disturbed sites are vulnerable to regular maintenance activities such as mowing and herbicide applications, and dumping. This includes portions of all populations of *Chamaecrista lineata* var. *keyensis* and *Chamaesyce deltoidea* ssp. *serpyllum,* 10 of 12 *Linum arenicola* populations, and 5 of 34 *Argythamnia blodgettii* populations. All roadside populations are also vulnerable to infrastructure projects such as road widening and installation of underground cable, sewer, and water lines.

Pesticide Effects on Pollinators

Another possible anthropogenic threat to the four plants is current application of insecticides throughout these plants' ranges to control mosquito populations. Currently, an aerial insecticide (1,2-dibromo-2,2-dichloroethyl dimethyl phosphate) and ground insecticide (Permethrin) are applied sometimes as frequently as daily in May through November in many parts of south Florida. Nontarget effects of mosquito control may include the loss of pollinating insects upon which certain plants depend.

Koptur and Liu (2003, p. 1184) reported a decrease in *Chamaecrista lineata* var. *keyensis* pollinator activity following mosquito spraying on Big Pine Key. Mosquito spraying is common on Big Pine Key, and its suppression of pollinator populations may have a long-term impact on reproduction rates. Similar problems with mosquito spraying and effects of forest fragmentation and proximity to homes and business may also be impacting *Chamaesyce deltoidea* ssp. *serpyllum* and *Linum arenicola* (Bradley 2006, p. 36).

Environmental Stochasticity

Endemic species whose populations exhibit a high degree of isolation and narrow geographic distribution, such as *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii,* are extremely susceptible to extinction from both random and nonrandom catastrophic natural or human-caused events. Of the four species, *Argythamnia blodgettii* is probably less vulnerable because of the larger number of sites where it occurs throughout Miami-Dade and Monroe Counties. Small populations of species, without positive growth rates, are considered to have a high extinction risk from site-specific demographic and environmental stochasticity (Lande 1993, pp. 911–927).

The climate of south Florida is driven by a combination of local, regional, and global weather events and oscillations. There are three main ''seasons'': (1) The wet season, which is hot, rainy, and humid from June through October; (2) the official hurricane season that extends one month beyond the wet season (June 1 through November 30), with peak season being August and September; and (3) the dry season, which is drier and cooler, from November through May. In the dry season, periodic surges of cool and dry continental air masses influence the weather with short-duration rain events followed by long periods of dry weather.

Florida is considered the most vulnerable State in the United States to hurricanes and tropical storms (Florida Climate Center, *http://coaps.fsu.edu/climate_center*). Based on data gathered from 1856 to 2008, Klotzbach and Gray (2009, p. 28) calculated the climatological probabilities for each State being impacted by a hurricane or major hurricane in all years over the 152-year timespan. Of the coastal States analyzed, Florida had the highest climatological probabilities, with a 51 percent probability of a hurricane (Category 1 or 2) and a 21 percent probability of a major hurricane (Category 3 or higher). From 1856 to 2008, Florida experienced 109 hurricanes, 36 of which were considered major hurricanes. Given the few isolated populations and restricted range of the four plants in locations prone to storm influences (*i.e.,* Miami-Dade and Monroe Counties), they are at substantial risk from hurricanes, storm surges, and other extreme weather events.

Hurricanes, storm surge, and extreme high tide events are natural events that can pose a threat to the four plants. Hurricanes and tropical storms can modify habitat (*e.g.,* through storm surge) and have the potential to destroy entire populations. Climate change may lead to increased frequency and duration of severe storms (Golladay *et al.* 2004, p. 504; McLaughlin *et al.* 2002, p. 6074; Cook *et al.* 2004, p. 1015). The four plants experienced these disturbances historically, but had the benefit of more abundant and contiguous habitat to buffer them from extirpations. With most of the historical habitat having been destroyed or modified, the few remaining populations of these plants could face local extirpations due to stochastic events.

The Florida Keys were impacted by three hurricanes in 2005: Katrina on August 26, Rita on September 20, and Wilma on October 24. Hurricane Wilma had the largest impact, with storm surges flooding much of the landmass of the Keys. In some places this water impounded and sat for days. The vegetation in many areas was top-killed due to salt water inundation (Hodges and Bradley 2006, p. 9). Flooding kills plants that do not have adaptations to tolerate anoxic soil conditions that persist after flooding; the flooding and resulting high salinities might also impact soil seed banks of the four plants (Bradley and Saha 2009, pp. 27–28). After hurricane Wilma, the herb layer in pine rocklands in close proximity to the coast was brown with few plants having live material above ground (Bradley 2006, p. 11). Subsequent surveys found no *Linum arenicola* and little *Chamaecrista lineata* var. *keyensis* or *Chamaesyce deltoidea* ssp. *serpyllum* in areas where they previously occurred. Not only did the storm surge kill the vegetation, but many of the roadside areas were heavily disturbed by dumping and removal of storm debris (Bradley 2006, p. 37). Estimates of the population sizes pre- and post-Wilma were calculated for *Chamaesyce*

deltoidea ssp. *serpyllum* and *Chamaecrista lineata* var. *keyensis.* Each declined in the months following the storm, by 41.2 percent and 48.0 percent, respectively (Bradley and Saha 2009, p. 2). *L. arenicola* was not found at all in surveys 8 to 9 weeks after the hurricane (Bradley 2006, p. 36). The Middle Torch Key population was extirpated after Hurricane Wilma, and the population on Big Torch Key declined drastically, with only one individual located. Both of these areas were heavily affected by storm surges during Hurricane Wilma (Hodges 2010, p. 2). As of 2013, populations of *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum,* and *L. arenicola* in the Florida Keys have not returned to pre-Hurricane Wilma levels (Bradley *et al.* 2015, pp. 21, 25, 29).

Some climate change models predict increased frequency and duration of severe storms, including hurricanes and tropical storms (McLaughlin *et al.* 2002, p. 6074; Cook *et al.* 2004, p. 1015; Golladay *et al.* 2004, p. 504). Other models predict hurricane and tropical storm frequencies in the Atlantic are expected to decrease between 10 and 30 percent by 2100 (Knutson *et al.* 2008, pp. 1–21). For those models that predict fewer hurricanes, predictions of hurricane wind speeds are expected to increase by 5 to 10 percent due to an increase in available energy for intense storms. Increases in hurricane winds can elevate the chances of damage to existing canopy and increase storm surge heights.

All populations of the four plants are vulnerable to hurricane wind damage. Populations close to the coast and all populations of the four plants in the Florida Keys are vulnerable to inundation by storm surge. Historically, the four plant species may have benefitted from more abundant and contiguous habitat to buffer them from storm events. The small size of many populations of these plants makes them especially vulnerable, in which the loss of even a few individuals could reduce the viability of a single population. The destruction and modification of native habitat, combined with small population size, has likely contributed over time to the stress, decline, and, in some instances, extirpation of populations or local occurrences due to stochastic events.

Due to the small size of some existing populations of *Chamaecrista lineata* var. *keyensis, Linum arenicola,* and *Argythamnia blodgettii* (see below) and the narrow geographic range of all four plant species, their overall resilience to these factors is likely low. These factors, combined with additional stress from habitat loss and modification (*e.g.,* inadequate fire management) may increase the inherent risk of stochastic events that impact these plants. For these reasons, all four plants are at risk of extirpation during extreme stochastic events. Of the four species, *Argythamnia blodgettii* is probably less vulnerable because of the larger number of sites where it occurs throughout Miami-Dade and Monroe Counties.

Small Population Size and Isolation

Endemic species whose populations exhibit a high degree of isolation are extremely susceptible to extinction from both random and nonrandom catastrophic natural or human-caused events. Species that are restricted to geographically limited areas are inherently more vulnerable to extinction than widespread species because of the increased risk of genetic bottlenecks, random demographic fluctuations, climate change, and localized catastrophes such as hurricanes and disease outbreaks (Mangel and Tier 1994, p. 607; Pimm *et al.* 1998, p. 757). These problems are further magnified when populations are few and restricted to a very small geographic area, and when the number of individuals is very small. Populations with these characteristics face an increased likelihood of stochastic extinction due to changes in demography, the environment, genetics, or other factors (Gilpin and Soule 1986, pp. 24–34). Small, isolated populations often exhibit reduced levels of genetic variability, which diminishes the species' capacity to adapt and respond to environmental changes, thereby decreasing the probability of long-term persistence (*e.g.,* Barrett and Kohn 1991, p. 4; Newman and Pilson 1997, p. 361). Very small plant populations may experience reduced reproductive vigor due to ineffective pollination or inbreeding depression. Isolated individuals have difficulty achieving natural pollen exchange, which limits the production of viable seed. The problems associated with small population size and vulnerability to random demographic fluctuations or natural catastrophes are further magnified by synergistic interactions with other threats, such as those discussed above (see Factors A and C).

Chamaecrista lineata var. *keyensis* and *Chamaesyce deltoidea* ssp. *serpyllum* both have large populations on Big Pine Key. The other extant occurrence of *Chamaecrista lineata* var. *keyensis* in the Florida Keys, on Cudjoe Key, is small. Five out of 12 extant *Linum arenicola* populations, and 20 of 34 *Argythamnia blodgettii* populations have fewer than 100 individuals. These small populations are at risk of adverse effects from reduced genetic variation, an increased risk of inbreeding depression, and reduced reproductive output. Many of these populations are small and isolated from each other, decreasing the likelihood that they could be naturally reestablished in the event that extinction from one location would occur. *Argythamnia blodgettii* is the only one of the four plants species which occurs in ENP, where a population of over 2,000 plants is stable and prescribed fire and other management activities that benefit *A. blodgettii* are conducted on a regular basis.

Climate Change and Sea Level Rise

Climatic changes, including sea level rise (SLR), are occurring in the State of Florida and are impacting associated plants, animals, and habitats. Our analyses under the Act include consideration of ongoing and projected changes in climate. The term ''climate,'' as defined by the Intergovernmental Panel on Climate Change (IPCC), refers to the mean and variability of different types of weather conditions over time, with 30 years being a typical period for such measurements, although shorter or longer periods also may be used (IPCC 2013, p. 1450). The term ''climate change'' thus refers to a change in the mean or variability of one or more measures of climate (*e.g.,* temperature or precipitation) that persists for an extended period, typically decades or longer, whether the change is due to natural variability, human activity, or both (IPCC 2013, p. 1450). A recent compilation of climate change and its effects is available from reports of the Intergovernmental Panel on Climate Change (IPCC) (IPCC 2013, entire).

Scientific measurements spanning several decades demonstrate that changes in climate are occurring, and that the rate of change has been faster since the 1950s. Examples include warming of the global climate system, and substantial increases in precipitation in some regions of the world and decreases in other regions. (For these and other examples, see IPCC 2007a, p. 30; Solomon *et al.* 2007, pp. 35–54, 82–85). Results of scientific analyses presented by the IPCC show that most of the observed increase in global average temperature since the mid-20th century cannot be explained by natural variability in climate, and is ''very likely'' (defined by the IPCC as 90 percent or higher probability) due to the observed increase in greenhouse gas (GHG) concentrations in the atmosphere

as a result of human activities, particularly carbon dioxide emissions from use of fossil fuels (IPCC 2007a, pp. 5–6 and figures SPM.3 and SPM.4; Solomon *et al.* 2007, pp. 21–35). Further confirmation of the role of GHGs comes from analyses by Huber and Knutti (2011, p. 4), who concluded it is extremely likely that approximately 75 percent of global warming since 1950 has been caused by human activities.

Scientists use a variety of climate models, which include consideration of natural processes and variability, as well as various scenarios of potential levels and timing of GHG emissions, to evaluate the causes of changes already observed and to project future changes in temperature and other climate conditions (*e.g.,* Meehl *et al.* 2007, entire; Ganguly *et al.* 2009, pp. 11555, 15558; Prinn *et al.* 2011, pp. 527, 529). All combinations of models and emissions scenarios yield very similar projections of increases in the most common measure of climate change, average global surface temperature (commonly known as global warming), until about 2030. Although projections of the magnitude and rate of warming differ after about 2030, the overall trajectory of all the projections is one of increased global warming through the end of this century, even for the projections based on scenarios that assume that GHG emissions will stabilize or decline. Thus, there is strong scientific support for projections that warming will continue through the 21st century, and that the magnitude and rate of change will be influenced substantially by the extent of GHG emissions (IPCC 2007a, pp. 44–45; Meehl *et al.* 2007, pp. 760–764, 797–811; Ganguly *et al.* 2009, pp. 15555–15558; Prinn *et al.* 2011, pp. 527, 529). (See IPCC 2007b, p. 8, for a summary of other global projections of climate-related changes, such as frequency of heat waves and changes in precipitation. Also see IPCC 2011 (entire) for a summary of observations and projections of extreme climate events.)

Various changes in climate may have direct or indirect effects on species. These effects may be positive, neutral, or negative, and they may change over time, depending on the species and other relevant considerations, such as interactions of climate with other variables (*e.g.,* habitat fragmentation) (IPCC 2007, pp. 8–14, 18–19). Identifying likely effects often involves aspects of climate change vulnerability analysis. Vulnerability refers to the degree to which a species (or system) is susceptible to, and unable to cope with, adverse effects of climate change, including climate variability and extremes. Vulnerability is a function of the type, magnitude, and rate of climate change and variation to which a species is exposed, its sensitivity, and its adaptive capacity (IPCC 2007a, p. 89; see also Glick *et al.* 2011, pp. 19–22). There is no single method for conducting such analyses that applies to all situations (Glick *et al.* 2011, p. 3). We use our expert judgment and appropriate analytical approaches to weigh relevant information, including uncertainty, in our consideration of various aspects of climate change.

As is the case with all stressors that we assess, even if we conclude that a species is currently affected or is likely to be affected in a negative way by one or more climate-related impacts, it does not necessarily follow that the species meets the definition of an ''endangered species'' or a ''threatened species'' under the Act. If a species is listed as endangered or threatened, knowledge regarding the vulnerability of the species to, and known or anticipated impacts from, climate-associated changes in environmental conditions can be used to help devise appropriate strategies for its recovery.

Global climate projections are informative, and, in some cases, the only or the best scientific information available for us to use. However, projected changes in climate and related impacts can vary substantially across and within different regions of the world (*e.g.,* IPCC 2007a, pp. 8–12). Therefore, we use ''downscaled'' projections when they are available and have been developed through appropriate scientific procedures, because such projections provide higher resolution information that is more relevant to spatial scales used for analyses of a given species (see Glick *et al.* 2011, pp. 58–61, for a discussion of downscaling).

With regard to our analysis for *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii,* downscaled projections suggest that SLR is the largest climate-driven challenge to low-lying coastal areas in the subtropical ecoregion of southern Florida (U.S. Climate Change Science Program (USCCSP) 2008, pp. 5–31, 5–32). All populations of the four plants occur at elevations from 2.83–4.14 m (9.29–13.57 ft) above sea level, making these plants highly susceptible to increased storm surges and related impacts associated with SLR.

We acknowledge that the drivers of SLR (especially contributions of melting glaciers) are not completely understood, and there is uncertainty with regard to the rate and amount of SLR. This uncertainty increases as projections are made further into the future. For this reason, we examine threats to the species within the range of projections found in recent climate change literature.

The long-term record at Key West shows that sea level rose on average 0.229 cm (0.090 in) annually between 1913 and 2013 (National Oceanographic and Atmospheric Administration (NOAA) 2013, p. 1). This equates to approximately 22.9 cm (9.02 in) over the last 100 years. IPCC (2008, p. 28) emphasized it is very likely that the average rate of SLR during the 21st century will exceed the historical rate. The IPCC Special Report on Emission Scenarios (2000, entire) presented a range of scenarios based on the computed amount of change in the climate system due to various potential amounts of anthropogenic greenhouse gases and aerosols in 2100. Each scenario describes a future world with varying levels of atmospheric pollution leading to corresponding levels of global warming and corresponding levels of SLR. The IPCC Synthesis Report (2007, entire) provided an integrated view of climate change and presented updated projections of future climate change and related impacts under different scenarios.

Subsequent to the 2007 IPCC Report, the scientific community has continued to model SLR. Recent peer-reviewed publications indicate a movement toward increased acceleration of SLR. Observed SLR rates are already trending along the higher end of the 2007 IPCC estimates, and it is now widely held that SLR will exceed the levels projected by the IPCC (Rahmstorf *et al.* 2012, p. 1; Grinsted *et al.* 2010, p. 470). Taken together, these studies support the use of higher end estimates now prevalent in the scientific literature. Recent studies have estimated global mean SLR of 1.0–2.0 m (3.3–6.6 ft) by 2100 as follows: 0.75–1.90 m (2.50–6.20 ft; Vermeer and Rahmstorf 2009, p. 21530); 0.8–2.0 m (2.6–6.6 ft; Pfeffer *et al.* 2008, p. 1342); 0.9–1.3 m (3.0–4.3 ft; Grinsted *et al.* 2010, pp. 469–470); 0.6–1.6 m (2.0–5.2 ft; Jevrejeva *et al.* 2010, p. 4); and 0.5–1.4 m (1.6–4.6 ft; National Research Council 2012, p. 2).

Other processes expected to be affected by projected warming include temperatures, rainfall (amount, seasonal timing, and distribution), and storms (frequency and intensity) (see ''Environmental Stochasticity'', above). Models where sea surface temperatures are increasing also show a higher probability of more intense storms (Maschinski *et al.* 2011, p. 148). The

Massachusetts Institute of Technology (MIT) modeled several scenarios combining various levels of SLR, temperature change, and precipitation differences with human population growth, policy assumptions, and conservation funding changes. All of the scenarios, from small climate change shifts to major changes, indicate significant effects on coastal Miami-Dade County. The Science and Technology Committee of the Miami-Dade County Climate Change Task Force (Wanless *et al.* 2008, p. 1) recognizes that significant SLR is a serious concern for Miami-Dade County in the near future. In a January 2008 statement, the committee warned that sea level is expected to rise at least 0.9–1.5 m (3.0–5.0 ft) within this century (Wanless *et al.* 2008, p. 3). With a 0.9–1.2 m (3.0–4.0 ft) rise in sea level (above baseline) in Miami-Dade County, spring high tides would be at about 1.83–2.13 m (6.0–7.0 ft); freshwater resources would be gone; the Everglades would be inundated on the west side of Miami-Dade County; the barrier islands would be largely inundated; storm surges would be devastating to coastal habitat and associated species; and landfill sites would be exposed to erosion, contaminating marine and coastal environments. Freshwater and coastal mangrove wetlands will be unable to keep up with or offset SLR of 0.61 m (2.0 ft) per century or greater. With a 1.52 m (5.0 ft) rise, Miami-Dade County will be extremely diminished (Wanless *et al.* 2008, pp. 3–4).

SLR projections from various scenarios have been downscaled by TNC (2011; entire) and Zhang *et al.* (2011; entire) for the Florida Keys. Using the IPCC best-case, low pollution scenario, a rise of 18 cm (7 in) (a rate close to the historical average reported above) would result in the inundation of 23,796 ha (58,800 acres) or 38.2 percent of the Florida Keys upland area by the year 2100 (TNC 2011, p. 25). Under the IPCC worst-case, high pollution scenario, a rise of 59 cm (23.2 in) would result in the inundation of 46,539 ha (115,000 acres) or 74.7 percent of the Florida Keys upland area by the year 2100 (TNC 2011, p. 25). Using Rahmstorf *et al.*'s (2007; p. 368) SLR projections of 100 to 140 cm, 80.5 to 92.2 percent of the Florida Keys land area would be inundated by 2100. The Zhang *et al.* (2011, p. 136) study models SLR up to 1.8 m (5.9 ft) for the Florida Keys, which would inundate 93.6 percent of the current land area of the Keys.

Prior to inundations from SLR, there will likely be habitat transitions related to climate change, including changes to hydrology and increasing vulnerability to storm surge. Hydrology has a strong influence on plant distribution in coastal areas (IPCC 2008, p. 57). Such communities typically grade from salt to brackish to freshwater species. From the 1930s to 1950s, increased salinity contributed to the decline of cabbage palm forests in southwest Florida (Williams *et al.* 1999, pp. 2056–2059), expansion of mangroves into adjacent marshes in the Everglades (Ross *et al.* 2000, pp. 101, 111), and loss of pine rocklands in the Keys (Ross *et al.* 1994, pp. 144, 151–155). In Florida, pine rocklands transition into rockland hammocks, and, as such, these habitat types are closely associated in the landscape. A study conducted in one pine rocklands location on Sugar Loaf Key (with an average elevation of 0.89 m (2.90 ft)) found an approximately 65 percent reduction in an area occupied by South Florida slash pine over a 70-year period, with pine mortality and subsequent increased proportions of halophytic (salt-loving) plants occurring earlier at the lower elevations (Ross *et al.* 1994, pp. 149–152). During this same time span, local sea level had risen by 15 cm (6 in), and Ross *et al.* (1994, p. 152) found evidence of groundwater and soil water salinization. Extrapolating this situation to hardwood hammocks is not straightforward, but it suggests that changes in rockland hammock species composition may not be an issue in the immediate future (5–10 years); however, over the long term (within the next 10–50 years), it may be an issue if current projections of SLR occur and freshwater inputs are not sufficient to maintain high humidities and prevent changes in existing canopy species through salinization (Saha *et al.* 2011, pp. 22–25). Ross *et al.* (2009, pp. 471–478) suggested that interactions between SLR and pulse disturbances (*e.g.,* storm surges) can cause vegetation to change sooner than projected based on sea level alone.

Impacts from climate change including regional SLR have been studied for coastal hammocks but not rockland hammock habitat. Saha (*et al.* 2011, pp. 24–25) conducted a risk assessment on rare plant species in ENP and found that impacts from SLR have significant effects on imperiled taxa. This study also predicted a decline in the extent of coastal hammocks with initial SLR, coupled with a reduction in freshwater recharge volume and an increase in pore water (water filling spaces between grains of sediment) salinity, which will push hardwood species to the edge of their drought (freshwater shortage and physiological) tolerance, jeopardizing critically imperiled or endemic species, or both, with possible extirpation. In south Florida, SLR of 1–2 m (3.3–6.6 ft) is estimated by 2100, which is on the higher end of global estimates for SLR. These projected increases in sea level pose a threat to coastal plant communities and habitats from mangroves at sea level to salinity-intolerant, coastal rockland hammocks where elevations are generally less than 2.00 m (6.1 ft) above sea level (Saha *et al.* 2011, p. 2). Loss or degradation of these habitats can be a direct result of SLR or in combination of several other factors, including diversion of freshwater flow, hurricanes, and exotic plant species infestations, which can ultimately pose a threat to rare plant populations (Saha *et al.* 2011, p. 24).

Habitats for these species are restricted to relatively immobile geologic features separated by large expanses of flooded, inhospitable wetland or ocean, leading us to conclude that these habitats will likely not be able to migrate as sea level rises (Saha *et al.* 2011, pp. 103–104). Because of the extreme fragmentation of remaining habitat and isolation of remaining populations, and the accelerating rate at which SLR is projected to occur (Grinsted *et al.* 2010, p. 470), it will be particularly difficult for these species to disperse to suitable habitat once existing sites that support them are lost to SLR. Patterns of development will also likely be significant factors influencing whether natural communities can move and persist (IPCC 2008, p. 57; CCSP 2008, pp. 7–6). The plant species face significant risks from coastal squeeze that occurs when habitat is pressed between rising sea levels and coastal development that prevents landward migration of species. The ultimate effect of these impacts is likely to result in reductions in reproduction and survival, and corresponding decreases in population numbers.

Saha (*et al.* 2011, p. 4) suggested that the rising water table accompanying SLR will shrink the vadose zone (the area which extends from the top of the ground surface to the water table); increase salinity in the bottom portion of the freshwater lens, thereby increasing brackishness of plant-available water; and influence tree species composition of coastal hardwood hammocks based upon species-level tolerance to salinity or drought or both. Evidence of population declines and shifts in rare plant communities, along with multi-trophic effects, already have been documented on the low-elevation islands of the

Florida Keys (Maschinski *et al.* 2011, p. 148).

Direct losses to extant populations of all four plants are expected due to habitat loss and modification from SLR by 2100. We analyzed existing sites that support populations of the four plants using the National Oceanic and Atmospheric Administration (NOAA) Sea Level Rise and Coastal Impacts viewer. Below we discuss general implications of sea level rise within the range of projections discussed above on the current distribution of these species. The NOAA tool uses 1-foot increments, so the analysis is based on 0.91 m (3 ft) and 1.8 m (6 ft).

Chamaecrista lineata var. *keyensis:* A 0.91-m (3-ft) rise would inundate most areas of Big Pine Key, and all areas of Cudjoe Key, that support *Chamaecrista lineata* var. *keyensis,* and reduce both Keys to several much smaller islands. The remaining uplands on these islands would likely transition to buttonwoods and saltmarshes, and would be extremely vulnerable to storm surge. This will further reduce and fragment these populations. A 1.8-m (6-ft) rise would completely inundate all areas that support *C. lineata* var. *keyensis* and eliminate all pine rocklands habitat within the historic range of the species.

Chamaesyce deltoidea var. *serpyllum:* A 0.91-m (3-ft) rise would inundate most areas of Big Pine Key that support *Chamaesyce deltoidea* var. *serpyllum,* and reduce the Key to three to five much smaller islands. The remaining uplands would likely transition to buttonwoods and saltmarshes, and would be extremely vulnerable to storm surge. This will further reduce and fragment the population. A 1.8-m (6-ft) rise would completely inundate all areas that support *C. deltoidea* var. *serpyllum* and eliminate all pine rocklands habitat within the historic range of the species.

Linum arenicola: In Miami-Dade County, a 0.91-m (3-ft) rise would inundate the area that supports a large extant population of *Linum arenicola* along L–31E canal. While other areas that support the species are located in higher elevation areas along the coastal ridge, changes in the salinity of the water table and soils, along with additional vegetation shifts in the region, are likely. Remaining uplands may transition to wetter, more salt-tolerant plant communities. This will further reduce and fragment the populations. A 1.8-m (6-ft) rise would inundate portions of the largest known population (HARB), as well the population along L–31E canal. The areas that support *Linum arenicola* at the Martinez and Richmond pinelands to the north would not be inundated, but pine rocklands in these areas may be reduced through transition to wetter, more salt-tolerant plant communities, as discussed above.

In the Florida Keys, a 0.91-m (3-ft) rise would inundate most areas of Big Pine Key and Lower Sugarloaf Key, and all of the areas on Upper Sugarloaf Key and Big Torch Key, that support *Linum arenicola,* and reduce these Keys to numerous much smaller islands. The remaining uplands on these small islands would likely transition to buttonwoods and saltmarshes, and would be extremely vulnerable to further losses due to storm surge. This would further reduce and fragment the populations. A 1.8-m (6-ft) rise would completely inundate all areas that support *Linum arenicola* in the Florida Keys and eliminate all pine rocklands habitat within the historic range of the species in Monroe County.

Argythamnia blodgettii: In Miami-Dade County, a 0.91-m (3-ft) rise would not inundate any extant populations of *Argythamnia blodgettii* because these habitats are located in higher elevation areas along the coastal ridge. However, changes in the salinity of the water table and soils, along with additional vegetation shifts in the region, are likely. Remaining uplands may likely transition to wetter, more salt-tolerant plant communities. This will further reduce and fragment the populations. A 1.8-m (6-ft) rise would inundate portions of Crandon Park, making it unsuitable for *A. blodgettii.* Other areas that support *A. blodgettii,* including the Martinez and Richmond pinelands to the north, and Long Pine Key in ENP, would not be inundated, but habitats in these areas may be reduced through transition to wetter, more salt-tolerant plant communities, as discussed above.

In the Florida Keys, a 0.91-m (3-ft) rise would reduce the area of islands in the upper Keys, but extant populations on Key Largo, Windley Key, and Lignumvitae Key are less vulnerable than the Middle and Lower Keys, which are at lower elevations. Lower Matecumbe Key, Plantation Key, Vaca Key, Big Pine Key, and Big Munson Island would be fragmented and reduced to numerous much smaller islands. The remaining uplands on these small islands would likely transition to buttonwoods and saltmarshes, and would be extremely vulnerable further losses to storm surge. This would further reduce and fragment the populations. A 1.8-m (6-ft) rise would completely inundate all areas that support *Argythamnia blodgettii* south of Lignumvitae Key. Key Largo, Windley Key, and Lignumvitae Key are the only existing areas supporting extant populations that could continue to support a population given a 1.8-m (5.9-ft) sea level rise.

Conservation Efforts To Reduce Other Natural or Manmade Factors Affecting Its Continued Existence

NPS, the Service, Miami-Dade County, and the State of Florida have ongoing nonnative plant management programs to reduce threats on public lands, as funding and resources allow. In Miami-Dade County, nonnative, invasive plant management is very active, with a goal to treat all publicly owned properties at least once a year and more often in many cases. IRC and FTBG conduct research and monitoring in various natural areas within Miami-Dade County and the Florida Keys for various endangered plant species and nonnative, invasive species.

Summary of Factor E

We have analyzed threats from other natural or manmade factors including: nonnative, invasive plants; management practices used on roadsides and disturbed sites (such as mowing, sodding, and herbicide use); pesticide spraying and its effects on pollinators; environmental stochasticity; effects from small population size and isolation; and the effects of climate change, including SLR. The related risks from hurricanes and storm surge act together to impact populations of all four plants. Some of these threats (*e.g.,* nonnative species) may be reduced on public lands due to active programs by Federal, State, and county land managers. Many of the remaining populations of these plants are small and geographically isolated, and genetic variability is likely low, increasing the inherent risk due to overall low resilience of these plants.

Cumulative Effects of Threats

When two or more threats affect populations of the four plants, the effects of those threats could interact or become compounded, producing a cumulative adverse effect that is greater than the impact of either threat alone. The most obvious cases in which cumulative adverse effects would be significant are those in which small populations (Factor E) are affected by threats that result in destruction or modification of habitat (Factor A). The limited distributions and small population sizes of many populations of the four plants make them extremely susceptible to the detrimental effects of further habitat modification, degradation, and loss, as well as other anthropogenic threats. Mechanisms

leading to the decline of the four plants, as discussed above, range from local (*e.g.,* agriculture) to regional (*e.g.,* development, fragmentation, nonnative species) to global influences (*e.g.,* climate change, SLR). The synergistic effects of threats, such as impacts from hurricanes on a species with a limited distribution and small populations, make it difficult to predict population viability. While these stressors may act in isolation, it is more probable that many stressors are acting simultaneously (or in combination) on populations of these four plants, making them more vulnerable.

Proposed Determination

We have carefully assessed the best scientific and commercial data available regarding the past, present, and future threats to *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii.* Numerous populations of all four plants have been extirpated from these species' historical ranges, and the primary threats of habitat destruction and modification resulting from human population growth and development, agricultural conversion, and inadequate fire management (Factor A); competition from nonnative, invasive species (Factor E); changes in climatic conditions, including SLR (Factor E); and natural stochastic events (Factor E) remain threats for existing populations. Existing regulatory mechanisms have not led to a reduction or removal of threats posed to the four plants from these factors (see Factor D discussion, above). These threats are ongoing, rangewide, and expected to continue in the future. A significant percentage of populations of *Chamaecrista lineata* var. *keyensis, Linum arenicola,* and *Argythamnia blodgettii* are relatively small and isolated from one another, and their ability to recolonize suitable habitat is unlikely without human intervention, if at all. The threats have had and will continue to have substantial adverse effects on the four plants and their habitats. Although attempts are ongoing to alleviate or minimize some of these threats at certain locations, all populations appear to be impacted by one or more threats.

The Act defines an endangered species as ''any species which is in danger of extinction throughout all or a significant portion of its range'' and a threatened species as ''any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.''

As described in detail above, *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum,* and *Linum arenicola* are currently at risk throughout all of their range due to the immediacy, severity, significance, timing, and scope of those threats. Impacts from these threats are ongoing and increasing; singly or in combination, these threats place these three plants in danger of extinction. The risk of extinction is high because the populations are small, are isolated, and have limited to no potential for recolonization. Numerous threats are currently ongoing and are likely to continue in the foreseeable future, at a high intensity and across the entire range of these plants. Furthermore, natural stochastic events and changes in climatic conditions pose a threat to the persistence of these plants, especially in light of the fact these events cannot be controlled and mitigation measures have yet to be addressed. Individually and collectively, all these threats can contribute to the local extirpation and potential extinction of these plant species. Because these threats are placing them in danger of extinction throughout their ranges, we have determined that each of these three plants meets the definition of an endangered species. Therefore, on the basis of the best available scientific and commercial information, we propose to list *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum,* and *Linum arenicola* as endangered species in accordance with sections 3(6) and 4(a)(1) of the Act. We find that threatened species status is not appropriate for *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum,* and *Linum arenicola* because of the contracted range of each species and because the threats are occurring rangewide, are ongoing, and are expected to continue into the future.

Throughout its range, *Argythamnia blodgettii* faces threats similar to the other three plant species that are the subjects of this proposed rule. However, we find that endangered species status is not appropriate for *A. blodgettii.* While we have evidence of threats under Factors A, D, and E affecting the species, insufficient data are available to identify the trends in extant populations. Six populations are extant, 11 are extirpated, and we are uncertain of the status of 14 populations that have not been surveyed in 15 years or more. Additionally, data show that the threat of habitat loss from sea level rise is not as severe for this species. Also, *A. blodgettii* is likely less vulnerable because of the larger number of sites where it occurs throughout Miami-Dade and Monroe Counties. Further, *A. blodgettii* is the only one of the four plants species that occurs in ENP, where a population of over 2,000 plants is stable and prescribed fire and other management activities that benefit *A. blodgettii* are conducted on a regular basis. Therefore, based on the best available information, we find that *A. blodgettii* is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range, and we propose to list the species as a threatened species in accordance with sections 3(20) and 4(a)(1) of the Act.

Significant Portion of the Range

Under the Act and our implementing regulations, a species may warrant listing if it is endangered or threatened throughout all or a significant portion of its range. The threats to the survival of *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* occur throughout these species' ranges and are not restricted to any particular significant portion of those ranges. Accordingly, our assessment and proposed determination applies to each of the four plants throughout its entire range. Because we have determined that *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum,* and *Linum arenicola* meet the definition of endangered species, and *Argythamnia blodgettii* meets the definition of a threatened species, throughout their ranges, no portion of their ranges can be ''significant'' for purposes of the definitions of ''endangered species'' and ''threatened species.'' See the Service's SPR Policy (79 FR 37578, July 1, 2014).

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, Tribal, and local agencies; private organizations; and individuals. The Act encourages cooperation with the States and other countries and calls for recovery actions to be carried out for listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate

goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act calls for the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan also identifies recovery criteria for review of when a species may be ready for downlisting or delisting, and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. If these four plant species are listed, a recovery outline, draft recovery plan, and the final recovery plan will be available on our Web site (*http://www.fws.gov/endangered*), or from our South Florida Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands. If these four plant species are listed, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the State of Florida would be eligible for Federal funds to implement management actions that promote the protection or recovery of the four plants. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Although *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* are only proposed for listing under the Act at this time, please let us know if you are interested in participating in recovery efforts for this species. Additionally, we invite you to submit any new information on these plants whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat, if designated. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, if designated, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the species' habitat that may require conference or consultation or both as described in the preceding paragraph include management and any other landscape-altering activities on Federal lands administered by the Service, NPS, and Department of Defense; issuance of section 404 Clean Water Act permits by the U.S. Army Corps of Engineers; construction and management of gas pipeline and power line rights-of-way by the Federal Energy Regulatory Commission; construction and maintenance of roads or highways by the Federal Highway Administration; and disaster relief efforts conducted by the Federal Emergency Management Agency.

With respect to endangered plants, prohibitions outlined at 50 CFR 17.61 make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or to remove and reduce to possession any such plant species from areas under Federal jurisdiction. In addition, for endangered plants, the Act prohibits malicious damage or destruction of any such species on any area under Federal jurisdiction, and the removal, cutting, digging up, or damaging or destroying of any such species on any other area in knowing violation of any State law or regulation, or in the course of any violation of a State criminal trespass law. Exceptions to these prohibitions are outlined in 50 CFR 17.62. With respect to threatened plants, 50 CFR 17.71 provides that, with certain exceptions, all of the prohibitions outlined at 50 CFR 17.61 for endangered plants also apply to threatened plants. Permit exceptions to the prohibitions for threatened plants are outlined in 50 CFR 17.72.

Preservation of native flora of Florida through Florida Statutes 581.185, sections (3)(a) and (3)(b), provide limited protection to species listed in the State of Florida Regulated Plant Index including *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii,* as described under the Factor D discussion, above. Federal listing would increase protection for these plants by making violations of section 3 of the Florida Statute punishable as a Federal offense under section 9 of the Act. This would provide increased protection from unauthorized collecting and vandalism for the plants on State and private lands, where they might not otherwise be protected by the Act, and would increase the severity of the penalty for unauthorized collection, vandalism, or trade in these plants.

The Service acknowledges that it cannot fully address some of the natural threats facing *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii,* (*e.g.,* hurricanes, storm surge) or even some of the other significant, long-term threats (*e.g.,* climatic changes, SLR). However,

through listing, we could provide protection to the known populations and any new population of these plants that may be discovered (see discussion below). With listing, we could also influence Federal actions that may potentially impact these plants (see discussion below); this is especially valuable if these plants are found at additional locations. With listing, we would also be better able to deter illicit collection and trade.

We may issue permits to carry out otherwise prohibited activities involving endangered or threatened plants under certain circumstances. Regulations governing permits for endangered plants are codified at 50 CFR 17.62, and for threatened plants at 50 CFR 17.72. With regard to endangered plants, the Service may issue a permit authorizing any activity otherwise prohibited by 50 CFR 17.61 for scientific purposes or for enhancing the propagation or survival of endangered plants.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is proposed for listing or listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a proposed listing on proposed and ongoing activities within the range of species proposed for listing. Based on the best available information, the following actions would be unlikely to result in a violation of section 9, if these activities were carried out in accordance with existing regulations and permit requirements; this list is not comprehensive:

(1) Import any such species into, or export any of the four plant species from, the United States.

(2) Remove and reduce to possession any of the four plant species from areas under Federal jurisdiction; maliciously damage or destroy any of the four plant species on any such area; or remove, cut, dig up, or damage or destroy any of the four plant species on any other area in knowing violation of any law or regulation of any State or in the course of any violation of a State criminal trespass law.

(3) Deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, any of the four plant species.

(4) Sell or offer for sale in interstate or foreign commerce any of the four plant species.

(5) Introduce any nonnative wildlife or plant species to the State of Florida that compete with or prey upon *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* or *Argythamnia blodgettii*.

(6) Release any unauthorized biological control agents that attack any life stage of *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* or *Argythamnia blodgettii*.

(7) Manipulate or modify, without authorization, the habitat of *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* or *Argythamnia blodgettii* on Federal lands.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Field Supervisor of the Service's South Florida Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). Requests for copies of regulations regarding listed species and inquiries about prohibitions and permits should be addressed to the U.S. Fish and Wildlife Service, Ecological Services Division, Endangered Species Permits, 1875 Century Boulevard, Atlanta, GA 30345 (phone 404–679–7140; fax 404–679–7081).

If *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* are listed under the Act, the State of Florida's Endangered Species Act (Florida Statutes 581.185) is automatically invoked, which would also prohibit take of these plants and encourage conservation by State government agencies. Further, the State may enter into agreements with Federal agencies to administer and manage any area required for the conservation, management, enhancement, or protection of endangered species (Florida Statutes 581.185). Funds for these activities could be made available under section 6 of the Act (Cooperation with the States). Thus, the Federal protection afforded to these plants by listing them as endangered species would be reinforced and supplemented by protection under State law.

Activities that the Service believes could potentially harm these four plants include, but are not limited to:

(1) Actions that would significantly alter the hydrology or substrate, such as ditching or filling. Such activities may include, but are not limited to, road construction or maintenance, and residential, commercial, or recreational development.

(2) Actions that would significantly alter vegetation structure or composition, such as clearing vegetation for construction of residences, facilities, trails, and roads.

(3) Actions that would introduce nonnative species that would significantly alter vegetation structure or composition. Such activities may include, but are not limited to, residential and commercial development, and road construction.

(4) Application of herbicides, or release of contaminants, in areas where these plants occur. Such activities may include, but are not limited to, natural resource management, management of right of ways, residential and commercial development, and road construction.

Critical Habitat

Section 3(5)(A) of the Act defines critical habitat as ''(i) the specific areas within the geographical area occupied by the species, at the time it is listed * * * on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed upon a determination by the Secretary that such areas are essential for the conservation of the species. Section 3(3) of the Act defines conservation as to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary.''

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12), require that, to the maximum extent prudent and determinable, the Secretary will designate critical habitat at the time the species is determined to be an endangered or threatened species. Our regulations (50 CFR 424.12(a)(1)) state that the designation of critical habitat is not prudent when one or both of the following situations exist:

(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or

(2) Such designation of critical habitat would not be beneficial to the species.

There is currently no imminent threat of take attributed to collection or vandalism under Factor B for these species, and identification and mapping of critical habitat is not expected to initiate any such threat. Therefore, in the absence of finding that the designation of critical habitat would increase threats to a species, if there are

any benefits to a critical habitat designation, a finding that designation is prudent is warranted. Here, the potential benefits of designation include: (1) Triggering consultation under section 7 of the Act, in new areas for actions in which there may be a Federal nexus where it would not otherwise occur because, for example, it is unoccupied; (2) focusing conservation activities on the most essential features and areas; (3) providing educational benefits to State or county governments or private entities; and (4) preventing people from causing inadvertent harm to these species.

Because we have determined that the designation of critical habitat will not likely increase the degree of threat to the species and may provide some measure of benefit, we determine that designation of critical habitat is prudent for *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii*.

Our regulations (50 CFR 424.12(a)(2)) further state that critical habitat is not determinable when one or both of the following situations exists: (1) Information sufficient to perform required analysis of the impacts of the designation is lacking; or (2) the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat. On the basis of a review of available information, we find that critical habitat for *Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum, Linum arenicola,* and *Argythamnia blodgettii* is not determinable because the specific information sufficient to perform the required analysis of the impacts of the designation is currently lacking.

Required Determinations

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act, need not be prepared in connection with listing a species as an endangered or threatened species under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of references cited in this rulemaking is available on the Internet at *http://www.regulations.gov* and upon request from the South Florida Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this proposed rule are the staff members of the South Florida Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.12(h) by adding entries for *Argythamnia blodgettii, Chamaecrista lineata* var. *keyensis, Chamaesyce deltoidea* ssp. *serpyllum,* and *Linum arenicola,* in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants to read as set forth below:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	*
Argythamnia blodgettii	Blodgett's silverbush	U.S.A. (FL)	Euphorbiaceae.	T		NA	NA
*	*	*	*	*	*	*	*
Chamaecrista lineata var. *keyensis*.	Big Pine partridge pea	U.S.A. (FL)	Fabaceae	E		NA	NA
*	*	*	*	*	*	*	*
Chamaesyce deltoidea ssp. *serpyllum*.	Wedge spurge	U.S.A. (FL)	Euphorbiaceae.	E		NA	NA
*	*	*	*	*	*	*	*
Linum arenicola	Sand flax	U.S.A. (FL)	Linaceae	E		NA	NA
*	*	*	*	*	*	*	*

* * * * *

Dated: September 9, 2015.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2015–24291 Filed 9–28–15; 8:45 am]

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FEDERAL REGISTER

Vol. 80 Tuesday,
No. 188 September 29, 2015

Part III

The President

Proclamation 9328—Gold Star Mother's and Family's Day, 2015

Federal Register
Vol. 80, No. 188
Tuesday, September 29, 2015

Presidential Documents

Title 3—

The President

Proclamation 9328 of September 24, 2015

Gold Star Mother's and Family's Day, 2015

By the President of the United States of America

A Proclamation

At every crossroads in the American story, courageous individuals of all backgrounds and beliefs have answered our Nation's call to serve. Today, the sacrifices of our fallen heroes echo in safer towns and cities, countries and continents—resonating throughout a world they forever made freer. Their legacies are solemnly enshrined in the history of our eternally grateful Nation, as well as in the hearts of all who loved them. Today, we honor the Gold Star Mothers and Families who carry forward the memories of those willing to lay down their lives for the United States and the liberties for which we stand.

The proud patriots of our Armed Forces never serve alone. Standing with each service member are parents, spouses, children, siblings, and friends, providing support and love and helping uphold the ideals that bind our Nation together. While most Americans may never fully comprehend the price paid by those who gave their last full measure of devotion, families of the fallen know it intimately and without end. Their sleepless nights allow for our peaceful rest, and the folded flags they hold dear are what enable ours to wave. The depth of their sorrow is immeasurable, and we are forever indebted to them for all they have given for us.

Despite their broken hearts, the families of these warriors are full of love and they continue to serve their communities and comfort our troops, veterans, and other military families. Our country is constantly inspired by their incredible resilience, and in their example we see the very best of America. On this day of remembrance, we honor our Gold Star Mothers and Families by living fully the freedom for which they have given so much, and by rededicating ourselves to our enduring obligation to serve them as well as they have served us.

The Congress, by Senate Joint Resolution 115 of June 23, 1936 (49 Stat. 1985 as amended), has designated the last Sunday in September as ''Gold Star Mother's Day.''

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 September 27, 2015, as Gold Star Mother's and Family's Day. I call upon all Government officials to display the flag of the United States over Government buildings on this special day. I also encourage the American people to display the flag and hold appropriate ceremonies as a public expression of our Nation's gratitude and respect for our Gold Star Mothers and Families.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of September, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and fortieth.

[FR Doc. 2015–24902
Filed 9–28–15; 11:15 am]
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