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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FARM CREDIT ADMINISTRATION

12 CFR Part 600

RIN 3052–AD07

Organization and Functions; Field Office Locations

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA, we, Agency or our) amended our regulations to change the address for a field office as a result of a recent office relocation. In accordance with the law, the effective date of the rule is no earlier than 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session.

DATES: *Effective Date:* Under the authority of 12 U.S.C. 2252, the regulation amending 12 CFR part 600 published on July 14, 2015 (80 FR 40896) is effective October 6, 2015.

FOR FURTHER INFORMATION CONTACT: Michael T. Wilson, Policy Analyst, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4124, TTY (703) 883–4056, or Jane Virga, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4071, TTY (703) 883–4056.

SUPPLEMENTARY INFORMATION: The Farm Credit Administration amended our regulations to change the address for a field office as a result of a recent office relocation. In accordance with 12 U.S.C. 2252, the effective date of the final rule is no earlier than 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is October 6, 2015.

(12 U.S.C. 2252(a)(9) and (10))

Dated: September 30, 2015.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2015–25294 Filed 10–5–15; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2015–2271; Special Conditions No. 25–602–SC]

Special Conditions: Cessna Airplane Company Model 680A Airplane, Side-Facing Seats Equipped With Airbag Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Cessna Model 680A airplane. This airplane will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design features side-facing seats equipped with airbag systems. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Effective November 5, 2015.

FOR FURTHER INFORMATION CONTACT: Alan Sinclair, FAA, Airframe and Cabin Safety, ANM–115, Transport Airplane Directorate, Airplane Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–2195; facsimile 425–227–1320.

SUPPLEMENTARY INFORMATION:

Background

On January 25, 2012, Cessna Airplane Company applied for an amendment to Type Certificate no. T00012WI to include the new Model 680A airplane. The Cessna 680A airplane, which is a derivative of the Cessna Model 680 airplane currently approved under Type Certificate no. T00012WI, is a new, high-performance, low-wing airplane derived from the Cessna Model 680 beginning with serial no. 680–0501. This airplane will have a maximum takeoff weight of 30,800 pounds with a wingspan of 72 feet, and will have two aft-mounted Pratt & Whitney PW306D1 turbofan engines.

The cabin of the Model 680A airplane is designed to accommodate a crew of two, plus nine passengers in the baseline interior configuration, and will make use of a forward, right-hand-belted, two-place, side-facing seat. An optional seven-passenger interior configuration is also offered, which has a single-place side-facing seat on the forward right-hand side of the airplane. Both the baseline multiple-place and optional single-place side-facing seats are to be occupied for taxi, takeoff, and landing, and will incorporate an integrated, inflatable-airbag occupant-protection system.

Type Certification Basis

Under the provisions of § 21.101, Cessna Airplane Company must show that the Model 680A airplane meets the applicable provisions of the regulations listed in Type Certificate no. T00012WI, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

The regulations listed in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations listed in T00012WI are as follows:

14 CFR part 25, effective February 1, 1965, including Amendments 25–1 through 25–98, with special conditions, exemptions, and later amended sections.

In addition, the certification basis includes other regulations, special conditions, and exemptions that are not relevant to these special conditions. Type Certificate no. T00012WI will be updated to include a complete description of the certification basis for this airplane model.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Cessna Model 680A airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Cessna Model 680A airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.101.

Novel or Unusual Design Features

The Cessna Model 680A airplane will incorporate the following novel or unusual design features: Inflatable airbags on multiple-place and single-place side-facing seats of Cessna Model 680A airplanes to reduce the potential for both head and leg injury in the event of an accident.

Discussion

The FAA policy for side-facing seats at the time of application was provided in Policy Statement ANM–03–115–30. This policy statement describes the performance criteria and procedures to follow to certify single- and multiple-place side-facing seats.

Also at the time of Cessna's application, the FAA indicated that further research would be conducted to define criteria to establish a level of safety equivalent to that provided by the current regulations for forward- and aft-facing seats. Research later conducted by the FAA, as documented in report DOT/FAA/AR–09/41, resulted in new policy issued to identify new certification criteria based on the research findings. Policy Statement PS–ANM–25–03 was released on June 8, 2012 (and was subsequently revised and reissued as Policy Statement PS–ANM–25–03–R1 on November 5, 2012). This new policy statement describes how to certify all side-facing seats to the new performance criteria through the issuance of special conditions.

Along with the general seat-performance criteria, also included in the policy statement are the performance criteria for airbag systems used in shoulder-belt restraint systems. However, the policy statement does not specifically address airbag systems that are integrated into passenger-cabin monuments. Although the application date for the Model 680A airplane preceded Policy Statement PS–ANM–25–03, Cessna proposed using the guidance in Policy Statement PS–ANM–25–03–R1 to develop new special conditions applicable to the Model 680A airplane's side-facing seats.

These special conditions allow installation of an airbag system for a two-place side-facing seat and a single-place side-facing seat to protect the occupant from both head and leg-flail injury in Model 680A airplanes. Cessna's proposed airbag system is designed to limit occupant forward excursion in the event of an accident. This will reduce the potential for head injury by reducing the head-injury criteria (HIC) measurement, and will also provide a means for limiting the lower-leg flail of the occupant. The inflatable-airbag system behaves similarly to an automotive inflatable airbag, but in this design, the airbag system is integrated into passenger-cabin monuments; the airbags inflate away from the seated occupants. While inflatable airbags are now standard in the automotive industry, the use of inflatable-airbag systems in commercial aviation is novel and unusual.

Section 25.785 requires that occupants must be protected from head injury by either the elimination of any injurious object within the striking radius of the head, or by padding. Traditionally, this has required a seat setback of 35 inches from any bulkhead or other rigid interior feature or, where such spacing is not practical, the installation of specified types of padding. The relative effectiveness of these means of injury protection was not quantified in the original rule. Amendment 25–64 to § 25.562 established a standard that quantifies required head-injury protection.

Section 25.562 specifies that each seat-type design, approved for crew or passenger occupancy during taxi, takeoff, and landing, must successfully complete dynamic tests, or be shown to be compliant by rational analysis based on dynamic tests of a similar type of seat. In particular, the regulations require that persons must not suffer serious head injury under the conditions specified in the tests, and that protection must be provided, or the seat must be designed such that the head impact does not exceed a HIC of 1000 units. While the test conditions described for HIC are detailed and specific, it is the intent of the requirement that an adequate level of head-injury protection must be provided for passengers the event of an airplane accident.

Because §§ 25.562 and 25.785 and associated guidance do not adequately address seats with inflatable-airbag systems, the FAA recognizes that appropriate pass/fail criteria are required to fully address the safety concerns specific to occupants of these seats. Previously issued special conditions addressed airbag systems integral to the shoulder belt for some forward-facing seats. The special conditions for the Model 680A inflatable-airbag systems are based on the shoulder-belt airbag systems.

Although the special conditions are applicable to the inflatable-airbag system as installed, compliance with the special conditions is not an installation approval. Therefore, while the special conditions relate to each such system installed, the overall installation approval is a separate finding, and must consider the combined effects of all such systems installed.

Part 25 states the performance criteria for head-injury protection in objective terms. However, none of these criteria are adequate to address the specific issues raised concerning seats with inflatable-airbag systems. In addition to the requirements of part 25, special conditions are needed to address requirements particular to seats equipped with an integrated, inflatable-airbag system.

Part 25, appendix F, part I specifies the flammability requirements for interior materials and components. This rule does not reference inflatable-airbag systems because such devices did not exist at the time the flammability requirements were written. The existing requirements are based on material types as well as material applications, and have been specified in light of the state-of-the-art materials available to perform a given function. In the absence of such a specific reference, the default requirement, per the rule, would apply to the type of material used in constructing the inflatable restraint, which, in the case of the rule, would be a fabric.

In writing special conditions, the FAA must also consider how the material is used within the cabin interior, and whether the default requirement is appropriate. Here, the specialized function of the inflatable-airbag system means that highly specialized materials are required. The standard normally applied to fabrics is a 12-second vertical ignition test. However, materials that meet this standard do not perform adequately as inflatable restraints; and materials used in the construction of inflatable-airbag systems do not perform well in this test.

Because the safety benefit of the inflatable-airbag system is very significant, the FAA has determined that the flammability standard appropriate for these devices should not prohibit suitable inflatable-airbag system materials; disqualifying these materials would effectively not allow the use of inflatable-airbag systems. The FAA therefore is required to establish a balance between the safety benefit of the inflatable-airbag system and its flammability performance. At this time, the 2.5-inches-per-minute horizontal burn test provides that necessary balance. As the technology in materials progresses, the FAA may change this standard in subsequent special conditions to account for improved materials.

From the standpoint of a passenger-safety system, the inflatable-airbag system is unique in that it is both an active and entirely autonomous device. While the automotive industry has good experience with inflatable airbags, the conditions of use and reliance on the inflatable-airbag system as the sole means of injury protection are quite different. In automobile installations, the airbag is a supplemental system and works in conjunction with an upper-torso restraint. In addition, the crash event is more definable and of typically shorter duration, which can simplify the activation logic. The airplane-operating environment is quite different from automobiles, and includes the potential for greater wear and tear, and unanticipated abuse conditions (due to galley loading, passenger baggage, etc.); airplanes also operate where exposure to high-intensity electromagnetic fields could affect the activation system.

The inflatable-airbag system has two potential advantages over other means of head-impact protection. First, it can provide significantly greater protection than would be expected with energy-absorbing pads, and second, it can provide essentially equivalent protection for occupants of all stature. These are significant advantages from a safety standpoint because such devices will likely provide a level of safety that exceeds the minimum standards of the Federal aviation regulations. Conversely, inflatable-airbag systems are, in general, active systems and must be relied upon to activate properly when needed, as opposed to an energy-absorbing pad or upper torso restraint that is passive and always available. Therefore, the potential advantages must be balanced against this and other potential disadvantages in developing standards for this design feature.

The FAA considers the installation of inflatable-airbag systems to have two primary safety concerns: First, that they perform properly under foreseeable operating conditions, and second, that they do not perform in a manner or at such times as would constitute a hazard to the airplane or occupants. This latter point has the potential to be the more rigorous of the requirements, owing to the active nature of the system.

The inflatable-airbag system will rely on electronic sensors for signaling, and a stored gas canister for inflation. The sensors and canister could be susceptible to inadvertent activation, causing a potentially unsafe deployment. The consequences of inadvertent deployment, as well as a failure to deploy in a timely manner, must be considered in establishing the reliability of the system. Cessna must substantiate that an inadvertent deployment in-flight either would not cause injuries to occupants, or that the probability of such a deployment meets the requirements of § 25.1309(b). The effect of an inadvertent deployment on a passenger or crewmember, who could be positioned close to an airbag, should also be considered. The person could be either standing or sitting. A minimum reliability level must be established for this case, depending upon the consequences, even if the effect on the airplane is negligible.

The potential for an inadvertent deployment could increase as a result of conditions in service. The installation must take into account wear and tear so that the likelihood of an inadvertent deployment is not increased to an unacceptable level. In this context, an appropriate inspection interval and self-test capability are considered necessary. In addition, outside influences, such as lightning and high-intensity radiated fields (HIRF), may also contribute to or cause inadvertent deployment. Existing regulations regarding lightning, § 25.1316, and HIRF, § 25.1317, are applicable to the Model 680A airplane.

The applicant must verify that electromagnetic interference (EMI) present, under foreseeable operating conditions, will not affect the function of the inflatable-airbag system or cause inadvertent deployment. Finally, the inflatable-airbag system installation must be protected from the effects of fire, so that an additional hazard is not created by, for example, a rupture of the pyrotechnic squib.

To be an effective safety system, the inflatable-airbag system must function properly and must not introduce any additional hazards to occupants or the airplane as a result of its functioning. The inflatable-airbag system differs from traditional occupant-protection systems in several ways, requiring special conditions to ensure adequate performance.

Because the inflatable-airbag system is a single-use device, it potentially could deploy under crash conditions that are not sufficiently severe as to require injury protection from the inflatable-airbag system. Because an actual crash is frequently composed of a series of impacts before the airplane comes to rest, this could render the inflatable-airbag system useless if a larger impact follows the initial impact. This situation does not exist with energy absorbing pads or upper-torso restraints, which tend to provide continuous protection regardless of severity or number of impacts in a crash event. Therefore, the inflatable-airbag system installation should provide protection, when it is required, and not expend its protection when it is not required. And while several large impact events may occur during the course of a crash, there are no requirements for the inflatable-airbag system to provide protection for multiple impacts.

Each occupant's restraint system provides protection for that occupant only. Likewise, the installation must address seats that are unoccupied. The applicant must show that the required protection is provided for each occupant regardless of the number of occupied seats, considering that unoccupied seats may have airbag systems that are active.

The inflatable-airbag system should be effective for a wide range of occupants. The FAA has historically considered the range from the 5th percentile female to the 95th percentile male as the range of occupants that must be taken into account. In this case, the FAA is proposing consideration of a broader range of occupants, *i.e.,* a two-year-old child to a 95th percentile male, plus pregnant females. This is due to the nature of the inflatable-airbag system installation and its close proximity to the occupant. In a similar vein, these persons could assume the brace position for those accidents where an impact is anticipated. Test data indicate that occupants in the brace position do not require supplemental protection, and so it would not be necessary to show that the inflatable-airbag system will enhance the brace position. However, the inflatable-airbag system must not introduce a hazard in the case of deploying into the seated, braced occupant.

Another area of concern is the use of seats so equipped, by children, whether lap-held, in approved child-safety seats, or occupying the seat directly. Similarly, if the seat is occupied by a pregnant woman, the installation should address such use, either by

demonstrating that it will function properly, or by adding appropriate limitation on persons allowed to occupy the seat.

Given that the airbag system will be electrically powered, the possibility exists that the system could fail due to a separation in the fuselage. And because this system is intended as a means of crash/post-crash protection, failure to deploy due to fuselage separation is not acceptable. As with emergency lighting, the system should function properly if such a separation occurs at any point in the fuselage. As required by § 25.1353(a), operation of the existing airplane electrical equipment should not adversely impact the function of the inflatable-airbag system under all foreseeable conditions.

The inflatable-airbag system is likely to have a large volume displacement, and, likewise, the inflated airbag could potentially impede egress of passengers. Because the airbag deflates to absorb energy, it is likely that an inflatable-airbag system would be deflated at the time that persons would be trying to leave their seats. Nonetheless, the FAA considers it appropriate to specify a time interval after which the inflatable-airbag system may not impede rapid egress. Ten seconds is indicated as a reasonable time because this corresponds to the maximum time allowed for an exit to be openable (reference: § 25.809).

The FAA position is provided in Policy Statement PS–ANM–25–03–R1 ''Technical Criteria for Approving Side Facing Seats.'' This policy statement refers to airbag systems in the shoulder belts, while Cessna's design configuration has airbag systems integrated into the side-facing seats. The FAA genericized these special conditions to be applicable to the Cessna design configuration.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Discussion of Comments

Notice of proposed special conditions no. 25–15–06–SC for the Cessna Model 680A airplane was published in the **Federal Register** on August 18, 2015 (80 FR 49938). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Cessna Model 680A airplane. Should Cessna apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Airplane, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Cessna Model 680A airplanes.

In addition to the requirements of §§ 25.562 and 25.785, the following special conditions 1 and 2 are part of the type certification basis of the Model 680A airplane with side-facing seat installations. For seat places equipped with airbag systems, additional special conditions 3 through 16 are part of the type certification basis.

1. Additional requirements applicable to tests or rational analysis conducted to show compliance with §§ 25.562 and 25.785 for side-facing seats:

1.1. The longitudinal tests conducted in accordance with § 25.562(b)(2), to show compliance with the seat-strength requirements of § 25.562(c)(7) and (8) and these special conditions, must have an ES–2re anthropomorphic test dummy (ATD) (49 CFR part 572, subpart U) or equivalent, or a Hybrid-II ATD (49 CFR part 572, subpart B, as specified in § 25.562) or equivalent, occupying each seat position, and including all items contactable by the occupant (*e.g.,* armrest, interior wall, or furnishing) if those items are necessary to restrain the occupant. If included, the floor representation and contactable items must be located such that their relative position, with respect to the center of the nearest seat place, is the same at the start of the test as before floor misalignment is applied. For example, if floor misalignment rotates the centerline of the seat place nearest the contactable item 8 degrees clockwise about the airplane x-axis, then the item and floor representations also must be rotated by 8 degrees clockwise to maintain the same relative position to the seat place, as shown in Figure 1 of these special conditions. Each ATD's relative position to the seat, after application of floor misalignment, must be the same as before misalignment is applied. To ensure proper loading of the seat by the occupants, the ATD pelvis must remain supported by the seat pan, and the restraint system must remain on the pelvis and shoulder of the ATD until rebound begins. No injury-criteria evaluation is necessary for tests conducted only to assess seat-strength requirements.

1.2. The longitudinal tests conducted in accordance with § 25.562(b)(2), to show compliance with the injury assessments required by § 25.562(c) and these special conditions, may be conducted separately from the tests to show structural integrity. In this case, structural-assessment tests must be conducted as specified in paragraph 1.1 of these special conditions, and the injury-assessment test must be conducted without yaw or floor misalignment. Injury assessments may be accomplished by testing with ES–2re ATD (49 CFR part 572, subpart U) or equivalent at all places. Alternatively, these assessments may be accomplished by multiple tests that use an ES–2re at the seat place being evaluated, and a Hybrid-II ATD (49 CFR part 572, subpart B, as specified in § 25.562) or equivalent used in all seat places forward of the one being assessed, to evaluate occupant interaction. In this case, seat places aft of the one being assessed may be unoccupied. If a seat installation includes adjacent items that are contactable by the occupant, the injury potential of that contact must be assessed. To make this assessment, tests may be conducted that include the actual item, located and attached in a representative fashion. Alternatively, the injury potential may be assessed by a combination of tests with items having the same geometry as the actual item, but having stiffness characteristics that would create the worst case for injury (injuries due to both contact with the item and lack of support from the item).

1.3. If a seat is installed aft of structure (*e.g.,* an interior wall or furnishing) that does not have a homogeneous surface contactable by the occupant, additional analysis and/or tests may be required to demonstrate that the injury criteria are met for the area upon which an occupant could contact. For example, different yaw angles could result in different injury considerations, and may require additional analysis or separate tests to evaluate.

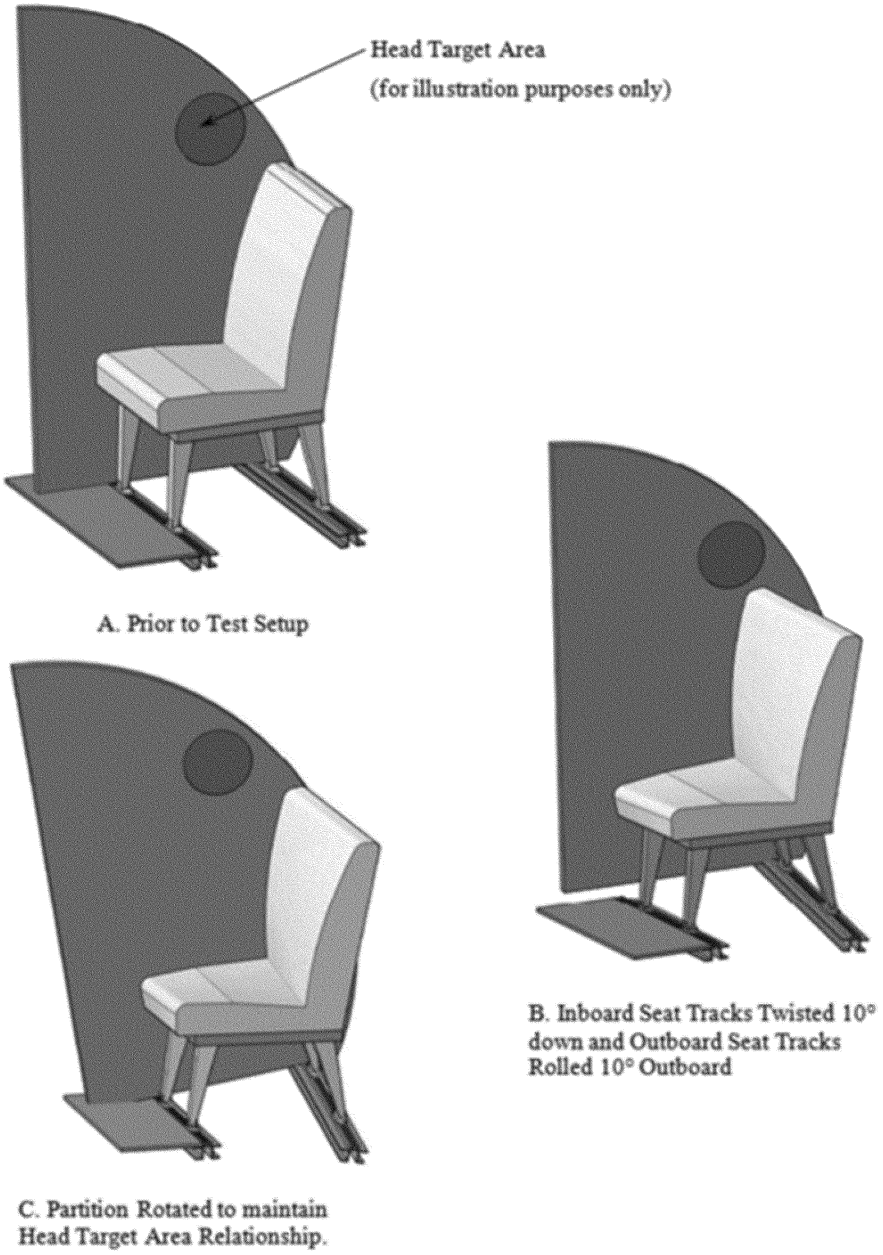

Figure 1: Head Target Areas Relative to Seat Position

1.4. To accommodate a range of occupant heights (5th percentile female to 95th percentile male), the surface of items contactable by the occupant must be homogenous 7.3 inches (185 mm) above and 7.9 inches (200 mm) below the point (center of area) that is contacted by the 50th percentile male-sized ATD's head during the longitudinal tests, conducted in accordance with paragraphs 1.1, 1.2, and 1.3 of these special conditions. Otherwise, additional HIC assessment tests may be necessary. Any surface (inflatable or otherwise) that provides support for the occupant of any seat place must provide that support in a consistent manner regardless of occupant stature. For example, if an inflatable shoulder belt is used to mitigate injury risk, then it must be demonstrated by inspection to bear against the range of occupants in a similar manner before and after inflation. Likewise, the means of limiting lower-leg flail must be demonstrated by inspection to provide protection for the range of occupants in a similar manner.

1.5. For longitudinal tests conducted in accordance with 14 CFR 25.562(b)(2) and these special conditions, the ATDs must be positioned, clothed, and have lateral instrumentation configured as follows:

1.5.1. ATD positioning: Lower the ATD vertically into the seat (see Figure 2 of these special conditions) while simultaneously:

1.5.1.1. Aligning the midsagittal plane (a vertical plane through the midline of the body; dividing the body into right and left halves) with approximately the middle of the seat place.

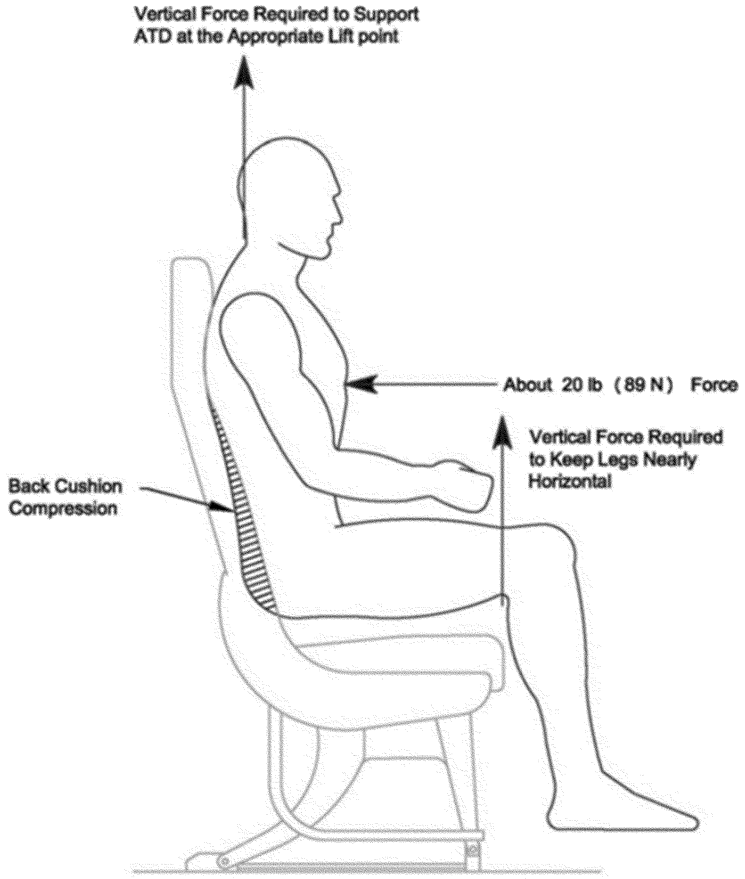

Figure 2: ATD Positioning

1.5.1.2. Applying a horizontal x-axis direction (in the ATD coordinate system) force of about 20 lb (89 N) to the torso, at approximately the intersection of the midsagittal plane and the bottom rib of the ES–2re or lower sternum of the Hybrid-II at the midsagittal plane, to compress the seat-back cushion.

1.5.1.3. Keeping the upper legs nearly horizontal by supporting them just behind the knees.

1.5.2. After all lifting devices have been removed from the ATD:

1.5.2.1. Rock it slightly to settle it into the seat.

1.5.2.2. Separate the knees by about 4 inches (100 mm).

1.5.2.3. Set the ES–2re's head at approximately the midpoint of the available range of z-axis rotation (to align the head and torso midsagittal planes).

1.5.2.4. Position the ES–2re's arms at the joint's mechanical detent that puts them at approximately a 40-degree angle with respect to the torso. Position the Hybrid-II ATD hands on top of its upper legs.

1.5.2.5. Position the feet such that the centerlines of the lower legs are approximately parallel to a lateral vertical plane (in the airplane coordinate system).

1.5.3. ATD clothing: Clothe each ATD in form-fitting, mid-calf-length (minimum) pants and shoes (size 11E), all clothing weighing about 2.5 lb (1.1 Kg) total. The color of the clothing should be in contrast to the color of the restraint system. The ES–2re jacket is sufficient for torso clothing, although a form-fitting shirt may be used in addition if desired.

1.5.4. ES–2re ATD lateral instrumentation: The rib-module linear slides are directional, *i.e.,* deflection occurs in either a positive or negative ATD y-axis direction. The modules must be installed such that the moving end of the rib module is toward the front of the airplane. The three abdominal-force sensors must be installed such that they are on the side of the ATD toward the front of the airplane.

1.6. The combined horizontal/vertical test, required by § 25.562(b)(1) and these special conditions, must be conducted with a Hybrid II ATD (49 CFR part 572, subpart B, as specified in § 25.562), or equivalent, occupying each seat position.

1.7. The design and installation of seatbelt buckles must prevent unbuckling due to applied inertial forces or impact of the hands/arms of the occupant during an emergency landing.

1.8. Inflatable-airbag systems must be active during all dynamic tests conducted to show compliance with § 25.562.

2. Additional performance measures applicable to tests and rational analysis conducted to show compliance with §§ 25.562 and 25.785 for side-facing seats:

2.1. Body-to-body contact: Contact between the head, pelvis, torso, or shoulder area of one ATD with the adjacent-seated ATD's head, pelvis, torso, or shoulder area is not allowed. Contact during rebound is allowed.

2.2. Thoracic: The deflection of any of the ES–2re ATD upper, middle, and lower ribs must not exceed 1.73 inches (44 mm). Data must be processed as defined in Federal Motor Vehicle Safety Standards (FMVSS) 571.214.

2.3. Abdominal: The sum of the measured ES–2re ATD front, middle, and rear abdominal forces must not exceed 562 lbs (2,500 N). Data must be

processed as defined in FMVSS 571.214.

2.4. Pelvic: The pubic symphysis force measured by the ES–2re ATD must not exceed 1,350 lbs (6,000 N). Data must be processed as defined in FMVSS 571.214.

2.5. Leg: Axial rotation of the upper leg (femur) must be limited to 35 degrees in either direction from the nominal seated position.

2.6. Neck: As measured by the ES–2re ATD and filtered at CFC 600 as defined in SAE J211:

2.6.1. The upper-neck tension force at the occipital condyle (O.C.) location must be less than 405 lb (1,800 N).

2.6.2. The upper-neck compression force at the O.C. location must be less than 405 lb (1,800 N).

2.6.3. The upper-neck bending torque about the ATD x-axis at the O.C. location must be less than 1,018 in.-lb (115 N–m).

2.6.4. The upper-neck resultant shear force at the O.C. location must be less than 186 lb (825 N).

2.7. Occupant (ES–2re ATD) retention: The pelvic restraint must remain on the ES–2re ATD's pelvis during the impact and rebound phases of the test. The upper-torso restraint straps (if present) must remain on the ATD's shoulder during the impact.

2.8. Occupant (ES–2re ATD) support:

2.8.1. Pelvis excursion: The load-bearing portion of the bottom of the ATD pelvis must not translate beyond the edges of its seat's bottom seat-cushion supporting structure.

2.8.2. Upper-torso support: The lateral flexion of the ATD torso must not exceed 40 degrees from the normal upright position during the impact.

3. For seats with an airbag system, show that the airbag system will deploy and provide protection under crash conditions where it is necessary to prevent serious injury. The means of protection must take into consideration a range of stature from a 2-year-old child to 95th percentile male. The airbag system must provide a consistent approach to energy absorption throughout that range of occupants. When the seat systems include airbag systems, the systems must be included in each of the certification tests as they would be installed in the airplane. In addition, the following situations must be considered:

3.1. The seat occupant is holding an infant.

3.2. The seat occupant is a pregnant woman.

4. The airbag systems must provide adequate protection for each occupant regardless of the number of occupants of the seat assembly, considering that unoccupied seats may have an active airbag system.

5. The design must prevent the airbag systems from being either incorrectly buckled or incorrectly installed, such that the airbag systems would not properly deploy. Alternatively, it must be shown that such deployment is not hazardous to the occupant and will provide the required injury protection.

6. It must be shown that the airbag system is not susceptible to inadvertent deployment as a result of wear and tear, or inertial loads resulting from in-flight or ground maneuvers (including gusts and hard landings), and other operating and environment conditions (vibrations, moisture, etc.) likely to occur in service.

7. Deployment of the airbag system must not introduce injury mechanisms to the seated occupant, nor result in injuries that could impede rapid egress. This assessment should include an occupant whose restraint is loosely fastened.

8. It must be shown that inadvertent deployment of the airbag system, during the most critical part of the flight, will either meet the requirement of § 25.1309(b) or not cause a hazard to the airplane or its occupants.

9. It must be shown that the airbag system will not impede rapid egress of occupants 10 seconds after airbag deployment.

10. The airbag systems must be protected from lightning and high-intensity radiated fields (HIRF). The threats to the airplane specified in existing regulations regarding lighting, § 25.1316, and HIRF, § 25.1317 apply to these special conditions for the purpose of measuring lightning and HIRF protection.

11. The airbag system must function properly after loss of normal airplane electrical power, and after a transverse separation of the fuselage at the most critical location. A separation at the location of the airbag systems does not have to be considered.

12. It must be shown that the airbag system will not release hazardous quantities of gas or particulate matter into the cabin.

13. The airbag system installations must be protected from the effects of fire such that no hazard to occupants will result.

14. A means must be available for a crew member to verify the integrity of the airbag system's activation system prior to each flight, or it must be demonstrated to reliably operate between inspection intervals. The FAA considers that the loss of the airbag-system deployment function alone (*i.e.,* independent of the conditional event that requires the airbag-system deployment) is a major-failure condition.

15. The inflatable material may not have an average burn rate of greater than 2.5 inches/minute when tested using the horizontal flammability test defined in 14 CFR part 25, appendix F, part I, paragraph (b)(5).

16. The airbag system, once deployed, must not adversely affect the emergency lighting system (*e.g.,* block floor proximity lights to the extent that the lights no longer meet their intended function).

Issued in Renton, Washington, September 25, 2015.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–25277 Filed 10–5–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–1046; Directorate Identifier 2014–NM–021–AD; Amendment 39–18286; AD 2015–20–07]

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 CL–600–2C10 (Regional Jet Series 700, 701, & 702), CL–600–2D15 (Regional Jet Series 705), and CL–600–2D24 (Regional Jet Series 900) airplanes. This AD was prompted by a determination that no instructions for continued airworthiness exist for the nose landing gear (NLG) alternate extension actuator of the NLG alternate release system. This AD requires revising the maintenance or inspection program, as applicable, to incorporate a new airworthiness limitation task for the NLG alternate extension actuator. We are issuing this AD to prevent failure of the NLG alternate release system and, if the normal NLG extension system also fails, failure of the NLG to extend, and consequent damage to the airplane and injury to occupants.

DATES: This AD becomes effective November 10, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 10, 2015.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-1046* 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., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@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–2014–1046.

FOR FURTHER INFORMATION CONTACT: Luke Walker, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7363; 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 CL–600–2C10 (Regional Jet Series 700, 701, & 702), CL–600–2D15 (Regional Jet Series 705), and CL–600–2D24 (Regional Jet Series 900) airplanes. The NPRM published in the **Federal Register** on January 23, 2015 (80 FR 3502).

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2013–24R1, dated December 24, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), CL–600–2D15 (Regional Jet Series 705), and CL–600–2D24 (Regional Jet Series 900) airplanes. The MCAI states:

> It was discovered that there are no instructions for continued airworthiness for the Nose Landing Gear (NLG) alternate extension actuator. Without an effective maintenance task to maintain the aeroplane's inherent level of safety, there is a potential that a dormant failure of the alternate release system of the NLG could occur. Failure of the NLG alternate release system could prevent the nose landing gear from extending in the case of a failure of the normal NLG extension system.
>
> This [Canadian] AD is to mandate the incorporation of a new maintenance task to prevent failure of the NLG alternate release system.
>
> Revision 1 of this [Canadian] AD changes the phase-in time to be based on the NLG manual release actuators instead of aeroplanes.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-1046-0002*.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM (80 FR 3502, January 23, 2015) and the FAA's response to each comment.

Support for the NPRM (80 FR 3502, January 23, 2015)

Airline Pilots Association (ALPA) International agreed with the intent of the NPRM (80 FR 3502, January 23, 2015).

Request To Revise Compliance Time

Envoy Airlines and Mesa Airlines asked that we revise the compliance time language in paragraph (h) of the proposed AD (80 FR 3502, January 23, 2015) from ''whichever occurs first'' to ''whichever occurs later.'' The compliance time, as written, could result in airplanes being grounded. Envoy Airlines added that the compliance time referred to in the TCCA AD is ''whichever occurs later.'' Mesa Airlines noted that changing the compliance time would also allow for scheduling and parts procurement.

We agree with the commenters' request for the reasons provided, and due to the fact that this was an inadvertent error. We have revised the compliance time in paragraph (h) of this AD as requested.

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 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 3502, January 23, 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 3502, January 23, 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 Task 320100–225, Restoration of the NLG Manual Release Actuator, of Subject 1–32, Landing Gear, of Section 1, Systems and Powerplant Program, Volume 1 of Part 1, Maintenance Review Board Report, Revision 14, dated July 10, 2013, of the CRJ 700/900/1000 Maintenance Requirements Manual, CSP–B–053. This service information describes an airworthiness limitation task for the NLG alternate extension actuator. 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 416 airplanes of U.S. registry.

We also estimate that it takes about 1 work-hour 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 $35,360, or $85 per product.

In addition, we estimate that any necessary follow-on actions take about 1 work-hour and require parts costing $0, for a cost of $85 per product. We have no way of determining the number of aircraft that might need these actions.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority

because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-1046;* 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):

2015–20–07 Bombardier, Inc.: Amendment 39–18286. Docket No. FAA–2014–1046; Directorate Identifier 2014–NM–021–AD.

(a) Effective Date

This AD becomes effective November 10, 2015.

(b) Affected ADs

None.

(c) Applicability

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

(1) Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, serial number (S/N) 10002 and subsequent.

(2) Bombardier, Inc. Model CL–600–2D15 (Regional Jet Series 705), and CL–600–2D24 (Regional Jet Series 900) airplanes, S/N 15001 and subsequent.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing Gear.

(e) Reason

This AD was prompted by a determination that no instructions for continued airworthiness exist for the nose landing gear (NLG) alternate extension actuator of the NLG alternate release system. We are issuing this AD to prevent failure of the NLG alternate release system and, if the normal NLG extension system also fails, failure of the NLG to extend, and consequent damage to the airplane and injury to occupants.

(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 incorporate the information specified in Task 320100–225, Restoration of the NLG Manual Release Actuator, of Subject 1–32, Landing Gear, of Section 1, Systems and Powerplant Program, Volume 1 of Part 1, Maintenance Review Board Report, Revision 14, dated July 10, 2013, of the CRJ 700/900/1000 Maintenance Requirements Manual, CSP–B–053. The initial compliance time for the task is specified in paragraph (h) of this AD.

(h) Initial Task Compliance Time

Before the accumulation of 20,000 total flight cycles, or within 5,500 flight cycles after the effective date of this AD, whichever occurs later: Perform the initial restoration specified in Task 320100–225, Restoration of the NLG Manual Release Actuator, of Subject 1–32, Landing Gear, of Section 1, Systems and Powerplant Program, Volume 1 of Part 1, Maintenance Review Board Report, Revision 14, dated July 10, 2013, of the CRJ 700/900/1000 Maintenance Requirements Manual, CSP–B–053.

(i) No Alternative Actions and Intervals

After accomplishing the revision required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

(j) 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 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, Engine and Propeller Directorate, 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.

(k) Related Information

Refer to MCAI Canadian Airworthiness Directive CF–2013–24R1, dated December 24, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-1046-0002.*

(l) Material Incorporated by Reference

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

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

(i) Task 320100–225, Restoration of the NLG Manual Release Actuator, of Subject 1–32, Landing Gear, of Section 1, Systems and Powerplant Program, Volume 1 of Part 1, Maintenance Review Board Report, Revision 14, dated July 10, 2013, of the CRJ 700/900/1000 Maintenance Requirements Manual, CSP–B–053.

(ii) Reserved.

(3) For service information identified in this AD, Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@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 27, 2015.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–25219 Filed 10–5–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–0684; Directorate Identifier 2014–NM–215–AD; Amendment 39–18285; AD 2015–20–06]

RIN 2120–AA64

Airworthiness Directives; Viking Air Limited (Type Certificate Previously Held by 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 all Viking Air Limited (Type Certificate Previously Held by Bombardier, Inc.) Model DHC–7–1 and DHC–7–100 airplanes. This AD was prompted by reports of cracks that were discovered in the outboard nacelles upper longeron channels and angles. This AD requires a one-time detailed visual inspection for cracking in the outboard nacelles upper longeron channels and angles; and repair if necessary. We are issuing this AD to detect and correct cracks in the outboard nacelles upper longeron channels and angles, which could lead to the loss of stiffness in the forward engine mount; and possible catastrophic failure.

DATES: This AD becomes effective November 10, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 10, 2015.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2015-0684* 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 Viking Air Limited, 9574 Hampden Road, Sidney, British Columbia V8L 8V5, Canada; telephone 250–656–7227; fax 250–656–0673; email *technical.publications@vikingair.com*; Internet *http://www.vikingair.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–2015–0684.

FOR FURTHER INFORMATION CONTACT: Aziz Ahmed, 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 7329; 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 all Viking Air Limited (Type Certificate Previously Held by Bombardier, Inc.) Model DHC–7–1 and DHC–7–100 airplanes. The NPRM published in the **Federal Register** on April 13, 2015 (80 FR 19572).

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2014–34, dated October 2, 2014, dated (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Viking Air Limited (Type Certificate Previously Held by Bombardier, Inc.) Model DHC–7–1 and DHC–7–100 airplanes. The MCAI states:

> Longitudinal cracks were discovered in the outboard nacelles upper longeron channels and angles at station XN1 78. The cracks were partially hidden by bearing blocks, Part Number (P/N) 75420978, at the nacelle latch locations. Undetected, these cracks may lead to the loss of stiffness in the forward engine mount; which may lead to a catastrophic failure.

Required actions include a one-time detailed visual inspection for cracking of the outboard nacelles upper longeron channels and angles. Corrective actions include repair, if necessary. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2015-0684-0002*.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (80 FR 19572, April 13, 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 19572, April 13, 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 19572, April 13, 2015).

Related Service Information Under 1 CFR Part 51

Viking Air Limited has issued Service Bulletin V7–54–02, Revision NC, dated December 14, 2012. The service information describes procedures for an inspection for cracks in the outboard nacelles upper longeron channels and angles; and repair if necessary. 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 10 airplanes of U.S. registry.

We also estimate that it will 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. Based on these figures, we estimate the cost of this AD on U.S. operators to be $2,550, or $255 per product.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this 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 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-2015-0684;* 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):

2015–20–06 Viking Air Limited (Type Certificate Previously Held by Bombardier, Inc.): Amendment 39–18285. Docket No. FAA–2015–0684; Directorate Identifier 2014–NM–215–AD.

(a) Effective Date

This AD becomes effective November 10, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Viking Air Limited (Type Certificate previously held by Bombardier, Inc.) Model DHC–7–1 and DHC–7–100 airplanes, certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by reports of cracks that were discovered in the outboard nacelles upper longeron channels and angles. We are issuing this AD to detect and correct cracks in the outboard nacelles upper longeron channels and angles, which could lead to the loss of stiffness in the forward engine mount; and possible catastrophic failure.

(f) Compliance

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

(g) Inspection and Repair

Within 6 months after the effective date of this AD, do a one-time detailed visual inspection for cracking in the outboard nacelles upper longeron channels and angles, in accordance with the Accomplishment Instructions of Viking Air Limited Service Bulletin V7–54–02, Revision NC, dated December 14, 2012. If any cracking is found during the inspection required by this paragraph: Before further flight, repair using a method approved by the Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA; or Transport Canada Civil Aviation (TCCA); or Viking Air Limited's (Type Certificate Previously Held by Bombardier, Inc.) TCCA Design Approval Organization (DAO).

(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 TCCA; or Viking Air Limited's (Type Certificate Previously Held by Bombardier, Inc.) TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature.

(i) Special Flight Permits

Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), are not allowed.

(j) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2014–34, dated October 2, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2015-0684-0002*.

(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 this AD specifies otherwise.

(i) Viking Air Limited Service Bulletin V7–54–02, Revision NC, dated December 14, 2012.

(ii) Reserved.

(3) For service information identified in this AD, contact Viking Air Limited, 9574 Hampden Road, Sidney, British Columbia V8L 8V5, Canada; telephone 250–656–7227; fax 250–656–0673; email *technical.publications@vikingair.com*; Internet *http://www.vikingair.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 27, 2015.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–25218 Filed 10–5–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. 2015–3375; Amendment No. 71–47]

RIN 2120–AA66

Airspace Designations; Incorporation by Reference Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, technical amendment.

SUMMARY: This action incorporates certain amendments into FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, for incorporation by reference in 14 CFR 71.1.

DATES: Effective date 0901 UTC October 6, 2015. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/airtraffic/publications/*. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; 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: Sarah A. Combs, Airspace Policy Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

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 the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it makes the necessary updates for airspace areas within the National Airspace System.

History

Federal Aviation Administration Airspace Order 7400.9, Airspace Designations and Reporting Points, incorporated by reference in 14 CFR 71.1, is published yearly. Amendments referred to as ''effective date straddling amendments'' were published under Order 7400.9Y (dated August 6, 2014, and effective September 15, 2014), but became effective under Order 7400.9Z (dated August 6, 2015, and effective September 15, 2015). This action incorporates these rules into the current FAA Order 7400.9Z.

Accordingly, as this is an administrative correction to update final rule amendments into FAA Order 7400.9Z, notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Also, to bring these rules and legal descriptions current, I find that good cause exists, under 5 U.S.C. 553(d), for making this amendment effective in less than 30 days.

Availability and Summary of Documents for Incorporation by Reference

This document amends 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 document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This action amends title 14 Code of Federal Regulations (14 CFR) Part 71 to incorporate certain final rules into the current FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, which are depicted on aeronautical charts.

Regulatory Notices and Analyses

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. Section 71.1 is revised to read as follows:

For Docket No. FAA–2015–2219; Airspace Docket No. 15–AWA–5 (80 FR 42708, July 20, 2015). On page 42709, column 1, line 3, under **ADDRESSES**; and on page 42709, column 2, line 62 and line 65, under Availability and Summary of Documents for Incorporation by Reference remove ''. . . FAA Order 7400.9Y, . . .'' and add in its place ''. . . FAA Order 7400.9Z, . . .''. On page 42709, column 2, line 59, under Availability and Summary of Documents for Incorporation by Reference; and on page 42710, column 1, line 33, under Amendatory Instruction 2 remove ''. . . FAA Order 7400.9Y, Airspace Designations and Reporting Points,

dated August 6, 2014, and effective September 15, 2014, . . .'' and add in its place ''. . . FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, . . .''.

For Docket No. FAA–2014–0565; Airspace Docket No. 14–ACE–7 (80 FR 43311, July 22, 2015). On page 43311, column 3, line 17, under **ADDRESSES**; and on page 43312, column 1, line 31 and line 34, under Availability and Summary of Documents for Incorporation by Reference remove ''. . . FAA Order 7400.9Y, . . .'' and add in its place ''. . . FAA Order 7400.9Z, . . .''. On page 43312, column 1, line 17, under History; and on page 43312, column 1, line 28, under Availability and Summary of Documents for Incorporation by Reference; and on page 43312, column 1, line 49, under The Rule; and on page 43312, column 2, line 45, under Amendatory Instruction 2 remove ''. . . FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, . . .'' and add in its place ''. . . FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, . . .''.

For Docket No. FAA–2014–1067; Airspace Docket No. 14–ANM–15 (80 FR 43312, July 22, 2015). On page 43312, column 3, line 38, under **ADDRESSES**; and on page 43313, column 2, line 2 and line 5, under Availability and Summary of Documents for Incorporation by Reference remove ''. . . FAA Order 7400.9Y, . . .'' and add in its place ''. . . FAA Order 7400.9Z, . . .''. On page 43313, column 1, line 55, under History; and on page 43313, column 1, line 65, under Availability and Summary of Documents for Incorporation by Reference; and on page 43313, column 3, line 22, under Amendatory Instruction 2 remove ''. . . FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, . . .'' and add in its place ''. . . FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, . . .''.

For Docket No. FAA–2015–0046; Airspace Docket No. 14–ASO–23 (80 FR 44841, July 28, 2015). On page 44841, column 2, line 45, under **ADDRESSES**; and on page 44841, column 3, line 60 and line 63, under Availability and Summary of Documents for Incorporation by Reference remove ''. . . FAA Order 7400.9Y, . . .'' and add in its place ''. . . FAA Order 7400.9Z, . . .''. On page 44841, column 3, line 45, under History; and on page 44841, column 3, line 56, under Availability and Summary of Documents for Incorporation by Reference; and on page 44842, column 1, line 17, under The Rule; and on page 44842, column 2, line 16, under Amendatory Instruction 2 remove ''. . . FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, . . .'' and add in its place ''. . . FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, . . .''.

For Docket No. FAA–2015–0458; Airspace Docket No. 15–ASO–2 (80 FR 44842, July 28, 2015). On page 44842, column 3, line 7, under **ADDRESSES**; and on page 44843, column 1, line 18 and line 21, under Availability and Summary of Documents for Incorporation by Reference remove ''. . . FAA Order 7400.9Y, . . .'' and add in its place ''. . . FAA Order 7400.9Z, . . .''. On page 44843, column 1, line 4, under History; and on page 44843, column 1, line 14, under Availability and Summary of Documents for Incorporation by Reference; and on page 44843, column 2, line 32, under Amendatory Instruction 2 remove ''. . . FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, . . .'' and add in its place ''. . . FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, . . .''.

For Docket No. FAA–2015–0044; Airspace Docket No. 15–ASO–3 (80 FR 44843, July 28, 2015). On page 44843, column 3, line 29, under **ADDRESSES**; and on page 44844, column 1, line 44 and line 47, under Availability and Summary of Documents for Incorporation by Reference remove ''. . . FAA Order 7400.9Y, . . .'' and add in its place ''. . . FAA Order 7400.9Z, . . .''. On page 44844, column 1, line 30, under History; and on page 44844, column 1, line 41, under Availability and Summary of Documents for Incorporation by Reference; and on page 44844, column 2, line 56, under Amendatory Instruction 2 remove ''. . . FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, . . .'' and add in its place ''. . . FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, . . .''.

For Docket No. FAA–2014–0968; Airspace Docket No. 14–ASO–17 (80 FR 44844, July 28, 2015). On page 44845, column 1, line 1, under **ADDRESSES**; and on page 44845, column 2, line 12 and line 15, under Availability and Summary of Documents for Incorporation by Reference remove ''. . . FAA Order 7400.9Y, . . .'' and add in its place ''. . . FAA Order 7400.9Z, . . .''. On page 44845, column 1, line 64, under History; and on page 44845, column 2, line 9, under Availability and Summary of Documents for Incorporation by Reference; and on page 44845, column 3, line 28, under Amendatory Instruction 2 remove ''. . . FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, . . .'' and add in its place ''. . . FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, . . .''.

For Docket No. FAA–2015–1135; Airspace Docket No. 15–ANM–9 (80 FR 48425, August 13, 2015). On page 48425, column 1, line 41, under **ADDRESSES**; and on page 48425, column 3, line 7 and line 10, under Availability and Summary of Documents for Incorporation by Reference remove ''. . . FAA Order 7400.9Y, . . .'' and add in its place ''. . . FAA Order 7400.9Z, . . .''. On page 48425, column 2, line 51, under History; and on page 48425, column 3, line 4, under Availability and Summary of Documents for Incorporation by Reference; and on page 48426, column 1, line 32, under Amendatory Instruction 2 remove ''. . . FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, . . .'' and add in its place ''. . . FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, . . .''.

For Docket No. FAA–2015–1481; Airspace Docket No. 15–AWP–1 (80 FR 48426, August 13, 2015). On page 48426, column 2, line 31, under **ADDRESSES**; and on page 48426, column 3, line 47 and line 50, under Availability and Summary of Documents for Incorporation by Reference remove ''. . . FAA Order 7400.9Y, . . .'' and add in its place ''. . . FAA Order 7400.9Z, . . .''. On page 48426, column 3, line 34, under History; and on page 48426, column 3, line 44, under Availability and Summary of Documents for Incorporation by Reference; and on page 48427, column 1, line 58, under Amendatory Instruction 2 remove ''. . . FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, . . .'' and add in

its place ''. . . FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, . . .''.

For Docket No. FAA–2015–1650; Airspace Docket No. 14–AEA–8 (80 FR 48427, August 13, 2015). On page 48427, column 3, line 3, under **ADDRESSES** remove ''. . . FAA Order 7400.9Y, . . .'' and add in its place ''. . . FAA Order 7400.9Z, . . .''. On page 48427, column 3, line 58, under Background remove ''. . . FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, . . .'' and add in its place ''. . . FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, . . .''.

For Docket No. FAA–2015–0691; Airspace Docket No. 15–ANM–6 (80 FR 48428, August 13, 2015). On page 48428, column 2, line 11, under **ADDRESSES**; and on page 48428, column 3, line 24 and line 27, under Availability and Summary of Documents for Incorporation by Reference remove ''. . . FAA Order 7400.9Y, . . .'' and add in its place ''. . . FAA Order 7400.9Z, . . .''. On page 48428, column 3, line 10, under History; and on page 48428, column 3, line 21, under Availability and Summary of Documents for Incorporation by Reference; and on page 48429, column 1, line 41, under Amendatory Instruction 2 remove ''. . . FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, . . .'' and add in its place ''. . . FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, . . .''.

For Docket No. FAA–2015–1134; Airspace Docket No. 15–ANM–7 (80 FR 48429, August 13, 2015). On page 48429, column 2, line 58, under **ADDRESSES**; and on page 48430, column 1, line 7 and line 10, under Availability and Summary of Documents for Incorporation by Reference remove ''. . . FAA Order 7400.9Y, . . .'' and add in its place ''. . . FAA Order 7400.9Z, . . .''. On page 48429, column 3, line 60, under History; and on page 48430, column 1, line 4, under Availability and Summary of Documents for Incorporation by Reference; and on page 48430, column 2, line 22, under Amendatory Instruction 2 remove ''. . . FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, . . .'' and add in its place ''. . . FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, . . .''.

For Docket No. FAA–2015–1133; Airspace Docket No. 15–ANM–8 (80 FR 48430, August 13, 2015). On page 48430, column 3, line 22, under **ADDRESSES**; and on page 48431, column 1, line 32 and line 35, under Availability and Summary of Documents for Incorporation by Reference remove ''. . . FAA Order 7400.9Y, . . .'' and add in its place ''. . . FAA Order 7400.9Z, . . .''. On page 48431, column 1, line 19, under History; and on page 48431, column 1, line 29, under Availability and Summary of Documents for Incorporation by Reference; and on page 48431, column 2, line 52, under Amendatory Instruction 2 remove ''. . . FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, . . .'' and add in its place ''. . . FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, . . .''.

For Docket No. FAA–2015–0671; Airspace Docket No. 15–ANM–5 (80 FR 48431, August 13, 2015). On page 48431, column 3, line 57, under **ADDRESSES**; and on page 48432, column 2, line 15 and line 18, under Availability and Summary of Documents for Incorporation by Reference remove ''. . . FAA Order 7400.9Y, . . .'' and add in its place ''. . . FAA Order 7400.9Z, . . .''. On page 48432, column 2, line 2, under History; and on page 48432, column 2, line 12, under Availability and Summary of Documents for Incorporation by Reference; and on page 48432, column 3, line 42, under Amendatory Instruction 2 remove ''. . . FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, . . .'' and add in its place ''. . . FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, . . .''.

For Docket No. FAA–2015–3325; Airspace Docket No. 15–AWP–15 (80 FR 48686, August 14, 2015). On page 48686, column 3, line 3, under **ADDRESSES**; and on page 48687, column 1, line 13 and line 16, under Availability and Summary of Documents for Incorporation by Reference remove ''. . . FAA Order 7400.9Y, . . .'' and add in its place ''. . . FAA Order 7400.9Z, . . .''. On page 48686, column 3, line 65, under History; and on page 48687, column 1, line 10, under Availability and Summary of Documents for Incorporation by Reference; and on page 48687, column 2, line 23, under Amendatory Instruction 2 remove ''. . . FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, . . .'' and add in its place ''. . . FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, . . .''.

For Docket No. FAA–2014–1070; Airspace Docket No. 14–ANM–9 (80 FR 51121, August 24, 2015). On page 51121, column 3, line 40, under **ADDRESSES**; and on page 51122, column 2, line 25 and line 28, under Availability and Summary of Documents for Incorporation by Reference remove ''. . . FAA Order 7400.9Y, . . .'' and add in its place ''. . . FAA Order 7400.9Z, . . .''. On page 51122, column 2, line 13, under History; and on page 51122, column 2, line 22, under Availability and Summary of Documents for Incorporation by Reference; and on page 51122, column 3, line 56, under Amendatory Instruction 2 remove ''. . . FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, . . .'' and add in its place ''. . . FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, . . .''.

For Docket No. FAA–2015–1623; Airspace Docket No. 15–AWP–10 (80 FR 52392, August 31, 2015). On page 52392, column 2, line 32, under **ADDRESSES**; and on page 52392, column 3, line 45 and line 48, under Availability and Summary of Documents for Incorporation by Reference remove ''. . . FAA Order 7400.9Y, . . .'' and add in its place ''. . . FAA Order 7400.9Z, . . .''. On page 52392, column 3, line 32, under History; and on page 52392, column 3, line 42, under Availability and Summary of Documents for Incorporation by Reference; and on page 52393, column 1, line 61, under Amendatory Instruction 2 remove ''. . . FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, . . .'' and add in its place ''. . . FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, . . .''.

Issued in Washington, DC, on September 29, 2015.

Gary A. Norek,

Manager, Airspace Policy Group.

[FR Doc. 2015–25306 Filed 10–5–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–0368; Airspace Docket No. 14–ACE–9]

Amendment of Class E Airspace for the Following Iowa Towns: Audubon, IA; Corning, IA; Cresco, IA; Eagle Grove, IA; Guthrie Center, IA; Hampton, IA; Harlan, IA; Iowa Falls, IA; Knoxville, IA; Oelwein, IA; and Red Oak, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Audubon County Airport, Audubon, IA; Corning Municipal Airport, Corning, IA; Ellen Church Field Airport, Cresco, IA; Eagle Grove Municipal Airport, Eagle Grove, IA; Guthrie County Regional Airport, Guthrie Center, IA; Hampton Municipal Airport, Hampton, IA; Harlan Municipal Airport, Harlan, IA; Iowa Falls Municipal Airport, Iowa Falls, IA; Knoxville Municipal Airport, Knoxville, IA; Oelwein Municipal Airport, Oelwein, IA; and Red Oak Municipal Airport, Red Oak, IA. Decommissioning of the non-directional radio beacons (NDBs) and/or cancellation of NDB approaches due to advances in Global Positioning System (GPS) capabilities has made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations at the above airports.

DATES: Effective 0901 UTC, December 10, 2015. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/airtraffic/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: Roger P. Waite, Operations Support Group, Central Service Center, Federal Aviation Administration, Southwest Region, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone: (817) 868–2929.

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 amends Class E airspace at the Iowa airports listed in this final rule.

History

On May 12th, 2015, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend Class E airspace extending upward from 700 feet above the surface at Audubon County Airport, Audubon, IA; Corning Municipal Airport, Corning, IA; Ellen Church Field Airport, Cresco, IA; Eagle Grove Municipal Airport, Eagle Grove, IA; Guthrie County Regional Airport, Guthrie Center, IA; Hampton Municipal Airport, Hampton, IA; Harlan Municipal Airport, Harlan, IA; Iowa Falls Municipal Airport, Iowa Falls, IA; Knoxville Municipal Airport, Knoxville, IA; Oelwein Municipal Airport, Oelwein, IA; and Red Oak Municipal Airport, Red Oak, IA. (80 FR 27119). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

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

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Z, 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 document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 amends Class E airspace extending upward from 700 feet above the surface for new standard instrument approach procedures (SIAPs) at Audubon County Airport, Audubon, IA; Corning Municipal Airport, Corning, IA; Ellen Church Field Airport, Cresco, IA; Eagle Grove Municipal Airport, Eagle Grove, IA; Guthrie County Regional Airport, Guthrie Center, IA; Hampton Municipal Airport, Hampton, IA; Harlan Municipal Airport, Harlan, IA; Iowa Falls Municipal Airport, Iowa Falls, IA; Knoxville Municipal Airport, Knoxville, IA; Oelwein Municipal Airport, Oelwein, IA; and Red Oak Municipal Red Oak, IA. Airspace reconfiguration is necessary due to the decommissioning of NDBs and/or the cancellation of the NDB approach at each airport. Controlled airspace is necessary for the safety and management of IFR operations at the airports.

Regulatory Notices and Analyses

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

procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(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, 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

* * * * *

ACE IA E5 Audubon, IA [Amended]

Audubon County Airport, IA
(Lat. 41°42′06″ N., long. 94°55′14″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Audubon County Airport.

* * * * *

ACE IA E5 Corning IA [Amended]

Corning Municipal Airport, IA
(Lat. 40°59′39″ N., long. 94°45′18″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Corning Municipal Airport.

* * * * *

ACE IA E5 Cresco, IA [Amended]

Ellen Church Field Airport, IA
(Lat. 43°21′55″ N., long. 92°07′59″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Ellen Church Field Airport.

* * * * *

ACE IA E5 Eagle Grove, IA [Amended]

Eagle Grove Municipal Airport, IA
(Lat. 42°42′36″ N., long 93°54′58″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Eagle Grove Municipal Airport.

* * * * *

ACE IA E5 Guthrie Center, IA [Amended]

Guthrie County Regional Airport, IA
(Lat. 41°41′13″ N., long. 94°26′06″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Guthrie County Regional Airport.

* * * * *

ACE IA E5 Hampton, IA [Amended]

Hampton Municipal Airport, IA
(Lat. 42°43′25″ N., long. 93°13′35″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Hampton Municipal Airport.

* * * * *

ACE IA E5 Harlan, IA [Amended]

Harlan Municipal Airport, IA
(Lat. 41°35′04″ N., long. 95°20′23″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Harlan Municipal Airport.

* * * * *

ACE IA E5 Iowa Falls, IA [Amended]

Iowa Falls Municipal Airport, IA
(Lat. 42°28′17″ N., long. 93°16′15″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Iowa Falls Municipal Airport.

* * * * *

ACE IA E5 Knoxville, IA [Amended]

Knoxville Municipal Airport, IA
(Lat. 41°17′57″ N., long. 93°06′50″ W.)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Knoxville Municipal Airport.

* * * * *

ACE IA E5 Oelwein, IA [Amended]

Oelwein Municipal Airport, IA
(Lat. 42°40′51″ N., long. 91°58′28″ W.)

That airspace extending upward from 700 feet above the surface within a 7.3-mile radius of Oelwein Municipal Airport.

* * * * *

ACE IA E5 Red Oak, IA [Amended]

Red Oak Municipal Airport, IA
(Lat. 41°00′39″ N., long. 95°15′32″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Red Oak Municipal Airport; and within 2 miles each side of the 354° bearing from the airport extending from the 6.4-mile radius to 11 miles north of the airport.

Issued in Fort Worth, TX, on September 23, 2015.

Vonnie L. Royal,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2015–25083 Filed 10–5–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–1622; Airspace Docket No. 15–AWP–9]

Amendment of Class D and Class E Airspace; Stockton, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class D airspace, Class E surface area airspace, and Class E airspace extending upward from 700 feet above the surface, at Stockton Metropolitan Airport, Stockton, CA. A review of the airspace and the decommissioning of the Manteca VHF omnidirectional radio range and distance measuring equipment (VOR/DME), has made it necessary to amend the airspace areas for the safety and management of the new Standard Instrument Approach Procedures (SIAPs) for Instrument Flight Rules (IFR) operations at the airport.

DATES: Effective 0901 UTC, December 10, 2015. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Z, 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 amends controlled airspace at Stockton Metropolitan Airport, Stockton, CA.

History

On June 24, 2015, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to modify Class D airspace and Class E airspace at Stockton Metropolitan Airport, Stockton, CA (80 FR 36261) . Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class D and Class E airspace designations are published in paragraph 5000, 6002, and 6005, respectively, of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR part 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Z, 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 final rule. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 modifies Class D airspace, Class E surface area airspace, and Class E airspace extending upward from 700 feet above the surface at Stockton Metropolitan Airport, Stockton, CA. Decommissioning of the Manteca VOR/DME, and subsequent review of the airspace revealed airspace redesign necessary for the safety and management of standard instrument approach procedures for IFR operations at the airport. The Class D airspace and Class E surface area airspace are expanded to within a 4.5-mile radius of Stockton Metropolitan Airport. Class E airspace extending upward from 700 feet above the surface is modified to within a 7-mile radius of Stockton Metropolitan Airport. This action enhances the safety and management of controlled airspace within the NAS.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(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 5000 Class D Airspace

* * * * *

AWP CA D Stockton, CA (Modified)

Stockton Metropolitan Airport, CA
(Lat. 37°53′39″ N., long. 121°14′18″ W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.5 mile radius of Stockton Metropolitan Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6002 Class E Airspace Designated as Surface Areas

* * * * *

AWP CA E2 Stockton, CA (Modified)

Stockton Metropolitan Airport, CA
(Lat. 37°53′39″ N., long. 121°14′18″ W.)

That airspace extending upward from the surface within a 4.5 mile radius of Stockton Metropolitan Airport.

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

* * * * *

AWP CA E5 Stockton, CA (Modified)

Stockton Metropolitan Airport, CA
(Lat. 37°53′39″ N., long. 121°14′18″ W.)

Stockton Metropolitan Airport, point in space coordinates
(Lat. 37°53′04″ N., long. 121°13′18″ W.)

That airspace extending upward from the surface within a 6.5-mile radius of the Stockton Metropolitan Airport point in space coordinates at lat. 37°53′04″ N., long. 121°13′18″ W. That airspace extending upward from 1,200 feet above the surface bounded on the east by long. 120°04′04″ W,

on the southeast by a line extending from lat. 37°52′00″ N, long. 120°04′04″ W; to lat. 37°38′00″ N, long. 121°00′04″ W, on the south by lat. 37°38′00″ N, on the west by long. 121°37′04″ W, and on the north by lat. 38°07′00″ N; excluding that airspace within Restricted Area R–2531 when active.

Issued in Seattle, Washington, on September 29, 2015.

Christopher Ramirez,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2015–25281 Filed 10–5–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 12

[CBP Dec. 15–13]

RIN 1515–AE05

Extension of Import Restrictions on Certain Categories of Archaeological Material From the Pre-Hispanic Cultures of the Republic of Nicaragua

AGENCY: Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends Customs and Border Protection (CBP) regulations to reflect the extension of import restrictions on certain categories of archaeological material from the Pre-Hispanic cultures of the Republic of Nicaragua. The restrictions, which were originally imposed by Treasury Decision (T.D.) 00–75 and extended by CBP Decision (CBP Dec.) 05–33 and CBP Dec. 10–32 are due to expire on October 20, 2015. The Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has determined that factors continue to warrant the imposition of import restrictions and no cause for suspension exists. Accordingly, these import restrictions will remain in effect for an additional 5 years, and the CBP regulations are being amended to reflect this extension until October 20, 2020. These restrictions are being extended pursuant to determinations of the United States Department of State made under the terms of the Convention on Cultural Property Implementation Act that implemented the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. T.D. 00–75 contains the Designated List of archaeological material representing Pre-Hispanic cultures of Nicaragua to which the restrictions apply.

DATES: *Effective:* October 20, 2015.

FOR FURTHER INFORMATION CONTACT: For legal aspects, Lisa L. Burley, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of International Trade, (202) 325–0030. For operational aspects, William R. Scopa, Branch Chief, Partner Government Agency Branch, Trade Policy and Programs, Office of International Trade, (202) 863–6554, *William.R.Scopa@cbp.dhs.gov*.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the provisions of the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention, implemented by the Convention on Cultural Property Implementation Act (Pub. L. 97–446, 19 U.S.C. 2601 *et seq.*), the United States entered into a bilateral agreement with the Republic of Nicaragua concerning the imposition of import restrictions on certain categories of archeological material from the Pre-Hispanic cultures of the Republic of Nicaragua on June 16, 1999, and following completion by the Government of Nicaragua of all internal legal requirements, the agreement entered into force on October 20, 2000. On October 26, 2000, the former U.S. Customs Service (now U.S. Customs and Border Protection (CBP)) published T.D. 00–75 in the **Federal Register** (65 FR 64140), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions and included a list designating the types of articles covered by the restrictions.

Import restrictions listed in 19 CFR 12.104g(a) are ''effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period may be extended for additional periods of not more than five years if it is determined that the factors which justified the initial agreement still pertain and no cause for suspension of the agreement exists'' (19 CFR 12.104g(a)).

Since the initial notice was published on October 26, 2000, the import restrictions were extended twice. First, on October 20, 2005, CBP published CBP Dec. 05–33 in the **Federal Register** (70 FR 61031) which amended 19 CFR 12.104g(a) to reflect the extension for an additional period of 5 years. Subsequently, on October 20, 2010, CBP published CBP Dec. 10–32 in the **Federal Register** (75 FR 64654) to extend the import restriction for an additional five year period to October 20, 2015.

On October 17, 2014, the Department of State received a request by the Government of the Republic of Nicaragua to extend the Agreement. Subsequently, the Department of State proposed to extend the Agreement. After considering the views and recommendations of the Cultural Property Advisory Committee, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, determined that the cultural heritage of Nicaragua continues to be in jeopardy from pillage of Pre-Hispanic archaeological materials, and made the necessary determinations to extend the import restrictions for an additional five years. Diplomatic notes have been exchanged, reflecting the extension of those restrictions for an additional five year period. Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect this extension of the import restrictions.

The Designated List of Pre-Hispanic Archaeological Material from Nicaragua covered by these import restrictions is set forth in T.D. 00–75. The Designated List and accompanying image database may also be found at the following Internet Web site address: *http://exchanges.state.gov/heritage/culprop/nifact.html*.

The restrictions on the importation of these archaeological materials from the Republic of Nicaragua are to continue in effect for an additional 5 years. Importation of such material continues to be restricted unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure (5 U.S.C. 553(a)(1)). In addition, CBP has determined that such notice or public procedure would be impracticable and contrary to the public interest because the action being taken is essential to avoid interruption of the application of the existing import restrictions (5 U.S.C. 553(b)(B)). For the same reasons, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Order 12866

Because this rule involves a foreign affairs function of the United States, it is not subject to Executive Order 12866.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1).

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise.

Amendment to CBP Regulations

For the reasons set forth above, part 12 of Title 19 of the Code of Federal Regulations (19 CFR part 12) is amended as set forth below:

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

§ 12.104g [Amended]

■ 2. In § 12.104g, paragraph (a), the table is amended in the entry for Nicaragua in the ''Decision No.'' column by removing the reference to ''CBP Dec. 10–32'' and adding in its place ''CBP Dec. 15–13 ''.

R. Gil Kerlikowske,

Commissioner, U.S. Customs and Border Protection.

Approved: October 1, 2015.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 2015–25413 Filed 10–5–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9737]

RIN 1545–BK96

Controlled Group Regulation Examples; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations; correction.

SUMMARY: This document contains corrections to final regulations (TD 9737) that were published in the **Federal Register** on Tuesday, September 15, 2015 (80 FR 55243). The final rules are with revisions to examples that illustrate the controlled group rules applicable to regulated investment companies (RICs).

DATES: This correction is effective October 6, 2015 and applicable September 15, 2015.

FOR FURTHER INFORMATION CONTACT: Julanne Allen at (202) 317–6945 or Susan Baker at (202) 317–7053 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulation (TD 9737) that is the subject of this correction is under section 851(c) of the Internal Revenue Code.

Need for Correction

As published, the final regulation (TD 9737) contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the final regulation (TD 9737), that is the subject of FR Rule Doc. 2015–23137, published September 15, 2015 (80 FR 55243), is corrected as follows:

1. On page 55243, in the preamble, third column, under section heading ''*1. Fund of Funds,* second line from the bottom of the first full paragraph, ''a Lower RIC have different quarter end'' is corrected to read ''a Lower RIC have different quarter-end''.

2. On page 55245, in the preamble, first column, fifth line from the bottom of the first full paragraph, ''test in section 851(b)(3)(ii); and '' is corrected to read ''851(b)(3)(B)(ii)''.

3. On page 55245, in the preamble, first column, first line from the bottom of the first full paragraph, ''in section 851(b)(3)(iii).'' is corrected to read ''in section 851(b)(3)(B)(iii).''

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2015–25355 Filed 10–5–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2015–0918]

Drawbridge Operation Regulation; Ebey Slough (Snohomish River), Marysville, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Burlington Northern Santa Fe Railroad Company (BNSF) Bridge 38.3 across Ebey Slough (Snohomish River), mile 1.5 at Marysville, WA. The deviation is necessary to accommodate scheduled bridge rail joint maintenance and replacement. The deviation allows the bridges to remain in the closed-to-navigation position during the maintenance to allow safe movement of work crews.

DATES: This deviation is effective from 6 a.m. on October 11, 2015 through 11:59 p.m. on October 31, 2015.

ADDRESSES: The docket for this deviation, [USCG–2015–0918] is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email the Bridge Administrator, Coast Guard Thirteenth District; telephone 206–220–7234, email *d13-pf-d13bridges@uscg.mil*.

SUPPLEMENTARY INFORMATION: BNSF has requested a temporary deviation from the operating schedule for the BNSF RR Bridge 38.3, mile 1.5, crossing Ebey Slough (Snohomish River), at Marysville, WA. BNSF requested the BNSF RR Bridge 38.3 remain in the closed-to-navigation position for rail maintenance. This maintenance has been scheduled, and is funded as part of the Cascade Corridor Improvement Project.

The normal operating schedule for this bridge operates in accordance with

33 CFR 117.5 which states it must open promptly on signal at any time, and requires constant attendance by with a drawtender. BNSF RR Bridge 38.3 provides 5 feet of vertical clearance in the closed-to-navigation position above high-water, and at the lowest tides up to 16 feet may be available.

This deviation allows the BNSF RR Bridge 38.3, at mile 1.5 crossing Ebey Slough, to remain in the closed-to navigation position, and need not open for maritime traffic from 6 a.m. on October 11, 2015 through 11:59 p.m. on October 31, 2015. The bridge shall operate in accordance to 33 CFR part 117 subpart A at all other times.

Vessels able to pass through the bridge in the closed-to-navigation position may do so at any time. The bridge will be required to open, if needed, for vessels engaged in emergency response operations during this closure period, but any time lost to emergency openings will necessitate a time extension add to the approved dates. Waterway usage on this part of the Snohomish River and Ebey Slough includes vessels ranging from a commercial tug to small pleasure craft. No immediate alternate route for vessels to pass is available on this part of the river. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: September 23, 2015.

Steven M. Fischer,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2015–25314 Filed 10–5–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2015–0933]

Drawbridge Operation Regulations; Trent River, New Bern, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the U.S. 70 (Alfred C. Cunningham) Bridge across the Trent River, mile 0.0, at New Bern, NC. This deviation allows the bridge to remain in the closed-to-navigation position to accommodate the free movement of pedestrians and vehicles during the 2015 Neuse River Bridge Run.

DATES: This deviation is effective from 6:30 a.m. to 9:30 a.m. on October 17, 2015.

ADDRESSES: The docket for this deviation, [USCG–2015–0933], is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Hal R. Pitts, Bridge Administration Branch Fifth District, Coast Guard; telephone (757) 398–6222, email *Hal.R.Pitts@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Event Director for the 2015 Neuse River Bridge Run, with approval from the North Carolina Department of Transportation, who owns and operates the U.S. 70 (Alfred C. Cunningham) Bridge, has requested a temporary deviation from the current operating regulations to accommodate the free movement of pedestrians and vehicles during the 2015 Neuse River Bridge Run. The bridge is a bascule bridge and has a vertical clearance in the closed position of 14 feet above mean high water.

The current operating schedule is set out in 33 CFR 117.843(a). Under this temporary deviation, the bridge will be maintained in the closed-to-navigation position from 6:30 a.m. to 9:30 a.m. on October 17, 2015. The Trent River is used by a variety of vessels including small commercial vessels and recreational vessels. The Coast Guard has carefully coordinated the restrictions with commercial and recreational waterway users.

Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will be able to open for emergencies and there is no alternate route for vessels unable to pass through the bridge in the closed position. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notice to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impacts caused by this temporary deviation.

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

Dated: October 1, 2015.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2015–25367 Filed 10–5–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2015–0932]

Drawbridge Operation Regulations; Trent River, New Bern, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the U.S. 70 (Alfred C. Cunningham) Bridge across the Trent River, mile 0.0, at New Bern, NC. This deviation allows the bridge to remain in the closed-to-navigation position to accommodate the free movement of pedestrians and vehicles during the 2015 New Bern Mumfest celebration.

DATES: This deviation is effective from 9 a.m. on October 10, 2015, until 5 p.m. on October 11, 2015.

ADDRESSES: The docket for this deviation, [USCG–2015–0932], is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Hal R. Pitts, Bridge Administration Branch Fifth District, Coast Guard; telephone (757) 398–6222, email *Hal.R.Pitts@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Event Director for the New Burn Mumfest, with approval from the North Carolina Department of Transportation, who owns and operates the U.S. 70 (Alfred C. Cunningham) Bridge, has requested a temporary deviation from the current operating regulations to accommodate the free movement of pedestrians and vehicles during the 2015 New Bern MumFest celebration. The bridge is a

bascule bridge and has a vertical clearance in the closed position of 14 feet above mean high water.

The current operating schedule is set out in 33 CFR 117.843(a). Under this temporary deviation, the bridge will open to marine traffic every two hours, on the hour, from 9 a.m. until 7 p.m. on October 10, 2015 and from 9 a.m. until 5 p.m. on October 11, 2015. The bridge will operate per 33 CFR 117.843(a) from 7 p.m. on October 10, 2015 until 9 a.m. on October 11, 2015. The Trent River is used by a variety of vessels including small commercial vessels and recreational vessels. The Coast Guard has carefully coordinated the restrictions with commercial and recreational waterway users.

Vessels able to pass through the bridge in the closed position may do so at any time. The bridge will be able to open for emergencies and there is no alternate route for vessels unable to pass through the bridge in the closed position. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notice to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impacts caused by this temporary deviation.

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

Dated: October 1, 2015.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2015–25372 Filed 10–5–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2010–0283; FRL–9935–04–Region 6]

Approval and Promulgation of Implementation Plans; Texas; Revisions to the Minor New Source Review (NSR) State Implementation Plan (SIP) for Portable Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Texas State Implementation Plan (SIP) submitted by the Texas Commission on Environmental Quality (TCEQ) on March 19, 2010 and July 2, 2010. These revisions to the Texas SIP revise the minor New Source Review (NSR) program to provide for the relocation and change of location of permitted portable facilities, establish definitions related to portable facilities, and establish public participation for changes of location to portable facilities. The EPA finds that these revisions to the Texas SIP comply with the Federal Clean Air Act (the Act or CAA) and are consistent with our regulations and policy for minor NSR. The EPA is finalizing this approval under section 110 of the Act.

DATES: This final rule is effective on November 5, 2015.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2010–0283. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Ms. Aimee Wilson, (214) 665–7596, *wilson.aimee@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

I. Background

The background for today's action is discussed in detail in our July 17, 2015 proposal (80 FR 42443). In that notice, we proposed to approve severable portions of SIP submittals for the State of Texas submitted on March 19, 2010, and July 2, 2010 that revised the Texas SIP minor NSR program for portable facilities. The TCEQ issues the underlying minor NSR portable facility permits under the existing minor NSR SIP provisions in Chapter 116. 30 TAC Sections 116.20 and 116.178 provide that once a permit has been issued to a portable facility, the facility can be moved either through a change of location or a relocation. A change of location occurs when a portable facility is moved to a new location and is required to go through the SIP-approved minor NSR public notice requirements of Chapter 39. A relocation of a portable facility is movement of the portable facility without public notice under Chapter 39. Relocations occur in one of two scenarios. First, portable facilities can be relocated to a location in support of a public works project in which the new site is located in or contiguous to the right-of way of the public works project. The second possibility, is that a portable facility relocates to a site in which a portable facility has previously been located at any time during the previous two years and the site was subject Chapter 39 public notice requirements. Public notice requirements for the change of location or relocation of a portable facility are established at 30 TAC Section 39.402(a)(12). We received one comment letter in support of our proposal. Therefore, we are taking this final action under section 110 of the Act.

II. Final Action

We are approving severable portions of SIP submittals for the State of Texas submitted on March 19, 2010, and July 2, 2010, that revised the Texas SIP minor NSR program for portable facilities. The EPA has determined that the submitted rules were adopted and submitted in accordance with the CAA and are consistent with our regulations and policies regarding minor NSR permitting. Therefore, the EPA approves the following as revisions to the Texas SIP:

- 30 TAC Section 116.20 as adopted on February 10, 2010, submitted on March 19, 2010;
- 30 TAC Section 116.178 as adopted on February 10, 2010, submitted on March 19, 2010; and
- 30 TAC Section 39.402(a)(12) adopted on June 2, 2010, submitted on July 2, 2010.

This action is being taken under section 110 of the Act.

III. Incorporation by Reference

In this rule, we are finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are finalizing the incorporation by reference of the revisions to the Texas regulations as described in the Final Action section above. We have made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the EPA Region 6 office.

IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 7, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposed of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR part 52

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

Dated: September 23, 2015.

Ron Curry,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart SS—Texas

■ 2. In § 52.2270(c) the table titled ''EPA Approved Regulations in the Texas SIP'' is amended by revising the entry for Section 39.402 and adding a new entry for Section 116.20, and by adding a new heading for ''Division 8'' and a new entry for Section 116.178 in numerical order, to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval/ submittal date	EPA Approval date	Explanation
*	*	*	*	*
Chapter 39—Public Notice Subchapter H—Applicability and General Provisions				
Section 39.402	Applicability to Air Quality Permits and Permit Amendments.	6/2/2010	10/6/2015 [Insert **Federal Register** citation].	SIP includes 39.402 (a)(1)–(a)(6), (a)(8), (a)(11), and (a)(12).

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State approval/ submittal date	EPA Approval date	Explanation
* *	*	*	* *	*
Chapter 116 (Reg 6)—Control of Air Pollution by Permits for New Construction or Modification				
Subchapter A—Definitions				
* *	*	*	* *	*
Section 116.20	Portable Facilities Definitions	2/10/2010	10/6/2015 [Insert **Federal Register** citation].	
Subchapter B—New Source Review Permits				
* *	*	*	* *	*
Division 8—Portable Facilities				
Section 116.178	Relocations and Changes of Location of Portable Facilities.	2/10/2010	10/6/2015 [Insert **Federal Register** citation].	
* *	*	*	* *	*

[FR Doc. 2015–25343 Filed 10–5–15; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 80, No. 193
Tuesday, October 6, 2015

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

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3555

RIN 0575–AD04

Single Family Housing Guaranteed Loan Program

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Housing Service (RHS or Agency) proposes to amend the current regulation for the Single Family Housing Guaranteed Loan Program (SFHGLP) on the subject of liquidation value appraisals. In order to reduce overall processing time, reduce cost, and expedite claim submission, lenders will order the liquidation value appraisal used to estimate a loss claim against the SFHGLP instead of the Agency. Currently, if a Real Estate Owned (REO) property remains unsold by the lender at the end of the permissible marketing period, the Agency will order a liquidation value appraisal and apply an acquisition and management resale factor to estimate holding and disposition cost. This amendment will require the servicing lender to order the liquidation value appraisal. The costs associated with obtaining the liquidation value appraisal can then be included in the liquidation costs paid under the guarantee.

DATES: Written or email comments on the proposed rule must be received on or before December 7, 2015 to be assured for consideration.

ADDRESSES: You may submit comments on this proposed rule by any one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments electronically.
- *Mail:* Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Ave. SW., Washington, DC 20250–0742.
- *Hand Delivery/Courier:* Submit written comments via Federal Express mail, or other courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 300 7th Street SW., 7th Floor, Washington, DC 20024.

All written comments will be available for public inspection during regular work hours at the 300 7th Street SW., 7th Floor address listed above.

FOR FURTHER INFORMATION CONTACT: Lilian Lipton, Loan Specialist, Single Family Housing Guaranteed Loan Division, STOP 0784, Room 2250, USDA Rural Development, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250–0784, telephone: (202) 260–8012, email is *lilian.lipton@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION: RHS proposes to amend the current regulation for the Single Family Housing Guaranteed Loan Program (SFHGLP) on the subject of liquidation value appraisals. In order to reduce overall processing time, reduce cost, and expedite claim submission, lenders will order the liquidation value appraisal used to estimate a loss claim against the SFHGLP instead of the Agency. Specifically, SFHGLP proposes to amend 7 CFR 3555.306(f)(3), 3555.352(e), 3555.353(b)(1), and 3555.354(b)(1)(i) and (ii) and (2).

Executive Order 12866, Classification

This proposed rule has been determined to be non-significant and, therefore was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988, Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Except where specified, all State and local laws and regulations that are in direct conflict with this rule will be preempted. Federal funds carry Federal requirements. No person is required to apply for funding under SFHGLP, but if they do apply and are selected for funding, they must comply with the requirements applicable to the Federal program funds. This proposed rule is not retroactive. It will not affect agreements entered into prior to the effective date of the rule. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR part 11 must be exhausted.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effect of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Agency generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million, or more, in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This proposed rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' It is the determination of the Agency that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, neither an Environmental Assessment nor an Environmental Impact Statement is required.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the national government and States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule

impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the undersigned has determined and certified by signature of this document that this rule change will not have a significant impact on a substantial number of small entities. This rule does not impose any significant new requirements on Agency applicants and borrowers, and the regulatory changes affect only Agency determination of program benefits for guarantees of loans made to individuals.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

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

Executive Order 12372, Intergovernmental Consultation

Theses loan are subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. RHS conducts intergovernmental consultations for each SFHGLP in accordance with 2 CFR part 415, subpart C.

Programs Affected

The program affected by this regulation is listed in the Catalog of Federal Domestic Assistance under Number 10.410, Very Low to Moderate Income Housing Loans (Section 502 Rural Housing Loans).

Paperwork Reduction Act

The information collection and record keeping requirements contained in this regulation have been approved by OMB in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The assigned OMB control number is 0570–0179.

E-Government Act Compliance

The Agency is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Non-Discrimination Policy

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form (PDF), found online at *http://www.ascr.usda.gov/complaint_filing_cust.html*, or at any USDA office, or call (866) 632–9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, by fax (202) 690–7442 or email at *program.intake@usda.gov*.

Individuals who are deaf, hard of hearing or have speech disabilities and you wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877–8339 or (800) 845–6136 (in Spanish).

Persons with disabilities, who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Background Information

The SFHGLP growth has been driven by tight credit markets in which lenders are reluctant to make mortgage loans without Government backing. In order to reduce the time it takes to review and pay a claim, and to increase efficiency of the loss claim process, the program is streamlining the process involved with liquidation value appraisals by requiring the lender to order the appraisal and include the costs associated with this action in the liquidation costs.

The described change was recommended by a Lean Six Sigma task force as a business process which will improve loss claim payment timeframes by requiring lenders to order liquidation value appraisals, instead of the agency doing so. It will shorten the loss claims process by at least twenty-five-percent, save approximately $203,112 or 5,850 staff hours, and allow the Customer Service Center (CSC) to focus on other stages of the liquidation process that potentially represent greater risk to the taxpayer. As currently performed today, staff will continue to review all appraisals and therefore the proposed change involves no additional program risk.

List of Subjects in 7 CFR Part 3555

Home improvement, Loan Programs—Housing and community development, Mortgage insurance, Mortgages, Rural areas.

Therefore, chapter XXXV, title 7 of the Code of Federal Regulations is proposed to be amended as follows:

PART 3555—GUARANTEED RURAL HOUSING PROGRAM

■ 1. The authority citation for part 3555 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 1471 *et seq.*

Subpart G—Servicing Non-Performing Loans

■ 2. Section 3555.306 is amended by revising paragraph (f)(3) to read as follows:

§ 3555.306 Liquidation.

* * * * *

(f) * * *

(3) The lender must notify the Agency when the property has not been sold within 30 days of the expiration of the permissible marketing period. If the REO remains unsold at the end of the permissible marketing period, the lender will order a liquidation value appraisal and the Agency will apply an acquisition and management resale factor to estimate holding and disposition cost. Interest expenses accrued beyond 90 days of the foreclosure sale date or expiration of

any redemption period, whichever is later, will be the responsibility of the lender and not covered by the guarantee.

* * * * *

Subpart H—Collecting on the Guarantee

■ 3. Section 3555.352 is amended by revising paragraph (e) to read as follows:

§ 3555.352 Loss covered by the guarantee.

* * * * *

(e) *Liquidation costs.* Reasonable and customary liquidation costs, such as attorney fees, liquidation value appraisals, and foreclosure costs. Annual fees advanced by the lender to the Agency are ineligible for reimbursement when calculating the loss payment, as otherwise provided by the Agency.

■ 4. Section 3555.353 is amended by revising paragraph (b)(1) to read as follows:

§ 3555.353 Net recovery value.

* * * * *

(b) * * *

(1) The value of the property as determined by a liquidation value appraisal. The value should be determined as if the property would be sold without the market exposure it would ordinarily receive in a normal transaction, or within 90 days, minus;

* * * * *

■ 5. Section 3555.354 is amended by revising paragraphs (b)(1) and (2) to read as follows:

§ 3555.354 Loss claim procedures.

* * * * *

(b) * * *

(1) The lender must submit a loss claim request that includes a completed liquidation value appraisal within 30 calendar days of the period ending:

(i) Nine (9) months after either foreclosure or the end of any applicable redemption period, whichever is later, if the property remains unsold and is not located on American Indian restricted land; or

(ii) Twelve (12) months after either foreclosure or the end of any applicable redemption period, whichever is later, if the property remains unsold and is located on American Indian restricted land. Late claims made beyond this period of time, or submitted with a liquidation value appraisal not completed within the timeframes described in parts paragraphs (b)(1)(i) and (ii) of this section, will be rejected.

(2) The lender must submit a loss claim that includes the completed liquidation value appraisal within 30 calendar days of receiving the appraisal. Late claims made beyond this period of time, or submitted with an appraisal not completed within the timeframes described in paragraphs (b)(1)(i) and (ii) of this section, will be rejected.

* * * * *

Dated: September 3, 2015.

Tony Hernandez,

Administrator, Rural Housing Service.

[FR Doc. 2015–25324 Filed 10–5–15; 8:45 am]

BILLING CODE 3410–XV–P

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 121 and 125

RIN 3245–AG71

Credit for Lower Tier Small Business Subcontracting

AGENCY: U.S. Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The U.S. Small Business Administration (SBA or Agency) is proposing to amend its regulations to implement Section 1614 of the National Defense Authorization Act for Fiscal Year 2014. The proposed amendments authorized by this statute would allow an other than small prime contractor that has an individual subcontracting plan for a contract to receive credit towards its small business subcontracting goals for subcontract awards made to small business concerns at any tier. The prime contractor shall incorporate the lower tier subcontracting performance into its subcontracting plan goals. Currently, other than small business prime contractors establish small business subcontracting goals at the first tier level, and receive credit toward their subcontracting plan goal performance at the first tier level. The rule also proposes to implement the statutory requirements related to the subcontracting plans of all subcontractors that are required to maintain such plans, including the requirement to monitor subcontractors' performance and compliance towards reaching the goals set out in those plans as well as their compliance with subcontracting reporting requirements. SBA is also proposing to clarify that the size standard for a particular subcontract must appear in the solicitation for the subcontract.

DATES: Comments must be received on or before December 7, 2015.

ADDRESSES: You may submit comments, identified by RIN: 3245–AG71, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *For mail, paper, disk, or CD/ROM submissions:* Brenda Fernandez, U.S. Small Business Administration, Office of Policy, Planning and Liaison, 409 Third Street SW., 8th Floor, Washington, DC 20416.
- *Hand Delivery/Courier:* Brenda Fernandez, U.S. Small Business Administration, Office of Policy, Planning and Liaison, 409 Third Street SW., 8th Floor, Washington, DC 20416.

SBA will post all comments on *www.regulations.gov*. If you wish to submit confidential business information (CBI) as defined in the User Notice at *www.regulations.gov*, please submit the information to Brenda Fernandez, U.S. Small Business Administration, Office of Policy, Planning and Liaison, 409 Third Street SW., 8th Floor, Washington, DC 20416, or send an email to *brenda.fernandez@sba.gov*. Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination on whether it will publish the information.

FOR FURTHER INFORMATION CONTACT: Brenda Fernandez, U.S. Small Business Administration, Office of Policy, Planning and Liaison, 409 Third Street SW., Washington, DC 20416; (202) 207–7337; *brenda.fernandez@sba.gov*.

SUPPLEMENTARY INFORMATION: The proposed rule implements Section 1614 of the National Defense Authorization Act for Fiscal Year 2014, Public Law 113–66, December 26, 2013 (hereinafter NDAA 2014). Section 1614 amended section 8(d)(6)(D) of the Small Business Act, 15 U.S.C. 637(d)(6)(d), to provide that where a prime contractor has a subcontracting plan for a specific prime contract with an executive agency, as required by Section 8(d) of the Small Business Act, the prime contractor will receive credit towards its subcontracting plan goals for awards made to small business concerns at any tier under the contract. When a prime contractor awards a subcontract to a firm it is generally considered a first tier subcontract. That subcontractor may award a subcontract, which would be considered a second tier subcontract, and so on. Currently, a prime contractor generally receives credit towards its small business subcontracting plan goals for awards made at the first tier level.

Other than small business prime contractors report on their small business subcontracting activity in

various ways. Some firms have individual subcontracting plans for each and every Federal prime contract that meets certain threshold requirements. Other firms have commercial plans, which is a plan that covers a firm's entire fiscal year and the firm's entire commercial production sold by either the entire company or a portion thereof (*e.g.,* division, plant, or product line). See Federal Acquisition Regulation (FAR) § 19.701. Some firms that do business with the Department of Defense have comprehensive subcontracting plans, where the firms' negotiate goals and report on a plant, division or company-wide basis, instead on each individual Federal contract. See Defense Federal Acquisition Regulation § 219.702. Section 1614 further provides that lower tier reporting credit shall not apply where a subcontracting plan applies to more than one contract or to one contract with more than one executive agency. Section 1614 applies only when determining whether or not a prime contractor has met its individual subcontracting plan goals. Thus, Section 1614 does not apply where the prime contractor has a commercial plan or comprehensive subcontracting plan. Section 1614 does not alter the requirement that lower tier subcontractors have subcontracting plans when the subcontracting threshold amounts are met. Section 1614 must be implemented so that subcontracting dollars are only reported once for the same award to avoid double and triple counting the dollars, notwithstanding the fact that a small business subcontract may be reported under more than one subcontracting plan. Section 1614 further provides that where a prime contractor or subcontractor is required to have an individual subcontracting plan, the prime contractor or the subcontractor will review and approve subcontracting plans submitted by their subcontractors, monitor their subcontractors' compliance with the subcontracting plans, ensure that reports are submitted by their subcontractors, acknowledge receipt of subcontractors' reports, monitor subcontractor performance, and discuss subcontractor performance with subcontractors where necessary.

Section 1614 also requires that a subcontracting plan must contain a recitation of the types of records the prime contractor will maintain to demonstrate the procedures which have been adopted to ensure that subcontractors at all tiers comply with the requirements and goals in their respective subcontracting plans, including the establishment of source lists to identify small business concerns, small business concerns owned and controlled by veterans, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women, and efforts to identify and award subcontracts to such concerns.

SBA is also proposing to clarify that the NAICS code and corresponding size standard for a particular subcontract must appear in the solicitation for the subcontract. The current regulations only reference the subcontract itself. However, the solicitation for the subcontract must contain the size standard that a firm must represent that it meets at the time of its offer for the subcontract in order to be considered a small business concern for that subcontract. In addition, SBA is proposing to allow prime contractors and subcontractors to accept electronic size and socioeconomic representations provided the solicitation and/or subcontract require the firm making the electronic representations to verify the accuracy of the representations. Compliance with Executive Orders 12866, 13563, 12988, and 13132, the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612).

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this proposed rule is a significant regulatory action for the purposes of Executive Order 12866. Accordingly, the next section contains SBA's Regulatory Impact Analysis. This is not a major rule, however, under the Congressional Review Act.

Regulatory Impact Analysis

1. Is there a need for the regulatory action?

The proposed regulations implement Section 1614 of the National Defense Authorization Act for Fiscal Year 2014. Section 1614(c)(3) requires the Administrator to promulgate regulations necessary to implement the Act.

2. What are the potential benefits and costs of this regulatory action?

The benefits and costs of the proposed regulations are minimal. Other than small business prime contractors and subcontractors already establish individual subcontracting plan goals and report on their achievements if the subcontracting plan thresholds are met. Under Section 1614, a prime contractor with an individual subcontracting plan will receive credit towards its goals for small business performance at lower tiers. Thus, there will be some costs to the prime contractor to propose subcontracting plan goals that incorporate small business performance at lower tiers, and there will also be costs to the Government to evaluate whether the prime contractor's goals adequately address maximum practicable small business subcontracting opportunity at all tiers. There may also be costs to the Government as eSRS may have to be modified to allow large business prime contractors to receive small business credit at any tier towards their subcontracting plan goals. There should not be any costs imposed on small business concerns.

3. What are the alternatives to this final rule?

Many of the proposed regulations are required to implement specific statutory provisions which require promulgation of implementing regulations. There are no other alternatives that would meet the statutory requirements.

Executive Order 13563

As part of its ongoing efforts to engage stakeholders in the development of its regulations, SBA has solicited comments and suggestions from procuring agencies on how to best implement Section 1614. SBA has incorporated those comments and suggestions to the extent feasible. SBA intends to incorporate, where feasible, public input into the final rule.

Executive Order 12988

For purposes of Executive Order 12988, SBA has drafted this proposed rule, to the extent practicable, in accordance with the standards set forth in section 3(a) and 3(b)(2) of that Executive Order, to minimize litigation, eliminate ambiguity, and reduce burden. This rule has no preemptive or retroactive effect.

Executive Order 13132

For the purpose of Executive Order 13132, SBA has determined that this proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various layers of government. Therefore, SBA has determined that this proposed rule has no federalism implications

warranting preparation of a federalism assessment.

Paperwork Reduction Act, 44 U.S.C. Ch. 35

For purposes of the Paperwork Reduction Act (PRA), SBA has determined that this proposed rule, if adopted in final form, would not impose new government-wide reporting and record keeping requirements on other than small prime contractors and subcontractors. When this rule is implemented in the FAR, there may be a requirement to amend or create an information collection. Thus, any PRA implications as part of any proposed rulemaking implementing an SBA final rule in the FAR will be addressed in the FAR rule.

Regulatory Flexibility Act, 5 U.S.C. 601–612

According to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601, when an agency issues a rulemaking, it must prepare a regulatory flexibility analysis to address the impact of the rule on small entities. However, section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities. The RFA defines ''small entity'' to include ''small businesses,'' ''small organizations,'' and ''small governmental jurisdictions.'' This proposed rule concerns various aspects of SBA's contracting programs. As such, the rule relates to small business concerns, but would not affect ''small organizations'' or ''small governmental jurisdictions'' because those programs generally apply only to ''business concerns'' as defined by SBA regulations, in other words, to small businesses organized for profit. ''Small organizations'' or ''small governmental jurisdictions'' are non-profits or governmental entities and do not generally qualify as ''business concerns'' within the meaning of SBA's regulations.

There are approximately 290,000 concerns registered as small business concerns in the System for Award Management (SAM) that could potentially be impacted by the implementation of Section 1614. However, we cannot say with any certainty how many will be impacted because we do not know how many of these concerns participate in government contracting as subcontractors. A firm is required to register in SAM in order to participate in Federal contracting as a prime contractor, but not for purposes of subcontracting. However, as discussed elsewhere in this proposed rule, there are no new compliance or other costs imposed by the proposed rule on small business concerns. In sum, the proposed amendments would not have a disparate impact on small businesses and would increase their opportunities to participate in federal government contracting as subcontractors without imposing any additional costs. For the reasons discussed, SBA certifies that this proposed rule would not have a significant economic impact on a substantial number of small business concerns.

List of Subjects

13 CFR Part 121

Government contracts, Government procurement, Small businesses, Size standards.

13 CFR Part 125

Government contracts, Government procurement, Reporting and recordkeeping requirements, Small businesses, Small business subcontracting.

For the reasons stated in the preamble, SBA proposes to amend 13 CFR parts 121 and 125 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 1. The authority citation for 13 CFR part 121 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 662, and 694a(9).

■ 2. Amend § 121.411 by removing the second sentence in paragraph (b) and adding two sentences in its place to read as follows:

§ 121.411 What are the size procedures for SBA's Section 8(d) Subcontracting Program?

* * * * *

(b) * * * Prime contractors may accept a subcontractor's electronic self-certification as to size, if the solicitation for the subcontract contains a clause which provides that the subcontractor verifies by submission of the offer that the size representations and certifications are accurate and complete. Electronic submission may include any method acceptable to the prime contractor including, but not limited to, size representations and certifications made in SAM (or any successor system). * * *.

* * * * *

PART 125—GOVERNMENT CONTRACTING PROGRAMS

■ 3. The authority citation for 13 CFR part 125 continues to read as follows:

Authority: 15 U.S.C. 632(p), (q); 634(b)(6), 637, 644, 657f, and 657q.

■ 4. Amend § 125.3 as follows:
■ a. Revise paragraph (a)(1) introductory text;
■ b. Add paragraph (a)(1)(i)(C);
■ c. Revise the heading for paragraph (c);
■ d. Revise the first sentence of paragraph (c)(1)(i);
■ e. Revise paragraph (c)(1)(v);
■ f. Remove the word ''and'' at the end of paragraph (c)(1)(viii);
■ g. Add new paragraphs (c)(1)(x) and (c)(1)(xi).

§ 125.3 What types of subcontracting assistance are available to small businesses?

(a) * * *

(1) Subcontract—under this section the term 'subcontract' means a legally binding agreement between a contractor that is already under contract to another party to perform work and a third party (other than one involving an employer-employee relationship), hereinafter referred to as the subcontractor, for the subcontractor to perform a part or all of the work that the contractor has undertaken.

(i) * * *

(C) Where the subcontracting goals pertain only to an individual subcontracting plan, the contractor may receive credit for small business concerns performing as first tier subcontractors or subcontractors at any tier pursuant to the subcontracting plans required under paragraph (c) of this section in an amount equal to the dollar value of work awarded to such small business concerns. Prime contractors must incorporate the subcontracting plan goals of their lower tier subcontractors in their individual subcontracting plans. Lower tier subcontractors must have their own individual subcontracting plans if the subcontract is at or above the subcontracting plan threshold, and are required to meet their subcontracting plan goals. The actual subcontracting dollars are only reported once for the same award to avoid double counting the dollars, notwithstanding the fact that a small business subcontract may be reported under more than one subcontracting plan.

* * * * *

(c) *Additional responsibilities of other than small contractors.* (1) * * *

(i) Submitting and negotiating before award an acceptable subcontracting

plan that reflects maximum practicable opportunities for small businesses in the performance of the contract as subcontractors or suppliers at all tiers of performance. * * *

* * * * *

(v) The contractor must assign to the solicitation and the resulting subcontract the NAICS code and corresponding size standard that best describes the principal purpose of the subcontract (*see* § 121.410 of this chapter). The prime contractor may rely on a subcontractor's electronic representations and certifications, if the solicitation for the subcontract contains a clause which provides that the subcontractor verifies by submission of the offer that the size or socioeconomic representations and certifications are current, accurate and complete as of the date of the offer for the subcontract. Electronic submission may include any method acceptable to the prime contractor including, but not limited to, size or socioeconomic representations and certifications made in SAM (or any successor system). A prime contractor or subcontractor may not require the use of SAM (or any successor system) for purposes of representing size or socioeconomic status in connection with a subcontract;

* * * * *

(x) The prime contractor must require all subcontractors (except small business concerns) who receive subcontracts in excess of $1,500,000 in the case of a subcontract for the construction of any public facility, or in excess of $650,000 in the case of all other subcontracts, and which offer further subcontracting possibilities, to adopt a subcontracting plan of its own consistent with this section, and must ensure at a minimum that all subcontractors required to maintain subcontracting plans pursuant to this paragraph, will review and approve subcontracting plans submitted by their subcontractors; monitor subcontractor compliance with their approved subcontracting plans; ensure that subcontracting reports are submitted by their subcontractors when required; acknowledge receipt of their subcontractors' reports; compare the performance of their subcontractors to subcontracting plans and goals; and discuss performance with subcontractors when necessary to ensure their subcontractors make a good faith effort to comply with their subcontracting plans; and

(xi) The prime contractor must recite the types of records the prime will maintain to demonstrate procedures which have been adopted to ensure subcontractors at all tiers comply with the requirements and goals set forth in the plan established in accordance with paragraph (c)(1)(x) of this section, including the establishment of source lists of small business concerns, small business concerns owned and controlled by veterans, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women, and the efforts to identify and award subcontracts to such small business concerns.

* * * * *

Dated: September 28, 2015.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2015–25234 Filed 10–5–15; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–3983; Directorate Identifier 2015–NM–141–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 747–100, 747–100B, 747–100B SUD, 747–200B, 747–300, 747SR, and 747SP series airplanes. This proposed AD was prompted by an evaluation by the design approval holder (DAH) indicating that the upper chords of the upper deck floor beams are subject to widespread fatigue damage (WFD). This proposed AD would require repetitive inspections for cracks at the floor panel attachment fastener holes; repetitive inspections for cracks in the upper and lower chords of the upper deck floor beams at permanent fastener locations; repetitive inspections for cracks in certain repaired and modified areas; and related investigative and corrective actions if necessary. This proposed AD would also require repetitive replacement of the upper chords of the upper deck floor beams, including pre-replacement inspections and corrective action if necessary; and post-replacement repetitive inspections and repair if necessary. We are proposing this AD to detect and correct fatigue cracking of the upper chords of the upper deck floor beams. Undetected cracking could result in large deflection or deformation of the upper deck floor beams, resulting in damage to wire bundles and control cables for the flight control system, and reduced controllability of the airplane. Multiple adjacent severed floor beams could result in rapid decompression of the airplane.

DATES: We must receive comments on this proposed AD by November 20, 2015.

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

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3983.

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–2015–3983; 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: Roger Caldwell, Aerospace Engineer, Technical Operations Center, ANM–100D, FAA, Denver Aircraft Certification Office, 26805 East 68th Avenue, Room 214, Denver, CO 80249; phone: 303–342–1086; fax: 303–342–1088; email: *roger.caldwell@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–3983; Directorate Identifier 2015–NM–141–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

Structural fatigue damage is progressive. It begins as minute cracks, and those cracks grow under the action of repeated stresses. This can happen because of normal operational conditions and design attributes, or because of isolated situations or incidents such as material defects, poor fabrication quality, or corrosion pits, dings, or scratches. Fatigue damage can occur locally, in small areas or structural design details, or globally. Global fatigue damage is general degradation of large areas of structure with similar structural details and stress levels. Multiple-site damage is global damage that occurs in a large structural element such as a single rivet line of a lap splice joining two large skin panels. Global damage can also occur in multiple elements such as adjacent frames or stringers. Multiple-site-damage and multiple-element-damage cracks are typically too small initially to be reliably detected with normal inspection methods. Without intervention, these cracks will grow, and eventually compromise the structural integrity of the airplane, in a condition known as widespread fatigue damage (WFD). As an airplane ages, WFD will likely occur, and will certainly occur if the airplane is operated long enough without any intervention.

The FAA's WFD final rule (75 FR 69746, November 15, 2010) became effective on January 14, 2011. The WFD rule requires certain actions to prevent structural failure due to WFD throughout the operational life of certain existing transport category airplanes and all of these airplanes that will be certificated in the future. For existing and future airplanes subject to the WFD rule, the rule requires that DAHs establish a limit of validity (LOV) of the engineering data that support the structural maintenance program. Operators affected by the WFD rule may not fly an airplane beyond its LOV, unless an extended LOV is approved.

The WFD rule (75 FR 69746, November 15, 2010) does not require identifying and developing maintenance actions if the DAHs can show that such actions are not necessary to prevent WFD before the airplane reaches the LOV. Many LOVs, however, do depend on accomplishment of future maintenance actions. As stated in the WFD rule, any maintenance actions necessary to reach the LOV will be mandated by airworthiness directives through separate rulemaking actions.

In the context of WFD, this action is necessary to enable DAHs to propose LOVs that allow operators the longest operational lives for their airplanes, and still ensure that WFD will not occur. This approach allows for an implementation strategy that provides flexibility to DAHs in determining the timing of service information development (with FAA approval), while providing operators with certainty regarding the LOV applicable to their airplanes.

An evaluation by the DAH indicated that the upper chords of the upper deck floor beams are subject to WFD. The inspections and replacement in this proposed AD were developed to support the airplane's LOV of the engineering data that support the established structural maintenance program. We are proposing this AD to detect and correct fatigue cracking of the upper chords of the upper deck floor beams. Undetected cracking could result in large deflection or deformation of the upper deck floor beams, resulting in damage to wire bundles and control cables for the flight control system, and reduced controllability of the airplane. Multiple adjacent severed floor beams could result in rapid decompression of the airplane.

Other Relevant Rulemaking

On September 28, 2005, we issued AD 2005–20–29, Amendment 39–14326 (70 FR 59246, October 12, 2005), for certain Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–300, 747SP, and 747SR series airplanes. AD 2005–20–29 requires repetitive inspections to detect cracks in various areas of the upper deck floor beams, and repair if necessary. AD 2005–20–29 resulted from fatigue testing that revealed severed upper chords of the upper deck floor beams due to fatigue cracking. We issued AD 2005–20–29, to detect and correct cracking in the upper chords of the upper deck floor beams. Undetected cracking could result in large deflection or deformation of the upper deck floor beams, resulting in damage to wire bundles and control cables for the flight control system, and reduced controllability of the airplane. Multiple adjacent severed floor beams could result in rapid decompression of the airplane.

AD 2005–20–29, Amendment 39–14326 (70 FR 59246, October 12, 2005), refers to Boeing Alert Service Bulletin 747–53A2452, dated April 3, 2003, as the appropriate source of service information for certain inspections. This proposed AD would require new inspections at reduced compliance times, which would end the inspections done using Boeing Alert Service Bulletin 747–53A2452, dated April 3, 2003.

Related Service Information Under 1 CFR Part 51

We reviewed the following service information. 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.

- Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012. This service information describes procedures for repetitive open hole or surface high frequency eddy current (HFEC) inspections, as applicable, for cracks at the floor panel attachment fastener holes in certain areas and stations; repetitive surface HFEC inspections for cracks in the upper and lower chords of the upper deck floor beams at permanent fastener locations in certain areas and stations; and related investigative and corrective actions. This service information also describes procedures, for airplanes on which certain repairs or modifications are done, for repetitive open hole or surface HFEC inspections, as applicable, for

cracks in the repaired and modified areas; and repair.

• Boeing Alert Service Bulletin 747–53A2852, dated June 22, 2012. This service information describes procedures for repetitive replacement of the upper chords of the upper deck floor beams, including pre-replacement inspections and corrective action, and post-replacement repetitive inspections and repair.

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, except as discussed under ''Differences Between this AD and the Service Information.'' For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3983.

The phrase ''related investigative actions'' is used in this proposed AD. ''Related investigative actions'' are follow-on actions that (1) are related to the primary actions, and (2) further investigate the nature of any condition found. Related investigative actions in an AD could include, for example, inspections.

The phrase ''corrective actions'' is used in this proposed AD. ''Corrective actions'' are actions that correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

For any repair #10 or repair #13 done as specified in Boeing Alert Service Bulletin 747–53A2452, paragraph (i)(2) of this proposed AD would require that post-repair inspections be done before further flight using a method approved in accordance with the procedures specified in paragraph (o) of this AD. Operators must contact the FAA or Boeing Commercial Airplanes Organization Designation Authorization (ODA) before further flight so that the type of actions and intervals for the post-repair inspections can be determined.

Differences Between This Proposed AD and the Service Information

Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012; and Boeing Alert Service Bulletin 747–53A2852, dated June 22, 2012; specify to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

• In accordance with a method that we approve; or

• Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes ODA whom we have authorized to make those findings.

Explanation of Compliance Time

The compliance time for the installation specified in this proposed AD for addressing WFD was established to ensure that discrepant structure is replaced before WFD develops in airplanes. Standard inspection techniques cannot be relied on to detect WFD before it becomes a hazard to flight. We will not grant any extensions of the compliance time to complete any AD-mandated service bulletin related to WFD without extensive new data that would substantiate and clearly warrant such an extension.

Costs of Compliance

We estimate that this proposed AD affects 67 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
Inspections specified in Boeing Alert Service Bulletin 747-53A2452, Revision 1, dated July 16, 2012.	Up to 884 work-hours × $85 per hour = $75,140, per inspection cycle.	$0	$75,140, per inspection cycle	$5,034,380, per inspection cycle.
Replacement specified in Boeing Alert Service Bulletin 747-53A2852, dated June 22, 2012.	Up to 696 work-hours × $85 per hour = $59,160, per replacement.	0 [1]	$59,160, per replacement	$3,963,720, per replacement.
Post-replacement inspections specified in Boeing Alert Service Bulletin 747-53A2852, dated June 22, 2012.	Up to 586 work-hours × $85 per hour = $49,810, per inspection cycle.	0	$49,810, per inspection cycle	$3,337,270, per inspection cycle.

[1] We currently have no specific cost estimates associated with the parts necessary for the proposed replacement.

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 have 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 that the proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2015–3983; Directorate Identifier 2015–NM–141–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by November 20, 2015.

(b) Affected ADs

This AD affects AD 2005–20–29, Amendment 39–14326 (70 FR 59246, October 12, 2005).

(c) Applicability

This AD applies to The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–300, 747SR, and 747SP series airplanes; certificated in any category; as identified in Boeing Alert Service Bulletin 747–53A2852, dated June 22, 2012.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the upper chords of the upper deck floor beams are subject to widespread fatigue damage (WFD). We are issuing this AD to detect and correct fatigue cracking of the upper chords of the upper deck floor beams. Undetected cracking could result in large deflection or deformation of the upper deck floor beams, resulting in damage to wire bundles and control cables for the flight control system, and reduced controllability of the airplane. Multiple adjacent severed floor beams could result in rapid decompression of the airplane.

(f) Compliance

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

(g) Repetitive Inspections of the Upper Chords of the Upper Deck Floor Beams

At the applicable times specified in Tables 1 through 7 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012, except as required by paragraph (l)(1) of this AD: Do the inspections specified in paragraphs (g)(1) and (g)(2) of this AD, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012, except as required by paragraph (l)(2) of this AD. Repeat the inspections specified in paragraphs (g)(1) and (g)(2) of this AD thereafter at the applicable times specified in Tables 1 through 7 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012. Do all applicable related investigative and corrective actions before further flight. Doing the inspections required by paragraphs (g)(1) and (g)(2) of this AD terminates the inspections required by paragraphs (m) and (n) of AD 2005–20–29, Amendment 39–14326 (70 FR 59246, October 12, 2005).

(1) Do an open hole or surface high frequency eddy current (HFEC) inspection, as applicable, for cracks at the fastener holes of the floor panel attachment in the applicable areas and stations identified in Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012.

(2) Do a surface HFEC inspection for cracks in the upper and lower chords of the upper deck floor beams at permanent fastener locations in the applicable areas and stations identified in Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012.

(h) Terminating Modification and Repair for the Inspection Specified in Paragraph (g)(1) of This AD

A fastener hole modification or a fastener hole repair in Area 1 or Area 2 as described in Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012, terminates the inspection of the fastener holes of the floor panel attachment required by paragraph (g)(1) of this AD for the repaired or modified area only, provided the modification and repair, including related investigative and corrective actions, are done in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012, except as required by paragraph (l)(2) of this AD.

(i) Post Mod/Repair Repetitive Inspections

(1) For airplanes on which any fastener hole modification or any fastener hole repair was done as specified in Boeing Alert Service Bulletin 747–53A2452: Except as required by paragraph (i)(2) of this AD, at the applicable times specified in Tables 8 and 9 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later, do an open hole or surface HFEC inspection, as applicable, for cracks in the repaired and modified areas, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012. If any cracking is found, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (o) of this AD. Repeat the applicable inspections thereafter at the times specified in Tables 8 and 9 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012. Doing an inspection required by this paragraph terminates the inspections required by paragraph (p) of AD 2005–20–29, Amendment 39–14326 (70 FR 59246, October 12, 2005).

(2) For any repair #10 or repair #13 done as specified in Boeing Alert Service Bulletin 747–53A2452: Before further flight, do post-repair inspections using a method approved in accordance with the procedures specified in paragraph (o) of this AD.

(j) Replacement of the Upper Chords of the Upper Deck Floor Beams (Includes Pre-Replacement Inspections)

Replace the upper chords of the upper deck floor beams by doing the actions required by paragraphs (j)(1) and (j)(2) of this AD at the times specified in those paragraphs. Accomplishing the replacement required by this paragraph terminates the inspections required by paragraphs (g) and (i) of this AD.

(1) Before the accumulation of 30,000 total flight cycles, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later, do an open hole HFEC inspection for cracks at certain fastener locations in the floor beam webs and side of body frames, and do a detailed inspection for cracks of any removed part that will be re-installed, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2852, dated June 22, 2012, except as required by paragraph (l)(2) of this AD. Do all applicable corrective actions before further flight.

(2) Before further flight after accomplishing the inspections required by paragraph (j)(1) of this AD, install new upper chords of the upper deck floor beams and reinforcing straps or angles, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2852, dated June 22, 2012, except as required by paragraph (l)(2) of this AD.

(k) Post-Replacement Repetitive Inspections

For airplanes on which any replacement required by paragraph (j) or (k)(2)(ii) of this AD is done: At the applicable times specified in Tables 2 through 4 in paragraph 1.E., ''Compliance,'' of Boeing Alert Service

Bulletin 747–53A2852, dated June 22, 2012, do HFEC inspections for cracks at the permanent fastener holes and the upper chords of the upper deck floor beams, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012.

(1) If any cracking is found during any inspection required by paragraph (k) or (k)(2)(i) of this AD, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (o) of this AD.

(2) If no cracking is found during any inspection required by the introductory text of paragraph (k) or (k)(2)(i) of this AD, do the actions required by paragraphs (k)(2)(i) and (k)(2)(ii) of this AD.

(i) Repeat the inspections specified in paragraph (k) of this AD thereafter at the applicable times specified in Tables 8 and 9 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012.

(ii) Within 10,000 flight cycles after accomplishing the initial HFEC inspections required by paragraph (k) of this AD, replace the upper chords of the upper deck floor beams by doing the actions specified in paragraphs (j)(1) and (j)(2) of this AD.

(l) Exceptions to Service Information

(1) Where Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012, specifies a compliance time ''after the Revision 1 date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Where Boeing Alert Service Bulletin 747–53A2452, Revision 1, dated July 16, 2012; or Boeing Alert Service Bulletin 747–53A2852, dated June 22, 2012; specifies to contact Boeing for appropriate action: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (o) of this AD.

(m) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraphs (g), (h), and (i) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 747–53A2452, dated April 3, 2003, which was incorporated by reference in AD 2005–20–29, Amendment 39–14326 (70 FR 59246, October 12, 2005).

(n) Special Flight Permit

Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), are not allowed.

(o) 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 (p)(1) 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.

(p) Related Information

(1) For more information about this AD, contact Roger Caldwell, Aerospace Engineer, Technical Operations Center, ANM–100D, FAA, Denver Aircraft Certification Office, 26805 East 68th Avenue, Room 214, Denver, CO 80249; phone: 303–342–1086; fax: 303–342–1088; email: *roger.caldwell@faa.gov*.

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on September 27, 2015.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–25272 Filed 10–5–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–3982; Directorate Identifier 2015–NM–098–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 717–200 airplanes. This proposed AD was prompted by multiple reports of the vertical stabilizer leading edge showing signs of fastener distress. This proposed AD would require a detailed inspection for any distress of the vertical stabilizer leading edge skin, and related investigative and corrective actions, if necessary. This proposed AD would also require, for certain airplanes, repetitive detailed inspections of the spar cap for any loose and missing fasteners, repetitive high frequency eddy current (HFEC) and radiographic testing (RT) inspections of the spar cap for any crack, and related investigative and corrective actions, if necessary. We are proposing this AD to detect and correct any crack in the vertical stabilizer leading edge and front spar cap, which may result in the structure becoming unable to support limit load, and may lead to the loss of the vertical stabilizer.

DATES: We must receive comments on this proposed AD by November 20, 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–2015–3982.

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–2015–3982; 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: Eric Schrieber, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5348; fax: 562–627–5210; email: *Eric.Schrieber@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–2015–3982; Directorate Identifier 2015–NM–098–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 reports of ten cases of the vertical stabilizer leading edge on Model 717 airplanes showing signs of fastener distress at the splice station Zfs=52.267. The affected Model 717 airplanes had accrued 22,594 through 40,985 flight hours and 15,352 through 34,766 landing cycles. Similar reports have been found on Model MD–80 and MD–90 airplanes. One Model MD–90 operator reported finding elongated fastener holes at the leading edge of the vertical stabilizer at station Zfs=52.267. The affected Model MD–90 airplane had accrued 15,555 flight-hours and 14,310 landing cycles. Two Model MD–80 operators reported finding a cracked vertical stabilizer skin at station Zfs=52.267; subsequent inspections revealed a severed front spar cap and a cracked front spar web. The affected Model MD–80 airplanes had accrued between 39,749 through 56,212 flight-hours and 32,176 through 44,001 landing cycles when the crack/anomalies were found. Missing fasteners or evidence of elongated fastener holes may be considered an indication that there are undetected cracks in the underlying vertical stabilizer structure. Boeing investigation determined that high loading occurrences, such as, but not limited to, in-flight turbulence can adversely impact the fasteners and loading at the leading edge of the vertical stabilizer.

This condition, if not corrected, could result in the structure unable to support limit load, and may lead to the loss of the vertical stabilizer.

Other Relevant Rulemaking

On May 31, 2011, we issued AD 2011–12–12, Amendment 39–16719 (76 FR 35342, June 17, 2011), for certain The Boeing Company Model MD–90–30 airplanes. That AD requires a detailed inspection to detect distress and existing repairs to the leading edge structure of the vertical stabilizer at the splice at station Zfs=52.267; repetitive inspections for cracking in the front spar cap forward flanges of the vertical stabilizer, and either the aft flanges or side skins; repetitive inspections for loose and missing fasteners; and related investigative and corrective actions if necessary. We issued that AD to detect and correct such cracking damage, which could result in the structure being unable to support limit load, and could lead to the loss of the vertical stabilizer.

On July 1, 2011, we issued AD 2011–15–01, Amendment 39–16748 (76 FR 41651, July 15, 2011), for certain The Boeing Company Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 airplanes. That AD requires a detailed inspection to detect distress and existing repairs to the leading edge structure of the vertical stabilizer at the splice at station Zfs=52.267; repetitive inspections for cracking in the front spar cap forward flanges of the vertical stabilizer, and either the aft flanges or side skins; repetitive inspections for loose and missing fasteners; and related investigative and corrective actions if necessary. We issued that AD to detect and correct such cracking damage, which could result in the structure being unable to support limit load, and could lead to the loss of the vertical stabilizer.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 717–55A0012, dated June 12, 2015. The service information describes procedures for a detailed inspection for any distress of the vertical stabilizer leading edge skin, a detailed inspection for any loose and missing fasteners of the spar cap, HFEC and RT inspections of the spar cap for any crack, and related investigative 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, except as discussed under ''Differences Between this Proposed AD and the Service Information.''

The phrase ''related investigative actions'' is used in this proposed AD. ''Related investigative actions'' are follow-on actions that (1) are related to the primary action, and (2) further investigate the nature of any condition found. Related investigative actions in an AD could include, for example, inspections.

The phrase ''corrective actions'' is used in this proposed AD. ''Corrective actions'' are actions that correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Differences Between This Proposed AD and the Service Information

The service bulletin specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

Costs of Compliance

We estimate that this proposed AD affects 106 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
Inspections for distress	11 work-hours × $85 per hour = $935 per inspection cycle.	$0	$935 per inspection cycle	$99,110 per inspection cycle.
Repetitive inspections for cracking and loose and missing fasteners.	7 work-hours × $85 per hour = $595 per inspection cycle.	0	$595 per inspection cycle	$63,070 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–2015–3982; Directorate Identifier 2015–NM–098–AD.

(a) Comments Due Date

We must receive comments by November 20, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 717–200 airplanes, certificated in any category, as specified in Boeing Alert Service Bulletin 717–55A0012, dated June 12, 2015.

(d) Subject

Air Transport Association (ATA) of America Code 55, Stabilizers.

(e) Unsafe Condition

This AD was prompted by multiple reports of the vertical stabilizer leading edge showing signs of fastener distress. We are issuing this AD to detect and correct any crack in the vertical stabilizer leading edge and front spar cap, which may result in the structure becoming unable to support limit load, and may lead to the loss of the vertical stabilizer.

(f) Compliance

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

(g) Initial Inspection

Except as required by paragraph (i)(1) of this AD, at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 717–55A0012, dated June 12, 2015: Do a detailed inspection for any distress of the vertical stabilizer leading edge skin and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 717–55A0012, dated June 12, 2015, except as required by paragraph (i)(2) of this AD. Do all applicable related investigative and corrective actions before further flight.

(h) Repetitive Inspections

For all airplanes on which no cracking was found during any related investigative action required by paragraph (g) of this AD: At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 717–55A0012, dated June 12, 2015: Do the actions specified in paragraphs (h)(1) and (h)(2) of this AD and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 717–55A0012, dated June 12, 2015, except as required by paragraph (i)(2) of this AD. Do all applicable related investigative and corrective actions before further flight. Repeat the applicable inspection thereafter at the intervals specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 717–55A0012, dated June 12, 2015.

(1) Do detailed inspections for any for any loose and missing fasteners of the vertical stabilizer leading edge as specified in ''Part 4'' of Boeing Alert Service Bulletin 717–55A0012, dated June 12, 2015.

(2) Do high frequency eddy current (HFEC) and radiographic testing (RT) inspections for any crack of the vertical stabilizer spar cap as specified in ''Part 2'' of Boeing Alert Service Bulletin 717–55A0012, dated June 12, 2015; or do HFEC inspections for any crack of the vertical stabilizer spar cap as specified in ''Part 3'' of Boeing Alert Service Bulletin 717–55A0012, dated June 12, 2015.

(i) Exceptions to the Service Information

(1) Where Boeing Alert Service Bulletin 717–55A0012, dated June 12, 2015 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.

(2) If any crack is found during any inspection required by this AD, and Boeing Alert Service Bulletin 717–55A0012, dated June 12, 2015, specifies to contact Boeing for appropriate action: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(j) 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 (k)(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.

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

(k) Related Information

(1) For more information about this AD, contact Eric Schrieber, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5348; fax: 562–627–5210; email: *Eric.Schrieber@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 27, 2015.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–25271 Filed 10–5–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No.: FAA–2015–3980; Notice No. 15–09]

RIN 2120–AK74

Pearson Field Airport Special Flight Rules Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FAA is proposing to establish a Special Flight Rules Area in the vicinity of Pearson Field Airport, Vancouver, Washington. Pearson Field Airport is located approximately three nautical miles northwest of Portland International Airport, Portland, Oregon. The close proximity of the airport traffic patterns and approach courses create converging flight paths between traffic on approach to Portland International Airport and traffic at Pearson Field Airport, increasing the risk for near mid-air collision, mid-air collision and wake turbulence events. The intended effect of this action is to mitigate the identified risk by establishing operating requirements applicable to all aircraft when operating within a designated area at Pearson Field Airport, which would increase overall system efficiency and safety.

DATES: Send comments on or before December 7, 2015.

ADDRESSES: Send comments identified by docket number FAA–2015–3980 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: For technical questions concerning this action, contact Jon M. Stowe, Airspace and Rules Team, AJV–113, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8783; email *jon.m.stowe@faa.gov*.

For legal questions concerning this action, contact Lorelei Peter, Office of Chief Counsel, AGC–200, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3073; email *lorelei.peter@faa.gov*.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in title 49 of the United States Code (49 U.S.C.). 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 49 U.S.C. 106(f), which establishes the authority of the Administrator to promulgate regulations and rules. This rulemaking also is promulgated under the authority described in 49 U.S.C. 40103, which vests the Administrator with broad authority to prescribe regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace, and 49 U.S.C. 44701(a)(5), which requires the Administrator to promote safe flight of civil aircraft in air commerce by prescribing regulations and minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security.

I. Executive Summary

This NPRM proposes to establish a special flight rules area (SFRA) around Pearson Field Airport (Pearson Field) in which pilots would have to follow mandatory procedures. These procedures are necessary to assist in the

separation of air traffic, and to ensure pilots are aware of potential traffic conflicts between aircraft operating at Pearson Field and Portland International Airport. The purpose is to ensure safety of flight for aircraft operating at Pearson Field Airport and the adjacent Portland International Airport.

II. Background and History

Pearson Field is located on the north bank of the Columbia River in Vancouver, Washington, approximately three nautical miles west of Portland International Airport, Portland, Oregon. Pearson Field is part of the Fort Vancouver National Historic Site, and is listed on the National Register of Historic Places. It is one of the oldest airports in the United States, and the longest continually operating airport west of the Mississippi. Pearson Field does not have an air traffic control tower.

Portland International Airport is located 10 miles northeast of downtown Portland and has over 300,000 annual operations, primarily scheduled air carriers conducting operations under title 14 of the Code of Federal Regulations (14 CFR) part 121. It serves northern Oregon and southwest Washington with service to 120 cities worldwide. Due to the continued growth of Portland International Airport and the close proximity of Pearson Field, the FAA has identified safety issues.

The airspace area surrounding Pearson Field is excluded from the Portland International Airport Class C airspace area and is commonly referred to as the Pearson cutout. The runway 08 threshold at Pearson Field is directly below the instrument landing system (ILS) final approach course to Portland International Airport's runway 10L. Additionally, runway 10L was expanded to accommodate heavy aircraft and Boeing 757s. These operations increase the risk of wake turbulence events between Portland International Airport arrivals to runway 10L or departures from runway 28L/28R and aircraft operating at Pearson Field.

The Airport/Facility Directory (A/FD) lists the traffic pattern altitude at Pearson Field as 1029 feet mean sea level (MSL) or 1000 feet above ground level (AGL). The A/FD also instructs aircraft operating over the runway centerline or extended runway centerline at Pearson Field to ''maintain at or below 700 feet MSL due to traffic and wake turbulence from overflying aircraft to/from Portland International Airport Runway 10L/28R.'' This is because aircraft established on the Portland International Airport ILS final approach course to runway 10L pass directly over Pearson's runway 08 threshold at 1091 feet MSL (1062 feet AGL). The close proximity of the traffic pattern and the approach course create converging flight paths between aircraft on approach to Portland International Airport's runway 10L/10R and aircraft operating at Pearson Field.

These converging flight paths and the lack of vertical separation create potential safety concerns for aircraft operating at both Pearson Field and Portland International Airport, including risk of mid-air collision and wake turbulence events. There is no requirement for pilots to establish communications with air traffic control to receive traffic advisories. In particular, when Portland International Airport is operating on an east traffic flow and weather permits aircraft to operate under visual flight rules (VFR) at Pearson Field the occurrence of traffic collision avoidance system (TCAS) resolution advisories (RA) increases.

To mitigate the identified risk, FAA's Portland Approach Control took measures to increase safety, which included training controllers regarding flight paths into and out of Pearson Field, and refresher training regarding RAs, safety alerts and wake turbulence. Portland Air Traffic Control Tower established the ''Pearson Advisory'' position to provide traffic advisories to aircraft operating at Pearson Field. Additionally, recommended pilot communications and procedures were placed in the A/FD, which are voluntary but not required. While these mitigations have increased safety and pilot awareness, 20 TCAS RAs were reported and logged by air traffic control during calendar year 2014 and reflect an ongoing safety concern.

III. The Proposed Rule

To address the safety concerns between traffic operating at Pearson Field and Portland International Airport, the FAA is proposing to establish a SFRA at Pearson Field by adding new subpart N to part 93, where special air traffic rules are codified. The proposed rule provides a description of the airspace area (proposed § 93.162), communication requirements in the SFRA for both inbound and outbound flights (proposed § 93.163(a)), and procedural requirements necessary to reduce the risks associated with the operation (proposed § 93.163(c)).

This action proposes to make the following voluntary practices in the A/FD and air traffic procedures applicable in the Pearson Field SFRA and mandatory for all pilots unless otherwise authorized by Air Traffic Control (ATC):

- Pilots must establish two-way radio communications with Pearson Advisory on the common traffic advisory frequency for the purpose of receiving air traffic advisories prior to entering the SFRA or taxiing onto the runway for departure. Additionally, pilots must continuously monitor the frequency at all times while operating within the designated airspace.
- When operating over the extended centerline of Pearson Field Runway 8/26, pilots must maintain an altitude at or below 700 feet MSL.
- Pilots must obtain the Pearson Field weather prior to establishing two-way communications with Pearson Advisory.
- Pilots must remain outside Portland Class C Airspace.
- Pilots must make a right-hand traffic pattern when operating to/from Pearson Field Runway 26.
- Pilots may operate in the area without establishing two-way radio communication, in the event of radio failure, provided that weather conditions at Pearson Field are at or above basic VFR weather minimums.

IV. Regulatory Notices and Analyses

A. Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble

summarizes the FAA's analysis of the economic impacts of this proposed rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it to be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this proposed rule. The reasoning for this determination follows:

Due to the continued growth of Portland International Airport and the close proximity of Pearson Field, safety issues have been identified. To address the safety concerns between traffic operating at Pearson Field and Portland International Airport, the FAA is proposing to establish a SFRA at Pearson Field in part 93. The proposed rule provides a description of the area, communication requirements for both inbound and outbound flights, and procedural requirements necessary to reduce the risks associated with the operation.

Currently, pilots voluntarily comply with procedures in the A/FD, to establish two-way radio communications with Pearson Advisory, and to maintain at or below 700 feet above mean sea level when operating over the extended centerline of Pearson Field Runway 8/26. Additionally, air traffic control instructs pilots on Pearson advisory to obtain the Pearson Field weather, and to remain outside Portland Class C Airspace. As a result of being required to remain outside of Portland's Class C Airspace, pilots must make a non-standard right traffic pattern if landing on runway 26 at Pearson Field. Twenty TCAS resolution advisories (RAs) were reported and logged by air traffic control during calendar year 2014 reflecting an ongoing safety concern. By making the voluntary compliance mandatory, the FAA expects a decrease in the occurrence of, and will avoid an increase in, RAs. Thus, the cost of the rule would be minimal.

The FAA has, therefore, determined that this proposed rule is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures.

B. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA believes that this proposed rule does not have a significant economic impact on a substantial number of small entities for the following reasons. With this proposed rule, the procedures and voluntary practices already in place would become mandatory. The intended effect of this action is to mitigate the identified risk by establishing requirements necessary when operating within an established area at Pearson Field, and to increase overall system efficiency and safety; the expected outcome will have only a minimal impact on any small entity affected by this rulemaking action.

Therefore, as provided in section 605(b), the head of the FAA certifies that this rulemaking will not result in a significant economic impact on a substantial number of small entities.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and determined that the rule would protect safety and is not considered an unnecessary obstacle to foreign commerce.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $155 million in lieu of $100 million. This proposed rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there is no new requirement for information collection associated with this notice of proposed rulemaking.

F. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to ICAO Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no corresponding standards with these regulations.

G. Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances.

The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312f and involves no extraordinary circumstances.

V. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. The agency has determined that this action would not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, would not have Federalism implications.

B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it would not be a ''significant energy action'' under the executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

C. Executive Order 13609, Promoting International Regulatory Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation, (77 FR 26413, May 4, 2012) promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action would have no effect on international regulatory cooperation.

VI. Additional Information

A. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The agency may change this proposal in light of the comments it receives.

Proprietary or Confidential Business Information: Commenters should not file proprietary or confidential business information in the docket. Such information must be sent or delivered directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document, and marked as proprietary or confidential. If submitting information on a disk or CD ROM, mark the outside of the disk or CD ROM, and identify electronically within the disk or CD ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), if the FAA is aware of proprietary information filed with a comment, the agency does not place it in the docket. It is held in a separate file to which the public does not have access, and the FAA places a note in the docket that it has received it. If the FAA receives a request to examine or copy this information, it treats it as any other request under the Freedom of Information Act (5 U.S.C. 552). The FAA processes such a request under Department of Transportation procedures found in 49 CFR part 7.

B. Availability of Rulemaking Documents

An electronic copy of rulemaking documents may be obtained from the Internet by—

- Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);
- Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies* or
- Accessing the Government Printing Office's Web page at *http://www.fdsys.gov*.

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9677. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed from the Internet through the Federal eRulemaking Portal referenced above.

C. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the Internet, visit *http://www.faa.gov/regulations_policies/rulemaking/sbre_act/*.

List of Subjects in 14 CFR Part 93

Air traffic control, Airports, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations as follows:

PART 93—SPECIAL AIR TRAFFIC RULES

■ 1. The authority citation for part 93 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44715, 44719, 46301.

■ 2. Add subpart N to part 93 to read as follows:

Subpart N—Pearson Field (Vancouver, WA) Airport Traffic Rule

Sec.
93.161 Applicability.
93.162 Description of area.
93.163 Aircraft operations.

§ 93.161 Applicability.

This subpart prescribes special air traffic rules for aircraft conducting VFR operations in the vicinity of the Pearson Field Airport in Vancouver, Washington.

§ 93.162 Description of area.

The Pearson Field Airport Special Flight Rules Area is designated as that airspace extending upward from the surface to but not including 1,100 feet MSL in an area bounded by a line beginning at the point where the 019° bearing from Pearson Field intersects the 5-mile arc from Portland International Airport extending southeast to a point 1½ miles east of Pearson Field on the extended

centerline of Runway 8/26, thence south to the north shore of the Columbia River, thence west via the north shore of the Columbia River to the 5-mile arc from Portland International Airport, thence clockwise via the 5-mile arc to point of beginning.

§ 93.163 Aircraft operations.

(a) Unless otherwise authorized by ATC, no person may operate an aircraft within the airspace described in § 93.162, or taxi onto the runway at Pearson Field, unless—

(1) That person establishes two-way radio communications with Pearson Advisory on the common traffic advisory frequency for the purpose of receiving air traffic advisories and continues to monitor the frequency at all times while operating within the specified airspace.

(2) That person has obtained the Pearson Field weather prior to establishing two-way communications with Pearson Advisory.

(b) Notwithstanding the provisions of paragraph (a) of this section, if two-way radio communications failure occurs in flight, a person may operate an aircraft within the airspace described in § 93.162, and land, if weather conditions are at or above basic VFR weather minimums. If two-way radio communications failure occurs while in flight under IFR, the pilot must comply with § 91.185 of this chapter.

(c) Unless otherwise authorized by ATC, persons operating an aircraft within the airspace described in § 93.162 must—

(1) When operating over the extended centerline of Pearson Field Runway 8/26, maintain an altitude at or below 700 feet above mean sea level.

(2) Remain outside Portland Class C Airspace.

(3) Make a right traffic pattern when operating to/from Pearson Field Runway 26.

Issued in Washington, DC, under the authority of 49 U.S.C. 106(f), 40103, and 44701(a)(5) on September 29, 2015.

Jodi S. McCarthy,

Director, Airspace Services.

[FR Doc. 2015–25344 Filed 10–5–15; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2013–0388; FRL–9935–08–Region 6]

Approval and Promulgation of Implementation Plans; Texas; Infrastructure and Interstate Transport State Implementation Plan for the 2010 Sulfur Dioxide National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Under the Federal Clean Air Act (CAA) the Environmental Protection Agency (EPA) is proposing to approve elements of a State Implementation Plan (SIP) submission from the State of Texas for the Sulfur Dioxide (SO_2) National Ambient Air Quality Standards (NAAQS). The submittal addresses how the existing SIP provides for implementation, maintenance, and enforcement of the 2010 SO_2 NAAQS (infrastructure SIP or i-SIP). This i-SIP ensures that the State's SIP is adequate to meet the state's responsibilities under the CAA.

DATES: Written comments must be received on or before November 5, 2015.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R06–OAR–2013–0388, by one of the following methods:

- *www.regulations.gov*. Follow the online instructions.
- Email: Nevine Salem at *salem.nevine@epa.gov*.
- Mail or delivery: Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays, and not on legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2013–0338. The EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit electronically any information that you consider to be CBI or other information whose disclosure is restricted by statute. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the 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 the 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, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the 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. 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 information on submitting comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets*.

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI).

FOR FURTHER INFORMATION CONTACT: Ms. Nevine Salem, 214–665–7222, *salem.nevine@epa.gov*. To inspect the hard copy materials, please schedule an appointment with her or Bill Deese at 214–665–7253.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

I. Background

On June 22, 2010, the EPA revised the primary SO_2 NAAQS (hereafter the 2010 SO_2 NAAQS) to establish a new 1-hour standard, with a level of 75 parts per billion, based on the 3-year average of the annual 99th percentile of 1-hour

daily maximum concentrations (75 FR 35520). Each state must submit the i-SIP within three years after the promulgation of a new or revised NAAQS. Section 110(a)(2) of the CAA includes a list of specific elements the i-SIP must meet.

On April 23, 2013, the TCEQ submitted an i-SIP for the 2010 SO_2 NAAQS. On September 13, 2013, the EPA issued guidance addressing the i-SIP elements for all NAAQS.[1] This guidance doesn't address CAA section 110(a)(2)(D)(i)(I), which concerns interstate pollution transport affecting attainment and maintenance of the NAAQS.

The EPA is proposing approval of the April 23, 2013 submission for the applicable requirements of the 2010 SO_2 NAAQS. The EPA is not proposing any action at this time regarding the interstate transport provisions portions of section 110(a)(2)(D)(i)(I) pertaining to nonattainment or interference with maintenance of the NAAQS in other States and the portion of 110(a)(2)(D)(i)(II) regarding visibility protection. We intend to take action as to whether the Texas SIP meets the requirements of 110(a)(2)(D)(i)(I) in a later action. In a separate action, we proposed to disapprove the portion of the Texas SO_2 i-SIP for CAA section 110(a)(2)(D)(i)(II) pertaining to the visibility protection (79 FR 74818, December 16, 2014). The EPA will take final action on the portion of CAA section 110(a)(2)(D)(i)(II) pertaining to visibility protection of the Texas SO_2 i-SIP in a future rulemaking. EPA notes that the Agency is not approving any specific rule, but rather proposing that Texas' already approved SIP meets certain CAA requirements.

II. The EPA's Evaluation of Texas' 2010 SO_2 NAAQS i-SIP Submittal

Below is a summary of the EPA's evaluation of the Texas i-SIP for each applicable element of CAA section 110(a)(2) A–M.[2] Texas provided a demonstration of how the existing Texas i-SIP met all the requirements of the 2010 SO_2 NAAQS on May 09, 2013. This SIP submission became complete by operation of law on November 09, 2013. *See* CAA section 110(k)(1)(B).

(A) Emission limits and other control measures: The CAA § 110(a)(2)(A) requires SIPs to include enforceable emission limitations and other control measures, means or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this Act and other related matters as needed to implement, maintain and enforce each of the NAAQS.[3]

The Texas Clean Air Act (TCAA) provides the Texas Commission on Environmental Quality (TCEQ), its Chairman, and its Executive Director with broad legal authority. They can adopt emission standards and compliance schedules applicable to regulated entities; emission standards and limitations and any other measures necessary for attainment and maintenance of national standards; and, enforce applicable laws, regulations, standards and compliance schedules, and seek injunctive relief. This authority has been employed in the past to adopt and submit multiple revisions to the Texas State Implementation Plan. The approved SIP for Texas that satisfies the infrastructure requirements of CAA section 110(a)(2) for the 2010 SO_2 NAAQS is documented at 40 CFR part 52.2270, Subpart SS. TCEQ's air quality rules and standards are codified at Title 30, Part 1 of the Texas Administrative Code (TAC). Numerous parts of the regulations codified into 30 TAC necessary for implementing and enforcing the NAAQS have been adopted into the SIP.

(B) Ambient air quality monitoring/data system: The SIP must provide for establishment and implementation of ambient air quality monitors, collection and analysis of monitoring data, and providing such data to the EPA upon request.

The TCAA provides the authority allowing the TCEQ to collect air monitoring data, quality-assure the results, and report the data. TCEQ maintains and operates a monitoring network to measure ambient levels of SO_2 and submits an annual Network Assessment to the EPA with monitoring requirements. TCEQ's 2014 Air Monitoring Network Plan is the most recent EPA-approved plan and was approved by the EPA on January 14, 2015.[4] All monitoring data is measured using the EPA approved methods and subject to the EPA quality assurance requirements. Federally required monitoring is conducted under an EPA-approved Quality Assurance Project Plan (QAPP). The TCEQ Web site provides the monitor locations and posts past and current concentrations of criteria pollutants measured in the State's network of monitors.[5] TCEQ submits all required data to the EPA, following the EPA regulations. Previously the Texas statewide monitoring network was approved into the SIP on March 7, 1978 (43 FR 9275).

(C) Program for enforcement: The CAA § 110(a)(2)(C) requires SIPs to include the following three elements: (1) A program providing for enforcement of the measures in paragraph *A* above; (2) a program for the regulation of the modification and construction of stationary sources as necessary to protect the applicable NAAQS (*i.e.,* state-wide permitting of minor sources); and (3) a permit program to meet the major source permitting requirements of the CAA (for areas designated as attainment or unclassifiable for the NAAQS).[6]

(1) Enforcement of SIP Measures. As noted in (A), the TCAA provides authority for the TCEQ, its Chairman, and its Executive Director to enforce the requirements any regulations, permits or final compliance orders as well as general enforcement powers. Among other things, they can file lawsuits to compel compliance with the statutes and regulations; commence civil actions, issue field citation; conduct investigations of regulated entities; collect criminal and civil penalties; develop and enforce rules and standards related to protection of air quality; issue

[1] Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2), Memorandum from Stephen D. Page, September 13, 2013.

[2] Additional information on: The history of SO_2, its levels, forms and, determination of compliance; the EPA's approach for reviewing i-SIPs; the details of the SIP submittal and the EPA's evaluation; the effect of recent court decisions on i-SIPs; the statute and regulatory citations in the Texas SIP specific to this review; the specific i-SIP applicable CAA and the EPA regulatory citations; **Federal Register** Notice citations for Texas' SIP approvals; Texas minor New Source Review program and the EPA approval activities; and Texas' Prevention of Significant Deterioration (PSD) program can be found in the Technical Support Document (TSD). The TSD can be accessed through *www.regulations.gov* (e-docket EPA–R06–2013–0388).

[3] The specific nonattainment area plan requirements of section 110(a)(2)(I) are subject to the timing requirements of section 172, not the timing requirement of section 110(a)(1). Thus, section 110(a)(2)(A) does not require that states submit regulations or emissions limits specifically for attaining the 2010 SO_2 NAAQS. Those SIP provisions are due as part of each state's attainment plan, and will be addressed separately from the requirements of section 110(a)(2)(A). In the context of an infrastructure SIP, the EPA is not evaluating the existing SIP provisions for this purpose. Instead, the EPA is only evaluating whether the state's SIP has basic structural provisions for the implementation of the NAAQS.

[4] A copy of TCEQ's ambient monitoring network assessment and EPA's approval letter are included in the docket for this proposed rulemaking.

[5] See *http://www.tceq.texas.gov/airquality/monops/sites/mon_sites.html* and *http://www17.tceq.texas.gov/tamis/index.cfm?fuseaction=home.welcome.*

[6] As discussed in further details in the TSD.

compliance orders; pursue criminal prosecutions; investigate, enter into remediation agreements; and issue emergency cease and desist orders. The TCAA also provides additional enforcement authorities and funding mechanisms.

(2) Minor New Source Review (NSR). Section 110(a)(2)(C) also requires that the SIP include measures to regulate construction and modification of stationary sources to protect the NAAQS. The Texas minor NSR permitting requirements are approved as part of the SIP.[7]

(3) Prevention of Significant Deterioration (PSD) permit program. Texas's PSD portion of the SIP covers all NSR regulated pollutants as well as the requirements for the 2010 SO_2 NAAQS and has been approved by the EPA.[8] Texas has a SIP-approved PSD and nonattainment NSR permitting program that contains requirement for sources of air pollutants to obtain an approved permit before beginning construction of a facility and before modifying an existing facility (79 FR 66626, November 10, 2014).

(D) Interstate and international transport: The requirements for the interstate transport of SO_2 emissions are that the SIP contain adequate provisions prohibiting emissions to other states which will (1) contribute significantly to nonattainment of the NAAQS, (2) interfere with maintenance of the NAAQS, (3) interfere with measures required to prevent significant deterioration or (4) interfere with measures to protect visibility (CAA 110(a)(2)(D)(i)). In addition, States must comply with requirements to prevent transport of international air pollution (CAA section 110(a)(2)(D)(ii)).

The Texas i-SIP submittal discussed the requirements of the CAA section 110(a)(D). We plan to evaluate and take action on the portion of the i-SIP pertaining to emissions which will contribute significantly to nonattainment or interfere with maintenance of the NAAQS at a later time. As noted above, we proposed to disapprove the portion of the SIP addressing interstate transport and visibility protection in an earlier action (80 FR 74818, December 16, 2014).

Because Texas has a fully approved Prevention of Significant Deterioration (PSD) SIP addressing all regulated new source review pollutants, we propose to approve the transport portion of the submittal. Revisions to the PSD SIP were approved on November 10, 2014 (79 FR 66626).

CAA section 110(a)(2)(D)(ii) requires that the SIP contain adequate provisions insuring compliance with the applicable requirements of section 126 (relating to interstate pollution abatement) and 115 (relating to international pollution abatement). Texas meets the section 126 requirements as it has a fully approved PSD SIP and no source or sources have been identified by the EPA as having any interstate impacts under section 126 in any pending action related to any air pollutant. Texas meets the section 115 requirements as there are no final findings by the EPA that Texas air emissions affect other countries. Therefore, we propose to approve the portion of the Texas SO_2 i-SIP pertaining to CAA section 110(a)(2)(D)(ii).

(E) Adequate authority, resources, implementation, and oversight: The SIP must provide for the following: (1) Necessary assurances that the state (and other entities within the state responsible for implementing the SIP) will have adequate personnel, funding, and authority under state or local law to implement the SIP, and that there are no legal impediments to such implementation; (2) requirements relating to state boards; and (3) necessary assurances that the state has responsibility for ensuring adequate implementation of any plan provision for which it relies on local governments or other entities to carry out that portion of the plan.

Both elements (A) and (E) herein address the requirement that there is adequate authority to implement and enforce the SIP and that there are no legal impediments.

This i-SIP submission for the 2010 SO_2 NAAQS describes the SIP regulations governing the various functions of personnel within the TCEQ, including the administrative, technical support, planning, enforcement, and permitting functions of the program.

With respect to funding, TCAA requires TCEQ establish an emissions fee schedule for sources in order to fund the reasonable costs of administering various air pollution control programs and authorizes TCEQ to collect additional fees necessary to cover reasonable costs associated with processing of air permit applications. The EPA conducts periodic program reviews to ensure that the state has adequate resources and funding to among other things implement and enforce the SIP.

As required by the CAA, the SIP stipulates that any board or body, which approves permits or enforcement orders, must have at least a majority of members who represent the public interest and do not derive any ''significant portion'' of their income from persons subject to permits and enforcement orders or who appear before the board on issues related to the CAA. The members of the board or body, or the head of an agency with similar powers, are required to adequately disclose any potential conflicts of interest.

With respect to assurances that the States has responsibility to implement the SIP adequately when it authorizes local or other agencies to carry out portions of the plan, the Texas statutes and the SIP designate the TCEQ as the primary air pollution control agency, and the TCEQ maintains authority to ensure implementation of any applicable plan portion.

(F) Stationary source monitoring system: The SIP must provide the establishment of a system to monitor emissions from stationary sources and to submit periodic emission reports. It must require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources, to monitor emissions from sources. The SIP shall also require periodic reports on the nature and amounts of emissions and emissions-related data from sources, and require that the state correlate the source reports with emission limitations or standards established under the CAA. These reports must be made available for public inspection at reasonable times.

The TCAA authorizes the TCEQ to require persons engaged in operations which result in air pollution to monitor or test emissions and to file reports containing information relating to the nature and amount of emissions. There also are SIP regulations pertaining to sampling and testing and requirements for reporting of emissions inventories. In addition, SIP rules establish general requirements for maintaining records and reporting emissions.

The TCEQ uses this information, in addition to information obtained from other sources, to track progress towards maintaining the NAAQS, developing control and maintenance strategies, identifying sources and general

[7] The EPA is not proposing to approve or disapprove the existing Texas minor NSR program to the extent that it may be inconsistent with the EPA's regulations governing this program. The EPA has maintained that the CAA does not require that new infrastructure SIP submissions correct any defects in existing EPA-approved provisions of minor NSR programs in order for the EPA to approve the infrastructure SIP for element C (*e.g.,* 76 FR 41076–41079). The EPA believes that a number of states may have minor NSR provisions that are contrary to the existing EPA regulations for this program. The statutory requirements of section 110(a)(2)(C) provide for considerable flexibility in designing minor NSR programs.

[8] As discussed further in the TSD.

emission levels, and determine compliance with SIP regulations and additional EPA requirements. The SIP requires this information be made available to the public. Provisions concerning the handling of confidential data and proprietary business information are included in the SIP's regulations. These rules specifically exclude from confidential treatment any records concerning the nature and amount of emissions reported by sources.

(G) Emergency authority: The SIP must provide for authority to address activities causing imminent and substantial endangerment to public health or welfare or the environment and to include contingency plans to implement such authorities as necessary.

The TCAA provides TCEQ with authority to address environmental emergencies, and TCEQ has contingency plans to implement emergency episode provisions. Upon a finding that any owner/operator is unreasonably affecting the public health, safety or welfare, or the health of animal or plant life, or property, TCAA authorizes TCEQ to, after a reasonable attempt to give notice, declare a state of emergency and issue without hearing an emergency special order directing the owner/operator to cease such pollution immediately. The TCEQ may issue emergency orders, or issue or suspend air permits as required by an air pollution emergency.

(H) Future SIP revisions: States must have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or in response to an EPA finding that the SIP is substantially inadequate to attain the NAAQS.

The TCAA authorizes the TCEQ to revise its SIP, as necessary, to account for revisions of an existing NAAQS, establishment of a new NAAQS, to attain and maintain the NAAQS, to abate air pollution, to adopt more effective methods of attaining the NAAQS, and to respond to the EPA SIP calls concerning NAAQS adoption or implementation. TCEQ regularly revises the Texas SIP in response to revisions of the NAAQS and the EPA rules.

(I) Nonattainment areas: The CAA section 110(a)(2)(I) requires that in the case of a plan or plan revision for areas designated as nonattainment areas, states must meet applicable requirements of Part D of the CAA, relating to SIP requirements for designated nonattainment area. SIP revisions that implement the control strategies necessary to bring a nonattainment area into attainment of the NAAQSs are not required by CAA to be submitted within three years of the promulgation of a new or revised NAAQS. Therefore, § 110(a)(1) does not require this element to be demonstrated as part of an infrastructure SIP submittal (73 FR 16025, at 16206).

(J) Consultation with government officials, public notification, PSD and visibility protection: The SIP must meet applicable requirements of section 121: (1) Relating to interagency consultation regarding certain CAA requirements; section 127 (2) relating to public notification of NAAQS exceedances and related issues; and, part C relating to (3) prevention of significant deterioration of air quality and visibility protection.

(1) *Interagency consultation:* As required by the TCAA, there must be a public hearing before the adoption of any regulations or emission control requirements and all interested persons are given a reasonable opportunity to submit data, view, or arguments orally or in writing and to examine witnesses testifying at the hearing. The TCEQ has established public processes for all SIP revisions and permitting programs. The TCEQ consults with other agencies, local agencies, and governmental organizations, as well as with the environmental agencies of other states regarding air quality concerns.

(2) *Public Notification:* This i-SIP submission from Texas provides the SIP regulatory citations requiring the TCEQ to regularly notify the public of instances or areas in which any NAAQS are exceeded. Included in the SIP are the rules for TCEQ to advise the public of the health hazard associated with such exceedances; and enhance public awareness of measures that can prevent such exceedances and of ways in which the public can participate in the regulatory and other efforts to improve air quality. In addition, as discussed for infrastructure element B above, the TCEQ air monitoring Web site provides quality data for each of the monitoring stations in Texas; this data is provided instantaneously for certain pollutants, such as ozone. The Web site also provides information on the health effects of lead, ozone, particulate matter, and other criteria pollutants.

(3) *PSD and Visibility Protection:* All major sources in Texas are subject to Texas' SIP-approved PSD program. The PSD requirements here are the same as those addressed under (C). Texas submitted a SIP revision to address Regional Haze, including a long-term strategy to address visibility impairment for each Class I area that may be impacted by emission from Texas facilities. Texas SIP requirements relating to visibility and regional haze are not affected when the EPA establishes or revises a NAAQS. Therefore, the EPA believes that there are no new visibility protection requirements due to the revision of the NAAQS, and consequently there are no newly applicable visibility protection obligations pursuant to infrastructure element (J) after the promulgation of a new or revised NAAQS.

(K) Air quality and modeling/data: The SIP must provide for performing air quality modeling, as prescribed by the EPA, to predict the effects on ambient air quality of any emissions of any NAAQS pollutant, and for submission of such data to the EPA upon request.

The TCEQ has the power and duty, under the TCAA to investigate and develop facts providing for the functions of environmental air quality assessments. Air quality modeling is conducted during development of revisions to the Texas SIP, as appropriate for the State to demonstrate attainment with required NAAQS. Modeling is also a part of the NSR permitting program. Texas has the ability to perform modeling for the primary and secondary SO_2 standards and other NAAQS criteria pollutant on a case-by-case permit basis consistent with their SIP-approved PSD rules and with the EPA guidance. Upon request, Texas will submit current and future air quality modeling data to the EPA.

(L) Permitting Fees: The SIP must require each major stationary source to pay permitting fees to the permitting authority, as a condition of any permit required under the CAA, to cover the cost of reviewing and acting upon any application for such a permit, and, if the permit is issued, the costs of implementing and enforcing the terms of the permit. The fee requirement applies until a fee program established by the state pursuant to Title V of the CAA, relating to operating permits, is approved by the EPA.

The TCEQ assesses fees for reviewing permit applications and for enforcing the terms and conditions of permits. See element (E) above for the description of the mandatory collection of permitting fees outlined in the SIP.

(M) Consultation/participation by affected local entities: The SIP must provide for consultation and participation by local political subdivisions affected by the SIP.

The TCEQ has several cooperative agreements and Memoranda of Understanding with various other state and local agencies and organizations. Consultation with a variety of different organizations is a regular part of the TCEQ process for developing a SIP. See

element J herein for a discussion of the SIP's public participation process, the authority to advise and consult, and the PSD SIP's public participation requirements. Additionally, the TCAA also requires initiation of cooperative action between local authorities and the TCEQ, between one local authority and another, or among any combination of local authorities and the TCEQ for control of air pollution in areas having related air pollution problems that overlap the boundaries of political subdivisions, and entering into agreements and compacts with adjoining states and Indian tribes, where appropriate.

III. Proposed Action

The EPA is proposing to approve the April 23, 2013, infrastructure SIP submission from Texas, which addresses the requirements of CAA sections 110(a)(1) and (2) as applicable to the 2010 SO_2 NAAQS. Specifically, the EPA is proposing to approve the following infrastructure elements, or portions thereof: 110(a)(2)(A), (B), (C), (D)(i)(II) (PSD portion), D(ii), (E), (F), (G), (H), (J), (K), (L), and (M). The EPA is not proposing action on: The portion pertaining to section 110(a)(2)(D)(i)(I), which concerns interstate pollution transport affecting attainment and maintenance of the NAAQS and the portion pertaining to section 110(a)(2)(D)(i)(II) pertaining to visibility protection.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the 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 action:

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur dioxide reporting and recordkeeping requirements.

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

Dated: September 22, 2015.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2015–25337 Filed 10–5–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2015–0530; FRL–9935–06–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Maryland's Negative Declaration for the Automobile and Light-Duty Truck Assembly Coatings Control Techniques Guidelines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision pertains to a negative declaration for the Automobile and Light-Duty Truck Assembly Coatings Control Techniques Guidelines (CTG). This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before November 5, 2015.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2015–0530 by one of the following methods:

A. *www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. *Email: fernandez.cristina@epa.gov*.

C. *Mail:* EPA–R03–OAR–2015–0530, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2015–0530. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through *www.regulations.gov* or email. 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, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in *www.regulations.gov* or may be viewed during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Irene Shandruk, (215) 814–2166, or by email at *shandruk.irene@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Section 172(c)(1) of the CAA provides that SIPs for nonattainment areas must include reasonably available control measures (RACM), including reasonably available control technology (RACT), for sources of emissions. Section 182(b)(2)(A) provides that for certain ozone nonattainment areas, states must revise their SIP to include RACT for sources of volatile organic compound (VOC) emissions covered by a CTG document issued after November 15, 1990 and prior to the area's date of attainment. EPA defines RACT as ''the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.'' 44 FR 53761 (September 17, 1979).

CTGs are documents issued by EPA intended to provide state and local air pollution control authorities information to assist them in determining RACT for VOC from various sources. Section 183(e)(3)(c) provides that EPA may issue a CTG in lieu of a national regulation as RACT for a product category where EPA determines that the CTG will be substantially as effective as regulations in reducing emissions of VOC, which contribute to ozone levels, in ozone nonattainment areas. The recommendations in the CTG are based upon available data and information and may not apply to a particular situation based upon the circumstances.

In 1977, EPA published a CTG for automobile and light-duty truck assembly coatings. After reviewing the 1977 CTG for this industry, conducting a review of currently existing state and local VOC emission reduction approaches for this industry, and taking into account any information that has become available since then, EPA developed a new CTG entitled *Control Techniques Guidelines for Automobile and Light-duty Assembly Coatings* (Publication No. EPA 453/R–08–006; September 2008).

States can follow the CTG and adopt state regulations to implement the recommendations contained therein. Alternatively, states can adopt a negative declaration documenting that there are no sources or emitting facilities within the state to which the CTG is applicable. The negative declaration must go through the same public review process as any other SIP submittal.

II. Summary of SIP Revision and EPA's Evaluation

On July 15, 2015, the Maryland Department of the Environment (MDE) submitted to EPA a SIP revision concerning a negative declaration for the Automobile and Light-Duty Truck Assembly Coatings CTG. MDE stated that the state previously had one source to which this CTG was applicable; however, the source had permanently shut down and dismantled all their equipment as of September 2005.

EPA reviewed an inspection report provided by MDE indicating that the sole source to which this CTG would have been applicable did indeed permanently shut down in 2005. Additionally, EPA conducted an internet search of key terms relevant to the Automobile and Light-Duty Truck Assembly Coatings CTG and confirmed that there are no sources or emitting facilities in the State of Maryland to which this CTG is applicable.

III. Proposed Action

EPA is proposing to approve the Maryland SIP revision concerning the negative declaration for the Automobile and Light-Duty Truck Assembly Coatings CTG, which was submitted on July 15, 2015. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

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

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

health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule concerning Maryland's negative declaration for the Automobile and Light-Duty Truck Assembly Coatings CTG, 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, Nitrogen dioxide, Ozone, Volatile organic compounds.

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

Dated: September 21, 2015.

Shawn M. Garvin,

Regional Administrator, Region III.

[FR Doc. 2015–25346 Filed 10–5–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2015–0070]

RIN 2127–AL57

Federal Motor Vehicle Safety Standards; Rear Impact Protection, Lamps, Reflective Devices, and Associated Equipment Single Unit Trucks

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Advance notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document reopens the comment period for a July 23, 2015 advance notice of proposed rulemaking (ANPRM) that NHTSA issued in response to a petition for rulemaking from Ms. Marianne Karth and the Truck Safety Coalition relating to rear impact (underride) guards. The original comment period closed September 21, 2015. The agency is reopening the comment period for 30 days.

DATES: The comment closing date for the July 23, 2015 ANPRM (Docket No. NHTSA–2015–0070; 80 FR 43663) is November 5, 2015.

ADDRESSES: You may submit comments (identified by the DOT Docket Number) by any of the following methods: the following methods:

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

Regardless of how you submit your comments, please mention the docket number of the ANPRM (Docket No. NHTSA–2015–0070).

You may also call the Docket at 202–366–9324.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the discussion under the ''Submission of Comments'' heading of the July 23, 2015 ANPRM (80 FR at 43679). Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: For technical issues, you may contact Robert Mazurowski, Office of Crashworthiness Standards (telephone: 202–366–1012) (fax: 202–493–2990). For legal issues, you may contact Deirdre Fujita, Office of Chief Counsel (telephone: 202–366–2992) (fax: 202–366–3820). The address for these officials is: National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: On July 23, 2015, NHTSA published an ANPRM (80 FR 43663) pertaining to a petition for rulemaking from Ms. Marianne Karth and the Truck Safety Coalition (petitioners) regarding possible amendments to the Federal motor vehicle safety standards (FMVSSs) relating to rear impact (underride) guards (FMVSS Nos. 223 and 224). The petitioners requested that NHTSA require underride guards on vehicles not currently required by the FMVSSs to have guards, notably, single unit trucks, and improve the standards' performance requirements for all guards. The ANPRM requested comment on NHTSA's estimated cost and benefits of requirements for underride guards on single unit trucks, and for retroreflective material on the rear and sides of the vehicles to improve the conspicuity of the vehicles to other motorists.[1] NHTSA provided a 60-day comment period for the ANPRM, which closed September 21, 2015.

Reopening of Comment Period

NHTSA is reopening the comment period for the ANPRM for 30 days.[2] NHTSA believes that a 30 day period is sufficient and balances the interests of encouraging public participation in the rulemaking process with the desire to not unnecessarily delay key decisions by NHTSA about the rulemaking and attainment of the potential societal benefits associated with a final rule.

Accordingly, the public comment closing dates for DOT Docket No. NHTSA–2015–0070 (RIN 2127–AL57) is reopened for 30 days as indicated in the **DATES** section of this document. NHTSA notes that the 30 day period is in addition to the time that has passed since the original September 21 comment closing date until today. Thus, all in all, more than 30 days has been provided. It is further noted that the agency will consider late comments to the extent possible.

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.95.

Raymond R. Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2015–25377 Filed 10–5–15; 8:45 am]

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[1] As noted in the ANPRM (80 FR at 43664), in the near future NHTSA will be issuing a notice of proposed rulemaking on improving the standards' performance requirements for guards on all vehicles subject to the standards.

[2] The National Ready Mixed Concrete Association (NRMCA) submitted a comment to the docket requesting a ''90-day extension'' of the comment period for the ANPRM. The request did not meet NHTSA's requirements for timely submissions of petitions for extension of the time to submit comments (see 49 CFR 553.19). The agency's reopening of the comment period does not result from NRMCA's untimely petition. NHTSA also notes that NRMCA's requested 90 day period is excessively long. NRMCA did not explain why 90 additional days, on top of the 60 days originally provided, are needed to respond to the ANPRM.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2015–0150; 4500030113]

Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition To List Sonoran Desert Tortoise as an Endangered or Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to list the Sonoran desert tortoise (*Gopherus morafkai*) as an endangered or threatened species under the Endangered Species Act of 1973, as amended (Act). After review of the best available scientific and commercial data, we find that listing the Sonoran desert tortoise is not warranted at this time. However, we ask the public to submit to us any new information that becomes available concerning the threats to the Sonoran desert tortoise or its habitat at any time.

DATES: The finding announced in this document was made on October 6, 2015.

ADDRESSES: This finding is available on the Internet at *http://www.regulations.gov* at Docket Number FWS–R2–ES–2015–0150. Supporting documentation we used in preparing this finding is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, 2321 W. Royal Palm Road, Suite 103, Phoenix, AZ 85021. Please submit any new information, materials, comments, or questions concerning this finding to the above address.

FOR FURTHER INFORMATION CONTACT: Steve Spangle, Field Supervisor, Arizona Ecological Services Field Office (see **ADDRESSES**); by telephone at 602–242–0210; or by facsimile at 602–242–2513. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the Federal Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific or commercial information that listing the species may be warranted, we make a finding within 12 months of the date of receipt of the petition. In this finding, we will determine that the petitioned action is: (1) Not warranted, (2) warranted, or (3) warranted, but the immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether species are endangered or threatened, and expeditious progress is being made to add or remove qualified species from the Federal Lists of Endangered and Threatened Wildlife and Plants. Section 4(b)(3)(C) of the Act requires that we treat a petition for which the requested action is found to be warranted but precluded as though resubmitted on the date of such finding, that is, requiring a subsequent finding to be made within 12 months. We must publish these 12-month findings in the **Federal Register**.

Previous Federal Actions

On December 30, 1982, we published a notice of review, which determined the desert tortoise (*Gopherus agassizii*) throughout its range in the United States and Mexico to be a Category 2 Candidate species (47 FR 58454); this determination was reaffirmed on September 18, 1985 (50 FR 37958). Category 2 Candidate status was granted to species for which information in our possession indicated that a proposed listing as threatened or endangered was possibly appropriate, but for which sufficient data were not available to make a determination of listing status under the Act. On April 2, 1990, we issued a final rule designating the Mojave population of the desert tortoise (occurring north and west of the Colorado River) as a threatened species under the Act (55 FR 12178). Currently, the Mojave population of the desert tortoise is recognized as a distinct population segment (DPS) under the Act. As part of the Mojave DPS rulemaking, we designated any desert tortoise from the Sonoran population as threatened when observed outside of its known range, due to similarity of appearance under section 4(e) of the Act. On December 5, 1996, we published a rule that discontinued the practice of keeping a list of Category 2 Candidate species (61 FR 64481). From 1996 to 2010 (see below), the Sonoran populations of desert tortoise did not have any Federal status inside their known range (south and east of the Colorado River).

On October 15, 2008, we received a petition dated October 9, 2008, from WildEarth Guardians and Western Watersheds Project (petitioners) requesting that the Sonoran population of the desert tortoise be listed under the Act as a distinct population segment (DPS), as threatened or endangered rangewide (in the United States and Mexico), and critical habitat be designated. On August 28, 2009, we made our 90-day finding that the petition presented substantial scientific information indicating that listing the Sonoran DPS of the desert tortoise may be warranted. The finding and notice of our initiation of a status review was published in the **Federal Register** on August 28, 2009 (74 FR 44335). On December 14, 2010, we published our 12-month finding that listing the Sonoran DPS of the desert tortoise was warranted, but precluded by other higher priority actions, and the entity was added to our list of candidate species (75 FR 78094).

Candidate status for the Sonoran DPS of desert tortoise was reaffirmed in the 2011 Candidate Notice of Review (76 FR 66370; October 26, 2011). In 2012, new information was assessed that elevated the Sonoran populations of the desert tortoise to a full species (*Gopherus morafkai*). We noted this taxonomic change in the 2012 Candidate Notice of Review and revised its accepted nomenclature to ''Sonoran desert tortoise'' (77 FR 69994; November 21, 2012). We also reaffirmed its candidate status in the Candidate Notices of Review published in 2012 (77 FR 69994; November 21, 2012), 2013 (77 FR 70104; November 22, 2013), and 2014 (79 FR 72450; December 5, 2014).

In 2011, the Service entered into two settlement agreements regarding species on the candidate list at that time (Endangered Species Act Section 4 Deadline Litigation, No. 10–377 (EGS), MDL Docket No. 2165 (D.D.C. May 10, 2011)). This finding fulfills our obligations regarding the Sonoran desert tortoise under those settlement agreements.

Species Information

We collaborated with species experts from public and private sectors to complete the Species Status Assessment Report for the Sonoran Desert Tortoise (SSA Report; Service 2015, entire), which is available online at *http://www.regulations.gov,* Docket No. FWS–R2–ES–2015–0150, and at *https://www.fws.gov/southwest/es/Arizona.* The SSA Report documents the results of the comprehensive biological status review for the Sonoran desert tortoise (tortoise) and provides an account of the species' overall viability through forecasting of the species' condition in the future (Service 2015, entire). In the SSA

Report, we summarized the relevant biological data and a description of past, present, and likely future risk factors and conducted an analysis of the viability of the species. The SSA Report provides the scientific basis that informs our regulatory decision regarding whether this species should be listed as an endangered or threatened species under the Act. This decision involves the application of standards within the Act, its implementing regulations, and Service policies (see Finding below). The SSA Report contains the risk analysis on which this finding is based, and the following discussion is a summary of the results and conclusions from the SSA Report. We solicited peer review of the draft SSA Report from five qualified experts. Responses were received from four of the reviewers, and the SSA Report was modified as appropriate.

Species Description

The Sonoran desert tortoise was first described by Cooper in 1863 (pp. 118–123). Since that time, the Sonoran desert tortoise was recognized as a population of the desert tortoise (*Gopherus agassizii*) until advanced genetic analysis supported elevating the Sonoran population of the desert tortoise as a unique species, Morafka's desert tortoise (*Gopherus morafkai*) (Murphy *et al.* 2011, p. 53). As a result, the Sonoran desert tortoise is recognized as a distinct species (*G. morafkai*) but retains its common name of ''Sonoran desert tortoise'' as recommended in Crother *et al.* (2012, pp. 76–77) to avoid potential confusion of the abbreviation for Morafka's desert tortoise with that of the Mojave desert tortoise (*G. agassizii*).

The Sonoran desert tortoise occupies portions of western, northwestern, and southern Arizona in the United States, and the northern two-thirds of the Mexican State of Sonora. In Arizona, adult Sonoran desert tortoises range in total carapace (top shell) length from 8 to 15 inches (in) (20 to 38 centimeters (cm)), with a relatively high domed shell (Arizona Game and Fish Department (AGFD) 2001, p. 1; Brennan and Holycross 2006, p. 54). The maximum recorded length for a Sonoran desert tortoise in Arizona is 19.4 in (49 cm) total carapace length (Jackson and Wilkinson-Trotter 1980, p. 430). The hind limbs are very stocky and elephantine; forelimbs are flattened for digging and covered with large conical scales (AGFD 2001, p. 1; Brennan and Holycross 2006, p. 54). Male Sonoran desert tortoises are differentiated from females by having elongated gular (throat) shields, chin glands visible on each side of the lower jaw (most evident during the breeding season), and a concave plastron (bottom shell) (AGFD 2001, p. 1).

Sonoran desert tortoises are coldblooded species, which rely on their environment to regulate body temperature (thermoregulation). They feed on a variety of vegetation and spend the majority of their time in underground shelters, coming out mainly to drink, forage, and breed. Tortoises, especially young, small tortoises, are subject to predation by a variety of natural predators, including lizards, snakes, and mammals.

In general and compared to many other animals, tortoises have relatively low fecundity (females lay about 5 eggs on average every other year), are slow-growing (they may take 15 years to reach sexual maturity), are long-lived (they may live more than 50 years in the wild), experience high survivorship in the wild, and have a relatively long generation time (25 years). The Sonoran desert tortoise's breeding season generally occurs from July through October.

Habitat and Range

The tortoise occurs primarily in rocky, steep slopes and bajadas (broad slope extending from the base of a mountain range out into a basin) in various desertscrub habitat types. Tortoise home range size varies with precipitation levels, contracting during wet years and expanding during dry years in response to the availability of forage plants (Averill-Murray and Klug 2000, p. 67). Estimates for average home range sizes for males have varied from 0.04 to 0.10 square miles (sq mi) (10 to 26 hectares (ha)); females generally have smaller home ranges, with averages ranging from 0.01 to 0.09 sq mi (2.6 to 23 ha) (Barrett 1990, p. 203; Averill-Murray and Klug 2000, pp. 55–61; Averill-Murray *et al.* 2002a, pp. 150–151).

We conducted a coarse geospatial analysis (see *Overview of Analytical Tools*) of potential habitat based on elevation, slope, and vegetation type across the species' range. We categorized the potential habitat as high, medium, or low suitability based on the presence of the habitat features that support tortoises (a combination of elevation, vegetation type, and slope). This rangewide geospatial analysis resulted in a prediction of approximately 38,000 sq mi (9.8 million ha) of potential tortoise habitat (see Map 1—Current Sonoran Desert Tortoise Predicted Potential Habitat). Of this total, 64 percent occurs in the United States, and 36 percent occurs in Mexico.

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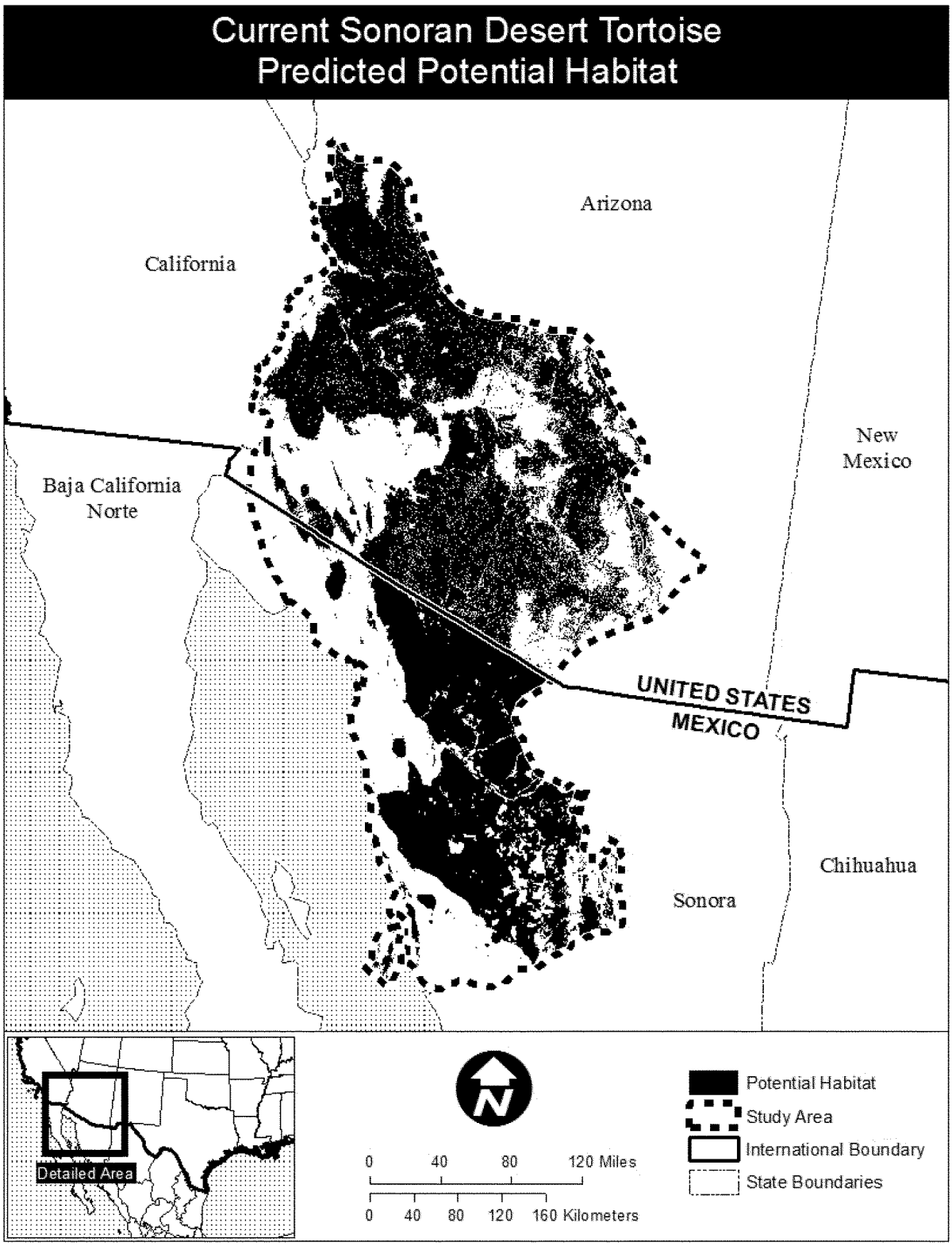
Map 1—Current Sonoran Desert Tortoise Predicted Potential Habitat



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Species Needs

Individual tortoises need access to plants, shelters, and freestanding water. A variety of plants are used for forage, shelter for thermoregulation, and cover from predators. Access to shelter sites is also important for predator avoidance

and thermoregulation. Freestanding water is needed for hydration. Finally, tortoises need enough available space to complete movements to support life-history functions of feeding and breeding. Tortoises have a specific combination of habitat needs (forage plants, cover, shelter sites, water), but those habitat needs can be found throughout a wide geographic area.

For the Sonoran desert tortoise to maintain viability over the long term, it needs populations of adequate size and distribution to support resiliency, redundancy, and representation. While we do not know the size of a viable population of Sonoran desert tortoise, populations with larger numbers of individuals have improved chances of withstanding stochastic events (a measure of resiliency). The tortoise also needs to have resilient populations spread across its range, supported by suitable habitat quantity and quality, to provide for rangewide redundancy (species ability to withstand catastrophic events such as potential large-scale drought) and representation (species genetic and ecological diversity to maintain adaptive capacity).

Overview of Analytical Tools

We used two analytical tools to synthesize and summarize our understanding of the best available information about the current and future conditions of the tortoise. These tools include a geospatial analysis of habitat and a population simulation model. Here we describe these tools conceptually to provide context for the discussions that follow. More explanation of these tools is available in the SSA Report (Service 2015, entire).

One tool we used was a coarse geospatial analysis to determine the extent of potential habitat based on elevation, slope, and vegetation type across the species' range. Potential habitat was categorized by suitability (high, medium, and low) based on presence of habitat features that support tortoises. We then categorized the potential habitat into primary, secondary, or tertiary quality categories. The categorization of habitat quality is based on the current suitability of potential habitat (high, medium, and low) and the possible presence of risk factors that could have population-level effects (see *Risk Factors* discussion below). The habitat quality analysis was conducted under two alternative assumptions related to the effects of the risk factors (high or low threats) and two alternative assumptions regarding the effects of conservation measures (high or low management). We were able to use the results of this geospatial analysis to estimate the amount and condition of current and future potential habitat, as well as evaluate the scope of various stressors on the landscape. It is important to note that potential habitat is categorized as high, medium, and low suitability, and habitat quality (a combination of potential habitat and risk factors) is categorized as primary, secondary, and tertiary.

Another tool we used was a population simulation model. The population model takes a given starting abundance of tortoises and calculates the future abundance over time by applying reproductive and survival rates (*i.e.,* vital rates). These vital rates are the proportion of the total tortoises in a population that are surviving, being adding to the population through reproduction, or being removed from the population each year. By calculating the number of tortoises being added to the population through reproduction and taken away from the population through death each year, it allows us to project the change in the abundance of tortoises over time based on those vital rates.

We used a combination of geospatial analysis and population simulation modeling to project the condition of tortoise populations. The geospatial analysis predicts the amount and condition of habitats available to tortoises currently and in the future, and the population simulation model projects the abundance of tortoises that can be supported by that habitat based on rates of survival, growth, and reproduction (*i.e.,* vital rates). The population simulation model projects higher densities of tortoises in higher quality habitat. As a result, the population simulation model projects abundance based on both the amount and condition of habitats.

The geospatial analysis and population simulation model combine to project the amount, condition, and distribution of potential habitat; and the abundance, growth rate, and quasi-extinction risk for tortoise populations. We are using the term quasi-extinction to encompass the idea that, before a species actually goes extinct, it will decline to a point where extinction will likely be inevitable as a result of genetic and ecological impacts, even though it has multiple surviving individuals. Because there is a great deal of uncertainty around where the precise quasi-extinction threshold is for each species, our population simulation model assesses a higher and lower threshold of quasi-extinction. Taking into account these and other uncertainties, results of the population simulation modeling are presented as a range in the following discussions.

Finally, in the models, areas in the United States and Mexico were treated as two separate areas of analysis because there are meaningful differences in the quality and level of information available about status and risk factors between the two areas, and because there are actual differences in habitat quality due to differences in land management between the two countries.

Risk Factors

We reviewed the potential risk factors (*i.e.,* threats, stressors) that could be affecting the tortoise. Owing to the relatively wide geographic range of the species, individual tortoises may be impacted by a variety of factors. However, in this document we will discuss only those factors in detail that could meaningfully impact the status of the species. Concerns about the tortoise's status revolve around six primary risk factors: (1) Altered plant communities; (2) altered fire regimes; (3) habitat conversion of native vegetation to developed landscapes; (4) habitat fragmentation; (5) human–tortoise interactions; and (6) climate change and drought.

We evaluated each of these factors in detail for their potential to have population- and species-level effects to the Sonoran desert tortoise. While many of them could be having effects on individual tortoises, most have not been shown or are not expected to have population-level effects on the species. Some factors may have population-level effects, but, because of the long lifespan, relatively high abundance, and wide range of the Sonoran desert tortoise, these effects would likely take many decades or longer to have measurable impacts on the species if they occur. In addition, many of these factors are ameliorated to some degree by ongoing conservation efforts or land management considerations; an estimated 73 percent of potential habitat in the United States has some conservation management, and 55 percent of potential habitat in the United States was included in a recent interagency conservation agreement committing Federal land managers to continuing conservation efforts for the tortoise (see *Conservation Measures and Land Management*).

Altered Plant Communities

Altered plant communities are a concern due to the presence of nonnative grasses in tortoise habitats. Nonnative grass species can compete with native grass species for space, water, and nutrients, thereby affecting

native plant species density and species composition within invaded areas (Stevens and Fehmi 2008, pp. 383–384; Olsson *et al.* 2012a, entire; 2012b, pp. 10, 18–19; McDonald and McPherson 2011, pp. 1150, 1152; Franklin and Molina-Freaner 2010, p. 1664). This process is primarily driven by the timing and amount of precipitation. Geospatial analysis of available data indicates that about 15 percent of the current predicted suitable habitat for tortoises in Arizona and 20 percent in Mexico may have nonnative vegetation.

Presence of nonnative grasses does not preclude use of an area by tortoises, but it may impact tortoises by reducing available plants for forage and cover. Reduced access to quality native plants may cause tortoises to expend additional time and energy foraging, thereby reducing fitness and exposing them to additional predation. However, tortoises can and do utilize nonnative grasses as forage, and no studies have confirmed that the nonnative species are significantly less nutritious to tortoises. Reduction in plant cover can negatively impact thermoregulation and increase exposure to predators. A reduction in cover plants used by tortoises can limit thermoregulatory opportunities and reduce periods of potential surface activity, making individuals more susceptible to dehydration, as well as increase predation risk when the individuals are active on the surface (Gray 2012, entire).

Theoretically, the effects of nonnative grasses on individual tortoises discussed above may manifest in population-level effects if reduced fitness and increased predation resulted in population-level declines. However, such population-level effects have not been identified through long-term monitoring, despite the fact that some species of nonnative grass have occurred within monitoring plots for decades, nor have population-level effects been documented. Further, population-level effects, if they are occurring, would only become discernible (with current research and monitoring methods) over an extremely long period of time (decades to centuries) due to the life history and longevity of the species. Adequate time periods are well outside of both the existing period of monitoring and our ability to reasonably predict such population-level effects in the future.

Altered Fire Regime

The presence of nonnative plants has the potential to result in more severe, frequent fires in tortoise habitats than would have occurred naturally. In some conditions, wildfire can occur naturally in tortoise habitats, but fire has not historically been a significant influence in these habitats. In desertscrub communities that are free of nonnative grasses, wildfire has a long return interval and is rarely able to carry itself over a spatially significant area due to the extent of bare ground between vegetated patches. In areas invaded by nonnative grasses, the density of fine fuels increases while open space between vegetation decreases, causing changes in fire behavior and, ultimately, in the fire regime.

Altered fire regimes resulting in more severe, frequent fires may impact tortoises directly through exposure to fire and indirectly via impacts to plants used as forage and cover. Direct effects to tortoises can include fatality or injury through incineration, elevated body temperature, poisoning from smoke inhalation, and asphyxiation. Fire burns plants used for food and cover, which indirectly impacts tortoises by increasing forage effort and prolonging exposure to predators, both of which reduce fitness of individuals. The magnitude of the impact of fire on tortoises largely depends on the severity of the fire (*e.g.,* a less severe fire may leave patches of usable forage and microhabitat for shelter and thermoregulation).

The scope of fire as a risk factor in Arizona is associated with presence of nonnatives in conjunction with ignition sources and fire suppression. Geospatial analysis suggests that fire may be a concern in 23 percent of predicted suitable habitat in Arizona. However, despite the fact that many wildfire ignitions occur annually in desertscrub communities within the range of the Sonoran desert tortoise, aggressive wildfire suppression practices are widely implemented by agencies and municipalities across the landscape in desertscrub communities. As a result of these practices, a very limited amount of tortoise habitat has burned in comparison to the total area considered potential habitat for Sonoran desert tortoises across their range. We expect that aggressive wildfire suppression practices will continue in Arizona into the future in order to protect ecological values and human health and property and, therefore, do not expect this stressor to have an appreciable effect on Sonoran desert tortoises at the population-level in Arizona.

Geospatial analysis suggests that fire may be a concern in 20 percent of predicted suitable habitat in Mexico where fire occurs more regularly to manage buffelgrass (*Pennisteum cilare*) pastures. Buffelgrass is a nonnative species that is cultivated more widely in Mexico to support grazing. Fires set intentionally in Mexico to benefit buffelgrass pastures could potentially affect tortoise populations. However, while these buffelgrass pasture areas are within the absolute range of the tortoise, pastures are generally found in flat valley bottoms, and tortoises generally prefer rocky slopes, thus tortoises likely have reduced exposure to fire in cultivated pastures. Additionally, the best available information does not suggest that fires to benefit buffelgrass pastures in Mexico are affecting tortoises at a magnitude or frequency that would result in population-level effects. Therefore, we do not expect this stressor will have an appreciable effect on Sonoran desert tortoises in Mexico.

Habitat Conversion

Conversion of natural habitat via urban and agricultural development can have a variety of direct and indirect impacts on tortoises depending on the intensity and size of the development. Habitat conversion can directly impact tortoises via fatalities during the construction or development process. If tortoises survive the initial construction, conversion may impact tortoises by making areas entirely unusable (*i.e.,* nonhabitat) or by removing forage and cover sites thus making the habitat less productive for tortoises. Habitat areas converted to dense urban uses likely displace animals into surrounding areas, if adjacent suitable habitat exists. Tortoises that survive the initial development, but are not entirely displaced, likely have reduced access to plants used as forage and cover and, therefore, likely have reduced fitness and are subject to additional predation. Habitat conversion may also result in fragmentation that can impact short- and long-range movements (see *Habitat Fragmentation* discussion below). However, population-level effects to Sonoran desert tortoises from habitat conversion have not been documented in the literature.

To assess the potential historical loss of habitat due to conversion to urban landscape, we calculated the amount of area currently designated as urban land within the range boundary of the Sonoran desert tortoise. About 1,279 sq mi (331,260 ha) of area is currently designated as urban in Arizona. If all of this urban area had previously been potential tortoise habitat, which is unlikely, this area would represent approximately 5 percent of all estimated historical habitat. In Mexico, about 53 sq mi (13,730 ha) of area is designated as urban. This represents less than 1 percent of all estimated historical habitat. Even considering additional

areas potentially lost historically due to agricultural or other development (which we have not quantified due to data limitations), historical habitat loss appears to be relatively small.

Looking into the future, urban development in Arizona is expected to occur primarily within a zone referred to as the Sun Corridor Megapolitan, driven primarily by its association with major transportation routes and other existing infrastructure. In a northward direction from the U.S.-Mexico border, this development zone occurs within the range of the Sonoran desert tortoise along Interstate (I)–19, I–10, and I–17 (Gammage *et al.* 2008 entire; 2011 entire). Additional suburban development zones are expected to occur along I–40 near Kingman and along State Route 93, which connects Wickenburg to Kingman, especially if the latter route is converted into an interstate (proposed I–11). The majority of projected development in Arizona is not anticipated to occur in potential tortoise habitat. However, we expect as much as 9 percent of potential tortoise habitat in Arizona could be developed within the next 50–100 years. In contrast, an estimated 73 percent of potential tortoise habitat in Arizona is not likely subject to development due to land ownership and management. These areas are lands managed for a purpose not compatible with widespread development including military lands, state and municipal parks, and areas owned by Bureau of Land Management, Bureau of Reclamation, National Park Service, Forest Service, and U.S. Fish and Wildlife Service. Small areas on these land ownership types may experience development, but significant urban development in these areas is unlikely.

In Arizona, the number of acres dedicated to irrigated agriculture has been on the decline (U.S. Department of Agriculture 2009, p. 273). These areas are likely being converted into areas re-zoned for residential or commercial purposes or, rarely, left fallow for natural recovery. This observed declining trend of agricultural use will likely continue in Arizona, unless farming practices or technology change, or a novel crop significantly influences market forces and reverses this trend. Therefore, we do not anticipate appreciable future habitat conversions in Arizona due to agricultural development. Additionally, areas that may be converted to agricultural uses likely would not be preferred tortoise habitat because these uses generally occur in flat valley bottoms while tortoises prefer rocky slopes.

Within the species' range in Sonora, Mexico, and according to recent reports, urban development is also expected to continue into the future, but at a slower pace and smaller scale than Arizona. Hermosillo is the largest population center in Sonora (approximately 778,000 per the 2014 census) and could expand north and east, which could potentially affect adjacent tortoise populations (Rosen *et al.* 2014a, pp. 22–23). Limited urban expansion could also be predicted for a small number of other communities within Sonora (Rosen *et al.* 2014a, pp. 22–23). With respect to agriculture in Sonora, the majority occurs on large river deltas, which are not occupied by tortoises (Rosen *et al.* 2014a, pp. 22–23). Therefore, neither urban nor agricultural development is considered to be significantly affecting tortoise populations over a large area in Sonora currently, or into the future.

Habitat Fragmentation

Habitat fragmentation via infrastructure and other forms of linear development may impact tortoises by restricting movement within and between home ranges, direct fatality, and enabling human collection. The source of habitat fragmentation is any linear feature such as roads of varying capacities, railroad tracks, and canals. These forms of linear development are largely ubiquitous across the range of the tortoise; however, the severity of the impact of linear development depends on the permeability of the feature to tortoise movement.

Tortoises move within and outside their home ranges for different purposes depending on sex, age class, and size class. Tortoises will move to find preferred plant forage species that may be in season (Oftedal 2007, entire); to a different shelter site with a different exposure, depth, or substrate (Averill-Murray and Klug 2000, p. 62); or to search for potential mates (Averill-Murray *et al.* 2002a, pp. 139–144). Tortoises will also move to disperse outside of their home ranges, with distances ranging from a few hundred yards to several miles or more (Edwards *et al.* 2004, entire). When individuals are unable to successfully complete these movements within their home ranges or on the landscape, basic natural-history functions can be compromised to varying degrees. Individual tortoises may spend more time active and exposed if they are unable to access preferred sites for forage and shelter, which may result in reduced fitness.

Fragmentation can also be a concern if it prevents movements between populations. This degree of fragmentation could impact species' representation through effects on genetic diversity, and it could impact species' redundancy if recolonization of an area extirpated by a stochastic event is precluded.

Roads can also be a source of injury, mortality, and collection. Unlike some other species, tortoises do not appear to avoid roads and are thus susceptible to impacts there. However, the severity of these kinds of impacts is likely correlated with road width, road type (*e.g.,* rugged, improved gravel, paved), speed limits, traffic volume, availability of washes or other means of crossing under roads, and quality of tortoise habitat being transected. See ''Human–Tortoise Interactions'' for further discussion of these kinds of impacts.

More severe effects to tortoise individuals and populations as a result of fragmentation are possible where fragmenting features are less permeable to tortoises or where fragmenting features are more dense. For example, a multi-lane road is less permeable to tortoises than a single lane dirt road. Similarly, an area bisected by multiple roads and canals is likely to have a greater affect on tortoises because there are multiple obstacles to navigate while moving through an area. In these situations, impacts to tortoises could be more severe because there is higher potential for human interactions, and fragmentation of home ranges and populations may be more complete.

While the effects of fragmentation, as discussed above, could theoretically manifest in population-level effects, there is no evidence of such population-level effects. Population-level effects due to fragmentation would only become discernible (with current research and monitoring methods) over an extremely long period of time (decades to centuries) due to the life history and longevity of the species. Adequate time periods are well outside of both the existing period of monitoring and our ability to reasonably predict such population-level effects in the future.

Human–Tortoise Interactions

Inadvertent or purposeful human interactions with tortoises can result in injury or death of tortoises. Human interactions can also result in collection of tortoises, thereby removing them from the wild population. Sources of interaction include roads, wild–urban interface zones, and general recreation areas. Human interaction can lead to either inadvertent or intentional impacts to tortoises. Inadvertent interactions can have incidental effects on tortoises that are not otherwise the intent or purpose

of the activity itself. Examples of activities that could lead to human interactions with tortoises (when in occupied tortoise habitat) include the use of vehicles (Lowery *et al.* 2011, entire), target shooting, hunting, hiking, rock crawling, trail bike riding, rock climbing, and camping (Howland and Rorabaugh 2002, pp. 339–342; AGFD 2010, p. 9). In addition, dogs that escape captivity or are intentionally abandoned can form feral packs, which have been shown to impact individual Sonoran desert tortoises (Zylstra 2008, entire). Other forms of human interaction with tortoises are direct and intentional, such as collection of wild tortoises, release of captive tortoises into wild populations, or physically handling wild tortoises (Grandmaison and Frary 2012, entire).

These types of human interactions with tortoises occur at highest frequency in the wild–urban interface zone and are thought to lessen with increasing distance from human population centers (Zylstra *et al.* 2013, pp. 112–113). In fact, one study found that adult tortoise survivorship has been shown to improve with increasing distance from urbanized areas; specifically, the odds of a Sonoran desert tortoise surviving 1 year increases 13 percent for each 6.2-mile (mi) (10-kilometer (km)) increase in distance from a city of at least 2,500 people (Zylstra *et al.* 2013, pp. 112–113).

To assess the potential geographic scope of human interactions, we calculated the acreage of predicted potential habitat areas within 6.2-mi (10-km) rings of cities greater than 2,500 in population size. While the potential for human interactions exists beyond these areas, we assumed that the closer tortoises are to human population centers, the more likely that these interactions will occur. Overall, 29 percent of predicted potential tortoise habitat occurs within 12.4 mi (20 km) of urban areas in Arizona and 9 percent in Sonora.

While the effects of human interactions, as discussed above, could theoretically manifest in population-level effects, there is no evidence of such population-level effects. Population-level effects due to human interactions would only become discernable (with current research and monitoring methods) over an extremely long period of time (decades to centuries) due to the life history and longevity of the species. Adequate time periods are well-outside of both the existing period of monitoring and our ability to reasonably predict such population-level effects in the future.

Climate Change and Drought

There is unequivocal evidence that the earth's climate is warming based on observations of increases in average global air and ocean temperatures, widespread melting of glaciers and polar ice caps, and rising sea levels, with abundant evidence supporting predicted changes in temperature and precipitation in the southwestern deserts (IPCC 2014, entire). Predicted temperature trends for the region encompassing the range of the Sonoran desert tortoise include warming trends during winter and spring, lowered frequency of freezing temperatures, longer freeze-free seasons, and higher minimum temperatures during the winters (Weiss and Overpeck 2005, p. 2075). In this same region, predictions of potential changes in precipitation due to climate change are less certain, but climate scientists largely agree that annual precipitation totals are likely to decrease as compared to historical averages (Seager *et al.* 2007, entire; Cook *et al.* 2015, p. 4). Climate models generally agree that winter and spring precipitation may be influenced by climate change, with predicted decreases in precipitation during these seasons. However, modeling results vary considerably with respect to how climate change could affect summer (monsoon) precipitation in Arizona and northern Mexico. While annual precipitation totals are predicted to decrease, summer precipitation totals may increase (IPCC 2007, p. 20), with wide fluctuation in scope and severity of summer precipitation events.

Climate change may impact Sonoran desert tortoises, primarily through impacts on drought severity and duration as a result of increased air temperature and reduced precipitation. Increased drought severity and duration may impact tortoise access to freestanding water for drinking and plants for forage and cover. Climate change is predicted to reduce precipitation in the southwest and, therefore, has potential to reduce availability of freestanding water. Reduced precipitation could also reduce abundance of plants available for forage and cover, thereby increasing energy expenditures while finding forage, impairing thermoregulation, and exposing tortoises to predators. All of this can result in reduced fitness and rates of reproduction and survival. Sonoran desert tortoises evolved in a desert ecosystem and have adaptations to withstand drought; however, long-term climate change may stress tortoises beyond those tolerances.

One study has shown a measurable effect to tortoise populations due to drought. Zylstra *et al.* (2013, pp. 113–114) showed that, in tortoise populations that experience localized, prolonged drought conditions, annual adult survival can decrease by 10–20 percent, and abundance of adults can be reduced by as much as 50 percent or more in local instances. However, when drought conditions affecting these populations subsided, Sonoran desert tortoise numbers began to increase, reaching near pre-drought status, and the overall rate of change in population size was found to be greater than 1, indicating overall positive population growth in the populations monitored for a period of more than 20 years (Zylstra *et al.* 2013, pp. 112–114).

We anticipate that climate change is likely to have population-level impacts to Sonoran desert tortoises to some degree in the future. However, the severity, scope, and timing of those impacts are unknown because the intensity of the environmental changes is unknown and the response at the species level is unknown. In particular, output from climate change models exhibits noticeably increasing confidence intervals, and therefore increased uncertainty, beyond the 50- to 75-year timeframe (Seager *et al.* 2007, p. 1182). Based on the best available information, we cannot predict the magnitude of environmental change or the severity of the species' response over time with a reasonable degree of certainty. However, due to the potential for climate change to affect tortoises, we carefully analyzed this risk factor to the best of our ability in our population model (see *Future Condition and Viability* below).

Cumulative Impacts

It is possible that several risk factors may be impacting Sonoran desert tortoise populations cumulatively now and into the future. Theoretically, for every additional risk factor occurring in a population area, the likelihood of population-level impacts increases. However, no areas are currently known to be in decline due to individual or cumulative impacts, including impacts from potential stressors that were not discussed in detail in this document, and just as with assessment of the individual risk factors, the theoretical population-level effects due to cumulative impacts at current and predicted levels would only become discernible (with current research and monitoring methods) over an extremely long period of time (decades to centuries) due to the life history and longevity of the species. Adequate time

periods are well outside of both the existing period of monitoring and our ability to reasonably predict such population-level effects in the future.

Conservation Measures and Land Management

There are a number of conservation actions that have been implemented to minimize stressors and maintain or improve the status of the Sonoran desert tortoise, including a candidate conservation agreement (AIDTT 2015, entire) with AGFD, Bureau of Land Management, Department of Defense, National Park Service, U.S. Fish and Wildlife Service, Bureau of Reclamation, Customs and Border Protection, U.S. Forest Service, Natural Resources Conservation Service, and Arizona Department of Transportation (collectively referred to as ''Parties''). Candidate conservation agreements are formal, voluntary agreements between the Service and one or more parties to address the conservation needs of one or more candidate species or species likely to become candidates in the near future. Participants voluntarily commit to implement specific actions designed to remove or reduce stressors to the covered species, so that listing may not be necessary. The agreement for the Sonoran desert tortoise, which formalizes many existing conservation measures and land management practices, was completed by the Parties in March 2015 and was signed by the final signatory, the Service, on June 19, 2015. The agreement applies to approximately 13,000 sq mi (3.4 million ha) of Sonoran desert tortoise habitat in Arizona. This area represents approximately 55 percent of the species' predicted potential habitat in Arizona and 34 percent of its predicted potential habitat rangewide.

The agreement is designed to encourage, facilitate, and direct effective tortoise conservation actions across multiple agencies and entities having the potential to directly influence conservation of the species in Arizona. Parties to the agreement identified existing tortoise conservation measures and designed a comprehensive conservation framework for these measures that encourages coordinated actions and uniform reporting, integrates monitoring and research efforts with management, and supports ongoing conservation partnership formation. Management actions in the agreement include, but are not limited to, reducing the spread of nonnative grasses, reducing or mitigating dispersal barriers, reducing the risk and impact of desert wildfires, reducing the impact of off-highway vehicles, population monitoring, and reducing illegal collection of tortoises. A complete list of the stressor-specific conservation measures can be found in Appendix A of the CCA (AIDTT 2015).

Additionally, as discussed above, an estimated 73 percent of potential tortoise habitat in Arizona is not likely subject to development due to land ownership and management. These areas are lands managed for a purpose not compatible with widespread development including military lands, state and municipal parks, and areas owned by Bureau of Land Management, Bureau of Reclamation, National Park Service, Forest Service, and U.S. Fish and Wildlife Service. Small areas on these land ownership types may experience development, but significant development on these lands is unlikely.

Current Condition

Generally, the best available scientific information suggests that the Sonoran desert tortoise has not experienced any appreciable reduction in its overall range or abundance relative to presumed historical levels. Certainly some areas of former habitat have been lost due to conversion to urban and agricultural uses, but our geospatial analysis suggests that the magnitude of these loses is relatively minimal (see ''Habitat Conversion'' discussion above). This suggests that the species has potential to retain historical levels of resiliency, redundancy, and representation (and, therefore, viability) if the habitat condition now and into the future is in acceptable condition relative to risk factors.

As discussed above, we conducted a coarse geospatial analysis of potential habitat based on elevation, slope, and vegetation type across the species' range. This rangewide geospatial analysis resulted in a prediction of approximately 38,000 sq mi (9.8 million ha) of potential tortoise habitat. We then evaluated the current condition (status) of the tortoise by categorizing habitat into primary, secondary, or tertiary quality categories. The categorization of habitat is based on the current suitability of potential habitat (high, medium, and low) and the possible presence of risk factors that could have population-level effects. We used four geospatial layers to measure those risk factors: Land management, presence of nonnative vegetation, high fire risk potential, and proximity to urban areas. The habitat quality analysis was conducted under two alternative assumptions related to the effects of the risk factors (high or low threats) and two alternative assumptions regarding the effects of conservation measures (high or low management).

For the U.S. analysis area, this geospatial analysis resulted in 8 to 25 percent of potential tortoise habitat being categorized primary quality, 62 to 75 percent categorized as secondary quality, and 13 to 17 percent categorized as tertiary quality (see Table 1—Modeled Current Habitat Quality–Arizona). In Mexico, this analysis resulted in 0 to 2 percent of potential habitat being categorized as primary quality, 79 to 98 percent categorized as secondary quality, and 0.2 to 21 percent categorized as tertiary quality (see Table 2—Modeled Current Habitat Quality–Mexico). The amount in each category is presented as a range due to the four alternative assumptions related to the effects of risk factors and effects of conservation measures.

TABLE 1—MODELED CURRENT HABITAT QUALITY–ARIZONA

[Please note that some numbers do not add due to rounding]

	High management and low threats assumptions				Low management and high threats assumptions			
	Primary	Secondary	Tertiary	Total	Primary	Secondary	Tertiary	Total
Area (sq mi)	6,090	15,010	3,100	24,200	1,820	18,270	4,100	24,190
Area (ha)	1,577,300	3,887,570	802,900	6,267,770	471,380	4,731,910	1,061,900	6,265,190

TABLE 2—MODELED CURRENT HABITAT QUALITY–MEXICO

[Please note that some numbers do not add due to rounding]

	High management and low threats assumptions				Low management and high threats assumptions			
	Primary	Secondary	Tertiary	Total	Primary	Secondary	Tertiary	Total
Area (sq mi)	330	13,400	30	13,760	0	10.550	3,210	13,760
Area (ha)	85,470	3,470,580	7,770	3,563,820	0	2,732,440	831,390	3,563,830

We then used the amount of habitat in each quality category combined with reported density estimates for tortoises to produce rangewide abundance estimates under varying assumptions of habitat conditions and density estimates. The current rangewide abundance estimates ranged from 470,000 to 970,000 total adult tortoises. The current estimate in the United States was 310,000 to 640,000 adult tortoises, and the estimate in Mexico was 160,000 to 330,000 adult tortoises.

Future Condition and Viability

The tortoise continues to occupy a large portion of its historical range, with much of that range considered to be primary or secondary quality habitat. Looking to the future, the risk factors that could affect the tortoise include: (1) Altered plant communities; (2) altered fire regimes; (3) habitat conversion of native vegetation to developed landscapes; (4) habitat fragmentation; (5) human–tortoise interactions; and (6) climate change and drought. By its very nature, any status assessment is forward-looking in its evaluation of the risks faced by a species, and future projections will always be dominated by uncertainties, which increase as we project further and further into the future. This analysis of the tortoise is no exception. In spite of these uncertainties, we are required to make decisions about the species with the best information currently available. We have attempted to explain and highlight many of the key assumptions as part of the analytical process documented in the SSA Report (Service 2015). We recognize the limitations in available information, and we handled them through the application of scenario planning, geospatial modeling, and population simulation modeling.

As discussed above, to project the future condition of the tortoise, we used a combination of geospatial analysis and population simulation modeling. Essentially, the geospatial analysis predicts the amount and condition of habitats available to tortoises in the future, and the population simulation model projects the abundance of tortoises that can be supported by that habitat based on rates of survival, growth, and death. The geospatial analysis and population simulation model combine to project the amount, condition, and distribution of suitable habitat; and the abundance, growth rate, and quasi-extinction risk for tortoise populations.

The geospatial analysis includes direct consideration of projected habitat losses due to urban development (urban growth potential) and the potential for impacts to tortoises due to altered plant communities (invasive vegetation), altered fire regimes (fire risk), and human interactions (urban influence). Land management, as a surrogate for presence of fire suppression and other ongoing conservation activities, is also included in the geospatial analysis. Finally, the potential effect of climate change is included in the population simulation model by simulating an increasing extent of drought and variation in the magnitude of the effects of drought on tortoise survival.

For future scenarios in Arizona where we considered a potential loss of overall habitat due to urban development, we calculated an annual rate of habitat loss in each habitat quality category. We calculated this annual rate by dividing the area identified by Gammage *et al.* (2008, entire; 2011, entire) as potential for urban growth by 60 years. The Gammage *et al.* estimate was published in 2008 as a possible 2040 projection. However, this estimate was made at the height of an economic expansion during the mid-2000's, which is no longer a realistic assumption to carry forward. We therefore accounted for the slowed rate of urban growth by using the Gammage *et al.* projection to represent a potential future 60 years from the present. We have no data to reliably predict the potential for urban growth beyond 60 years. While the population simulation model continues to include loss of habitat to urban development beyond the 60 year horizon, the geospatial analysis does not because after the 60 year horizon, there is no information suggesting where those developments may occur. As a result, maps and calculations of area in the future conditions use the 60-year future. In contrast, the results of the population simulation model can be presented at any point in time. We have presented those results most often at the 50- and 75-year future conditions because this is the timeframe considered to be the foreseeable future for this decision (see *Threatened Species Throughout Range*).

We developed multiple future condition scenarios to capture the range of uncertainties regarding population-level effects to the tortoise. As we discussed above, with the exception of climate change and drought, none of the risk factors have been shown to result in population-level impacts to the tortoise. However, given that population-level effects may be occurring that current methodologies would not allow us to detect in the short term, we have included scenarios in the geospatial and population modeling that assume impacts from these factors may be greater than is currently understood. All of the scenarios we developed are considered to be within the realm of reasonable possibility. In other words, the worst- and best-case scenarios are not the absolutely worst and best scenarios that one could imagine, but are instead grounded in the realm of realistic uncertainty. Additionally, we have not identified a most likely future scenario. In many cases in this finding, we have only presented the results of the worst-case scenario, but that does not mean it is the most likely scenario.

The growth rates and quasi-extinction probabilities projected by the model provide a characterization of resiliency. Because each area of analysis (Arizona and Mexico) is treated as a large population, the characterization of resiliency applies at the scale of the area of analysis rather than at the scale of traditional populations within those areas. The resulting population growth rates for all time periods for all scenarios ranged from 0.9915 to 0.9969, indicating slightly decreasing numbers of tortoises in the areas of analysis. All of the scenarios showed declining overall abundances into the future in each of the areas of analysis. However, because of the relatively large current estimated population sizes and the long lifespan of these tortoises, our population simulation model suggests no measurable risks of quasi-extinction in the next 50 years in either the U.S.

or Mexican areas of analysis under any scenarios, even though slow population declines are projected. At 75 years, the risks of quasi-extinction increased, ranging from 0 in some scenarios to as high as 0.033 probability of quasi-extinction (in other words, a 3.3 percent risk of quasi-extinction in 75 years) in the worst-case future scenario for the Mexican analysis area. All but 3 (of 18) scenarios resulted in less than 0.01 probability of quasi-extinction in 75 years. When we look further into the future at 100 years, our simulation model suggests the risks of quasi-extinction for some scenarios increased to near 0.05 probability of quasi-extinction (ranging from 0 to 0.089, with 8 of 18 scenarios exceeding 0.03 probability of quasi-extinction). At 200 years, several scenarios exceeded 0.2 probability of quasi-extinction (ranging from 0.07 to 0.323, with 14 of 18 scenarios exceeding 0.1 probability of quasi-extinction).

We characterized the redundancy (number and distribution of tortoise populations) and representation (ecological diversity) indirectly through projecting the likely quality and quantity of tortoise habitat distributed across the species range under different scenarios. Generally, the scenarios that showed the best and worst result for tortoises in the Arizona area of analysis were also the best and worst case for the Mexican area of analysis. Under the worst-case future scenarios, the distribution of habitats in the United States (considering a 60-year future condition) is projected to include about 11,800 sq mi (3 million ha) of habitat categorized as primary or secondary quality. In Mexico, under the worst-case scenario, about 10,550 sq mi (2.7 million ha) of secondary quality habitat is projected to be maintained (no habitat was projected in the primary quality category). Other scenarios project more favorable conditions in both the United States and Mexico. The habitat quality under the worst-case condition is projected to be distributed across the species' range, although in Arizona the habitat for this scenario is quite reduced compared to more favorable scenarios or current conditions (see Map 2—Future Sonoran Desert Tortoise Predicted Potential Habitat). For this worst-case condition, the estimated abundance of tortoises expected to be supported by these habitats is 316,000 in 50 years and 278,000 in 75 years, which is a reduction of 33 percent in 50 years and 41 percent in 75 years, when compared to the current low end abundance estimates of 470,000.

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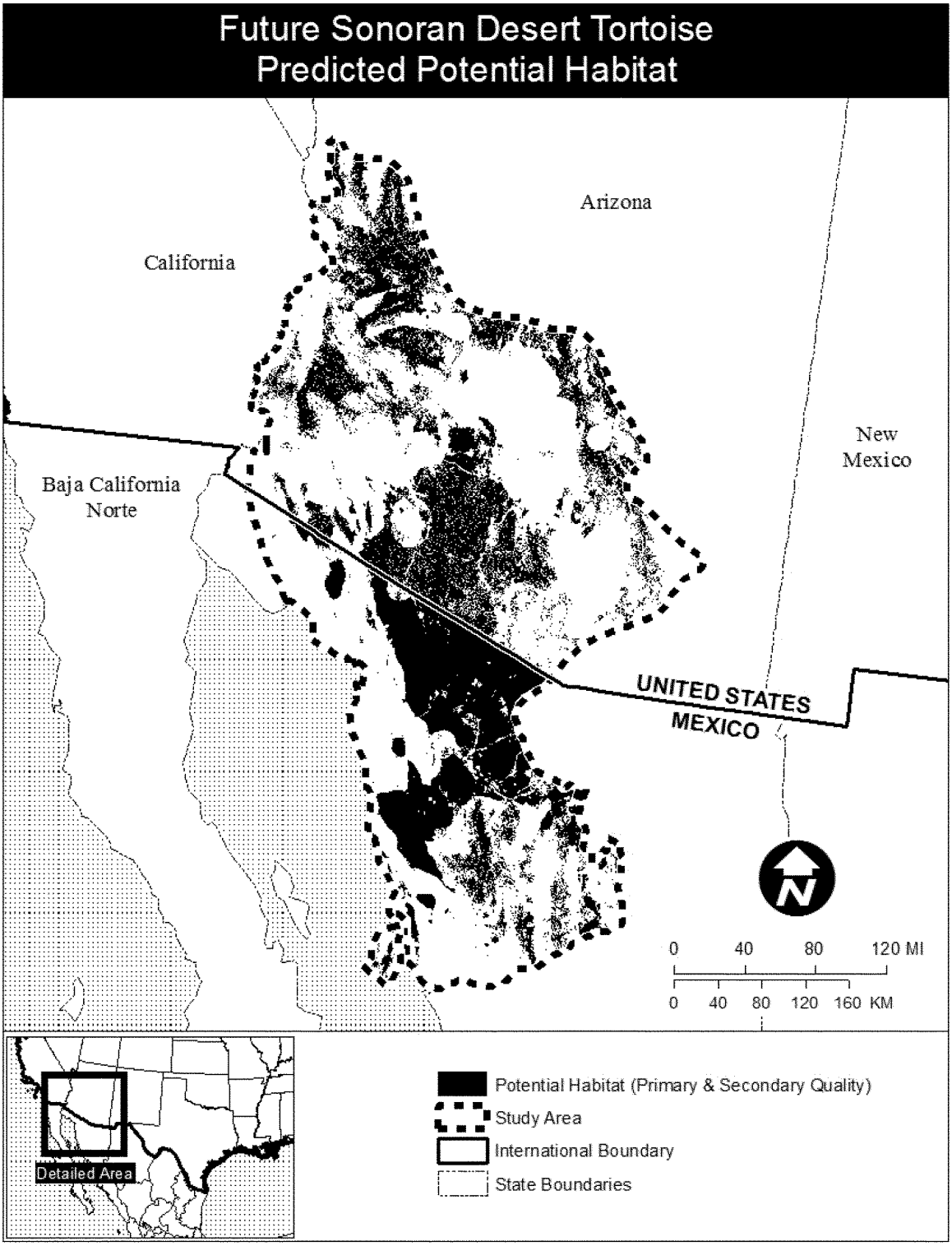
Map 2—Future Sonoran Desert Tortoise Predicted Potential Habitat



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Finding

Standard for Review

Section 4 of the Act, and its implementing regulations at 50 CFR part 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(b)(1)(a), the Secretary is to make endangered or threatened determinations required by subsection 4(a)(1) solely on the basis of the best scientific and commercial data available to her after conducting a review of the status of the species and after taking into account conservation efforts by States or foreign nations. The standards for determining whether a species is endangered or threatened are provided in section 3 of the Act. An endangered species is any species that is ''in danger of extinction throughout all or a significant portion of its range.'' A threatened species is any species that is ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' Per section 4(a)(1) of the Act, in reviewing the status of the species to determine if it meets the definition of endangered or of threatened, we determine whether any species is an endangered species or a threatened species because of any of the following 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; and (E) other natural or manmade factors affecting its continued existence.

Summary of Analysis

The biological information we reviewed and analyzed as the basis for our findings is documented in the SSA Report (Service 2015, entire), a summary of which is provided in the Background section of this finding. The projections for the condition of future populations are based on our expectations of the potential risk factors (in other words, threats or stressors) that may have population-level effects currently or in the future. The six risk factors we evaluated in detail are: (1) Altered plant communities (Factor A from the Act); (2) altered fire regimes (Factor A); (3) habitat conversion of native vegetation to developed landscapes (Factor A); (4) habitat fragmentation (Factor A); (5) human-tortoise interactions (Factor E); and (6) climate change and drought (Factor A). We also reviewed the effects of environmental contaminants, grazing, and litter (Factor A); overutilization (Factor B); disease and predation (Factor C); regulatory mechanisms (Factor D); and undocumented human immigration (Factor E). However, we did not evaluate these latter factors individually in further detail because they are not known or suspected to have meaningful effects on the status of the tortoise.

For the six risk factors that were evaluated in detail, we used geospatial analysis to assess the scope of those factors currently and into the future. The geospatial model predicts the amount and condition of habitat based on application of several scenarios with varying degrees of effects. We then used a population simulation model to forecast the abundance of the species within those habitats. The results of this analysis are presented in terms of the amount, distribution, and condition of potential habitats; and the abundance, growth rates, and probabilities of quasi-extinction of tortoise populations. These are the metrics we use to describe the resiliency, redundancy, and representation of the species now and in the future in order to determine if the species is likely in danger of extinction now or in the foreseeable future.

Application of Analysis to Determinations

The fundamental question before the Service is whether the species warrants protection as endangered or threatened under the Act. To make this determination, we evaluated the projections of extinction risk, described in terms of the condition of current and future populations and their distribution (taking into account the risk factors and their effects on those populations). For any species, as population condition declines and distribution shrinks, the species' extinction risk increases and overall viability declines.

As described in the determinations below, we first evaluated whether the Sonoran desert tortoise is in danger of extinction throughout its range now (an endangered species). We then evaluated whether the species is likely to become in danger of extinction throughout its range in the foreseeable future (a threatened species). We finally considered whether the Sonoran desert tortoise is an endangered or threatened species in a significant portion of its range (SPR).

Endangered Species Throughout Range

Standard

Under the Act, an endangered species is any species that is ''in danger of extinction throughout all or a significant portion of its range.'' Because of the fact-specific nature of listing determinations, there is no single metric for determining if a species is currently in danger of extinction. We used the best available scientific and commercial data to evaluate the current viability (and thus risk of extinction) of the Sonoran desert tortoise to determine if it meets the definition of an endangered species.

Evaluation and Finding

Our review found that the Sonoran desert tortoise continues to occupy a very large portion of its estimated historical range. We estimate approximately 5 percent of historical range may have been lost due to conversion to urban uses. The remaining portion of the range is made up of approximately 38,000 sq mi (9.8 million ha) of modeled potential habitat, and we estimate that approximately 470,000 to 970,000 tortoises inhabit this area. This amount and distribution of habitat and tortoises supports sufficient resiliency to sustain the species into the near future. These levels of tortoises and suitable habitat are commensurate with historical levels, and there is no information available to suggest that the species will not persist at these levels. Furthermore, the habitat available and tortoise populations are spread widely over the known range of the species, suggesting that the species retains the redundancy and representation it had historically.

Additionally, given the current wide distribution of tortoise habitat and land uses therein, there are no known risk factors that are likely to reduce the status of the species significantly in the near term. The stressors facing the species are relatively slow-moving and, if impacts are seen, will likely be measurable over many years (dozens to hundreds). In other words, there are no immediate, high-magnitude threats acting on the species such that it would be expected to undergo a meaningful decline over the near term.

This current estimated abundance and distribution of tortoises across the species' range provides resiliency, redundancy, and representation to sustain the species into the near future. Because this estimate of the current condition and distribution of habitat and populations provides sufficient resiliency, redundancy, and representation for the species, we conclude that the current risk of extinction of the Sonoran desert tortoise is sufficiently low that it does not meet the definition of an endangered species under the Act.

Threatened Species Throughout Range

Having found that the Sonoran desert tortoise is not an endangered species throughout its range, we next evaluated whether the species is a threatened species throughout its range.

Standard

Under the Act, a threatened species is any species that is ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' The foreseeable future refers to the extent to which the Secretary can reasonably rely on predictions about the future in making determinations about the future conservation status of the species (U.S. Department of the Interior, Solicitor's Memorandum, M–37021, January 16, 2009). A key statutory difference between a threatened species and an endangered species is the timing of when a species may be in danger of extinction, either now (endangered species) or in the foreseeable future (threatened species).

Evaluation and Finding

In considering the foreseeable future as it relates to the status of the Sonoran desert tortoise, we considered the risk factors acting on the species and looked to see if reliable predictions about the status of the species in response to those factors could be drawn. We considered whether we could reliably predict any future effects that might affect the status of the species, recognizing that our ability to make reliable predictions into the future is limited by the variable quantity and quality of available data about impacts to the tortoise and the response of the tortoise to those impacts. For the tortoise, the most significant risk factor looking into the future is climate change. While we have high certainty that environmental conditions will change as a result of climate change, we do not have reasonable certainty about the extent of those changes or the species' response to the changes. In particular, output from climate change models exhibits noticeably increasing confidence intervals, and therefore increased uncertainty, beyond the 50- to 75-year timeframe (see, for example, Seager *et al.* 2007, p. 1182). We have chosen to use a timeframe of 50 to 75 years as the foreseeable future for this analysis because the available data does not allow us to reasonably rely on predictions about the future beyond that time period.

The Sonoran desert tortoise is not likely to be in danger of extinction in the foreseeable future (50–75 years) and, therefore, does not meet the definition of a threatened species throughout its range. There are two parallel lines of rationale to explain why the Sonoran desert tortoise does not meet the definition of a threatened species, one more qualitative and one more quantitative.

Most simply and qualitatively, the best available data does not show that any one or more risk factors are likely to result in meaningful population declines in the foreseeable future. Looking to the future, several risk factors may contribute to population- or species-level declines. These stressors sort into three general categories.

The first category of stressors is those that are low in magnitude or scope, like effects from human interactions (*e.g.,* collection, vehicle strikes) and habitat conversion. Human interactions can occur throughout the range of the species, but are usually relatively isolated events that generally would not make habitat unsuitable for other tortoises. Habitat conversion is likely limited largely to expansion of existing urban areas. As long as the scope of these stressors and tortoises' exposure to them remain narrow, as they are expected to for the foreseeable future, there is no information to suggest that population-level declines will result due to these stressors.

The second category of stressors is those that have the potential for population-level impacts, but for which we have limited to no data to support that conclusion at this time. Risk factors that fit into this category include altered plant communities, altered fire regime, and habitat fragmentation. Because the species is so long lived, population declines due to these kinds of stressors, if they are occurring, are very difficult to detect with current techniques in short-term studies. As a very simplistic mathematical example, if we presume a species with a generation time of 5 years is displaying a 10 percent population decline every generation, it would take about 35 years for an overall population decline of 50 percent to manifest. For the Sonoran desert tortoise, which has a generation time of approximately 25 years, it would take nearly 175 years for that 50 percent decline to manifest.

The last category includes stressors that are likely to impact tortoise populations in the future; however, those impacts are not likely to manifest measurable species responses during the foreseeable future. In other words, those impacts, should they occur, are not likely to occur at a meaningful level until after the time period that we can rely on as reasonably foreseeable. These stressors include the effects of climate change and drought. The magnitude of those impacts and the response of the species cannot be reasonably predicted at this time. These kinds of environmental changes that are relatively slow moving on the geological time scale are expected to take many decades or longer to manifest in measurable declines of the tortoise at the species level.

The Act does not require absolute proof of impacts and responses in order to consider an entity to be in danger of extinction. However, in order to draw a conclusion that a stressor (or cumulative stressors) will cause a species to be in danger of extinction, the best available information needs to show that an impact is likely to occur and that the species response would likely cause it to be in danger of extinction. Because we do not know what magnitude of impacts would likely cause a discernable response in tortoise populations, we cannot conclude that stressors are or will occur at a level that causes the species to be in danger of extinction.

Therefore, from a purely qualitative perspective, the tortoise is not facing any stressors that are likely to cause meaningful population declines within the foreseeable future that would cause the species to become in danger of extinction in the foreseeable future.

Taking a more quantitative approach, looking to the future, several risk factors could contribute to population- or species-level declines. Our geospatial and population simulation models consider the impacts of altered plant communities, altered fire regimes, habitat conversion, habitat fragmentation, human interaction, and climate change, including various scenarios to capture uncertainties around these risk factors and the model parameters. The results of these analyses project that even under worst-case future scenarios the distribution of habitats in the United States (considering a 60-year future condition) is projected to include about 11,800 sq mi (3 million ha) of habitat categorized as primary or secondary quality. In Mexico, even under the worst-case scenario, about 10,550 sq mi (2.7 million ha) of secondary quality habitat is projected to be maintained (no habitat was projected to be in the primary quality category). The abundance of tortoises predicted to be supported by these habitats is 316,000 to 698,000 in 50 years and 278,000 to 632,000 in 75 years. Further, our analysis projected no measurable risks of quasi-extinction in the next 50 years in either the U.S. or Mexican areas of analysis under any scenarios. At 75 years, the risks of quasi-

extinction increased, ranging from 0 in some scenarios to as high as 0.033 probability of quasi-extinction (in other words, a 3.3 percent risk of quasi-extinction in 75 years) for the Mexican analysis area and 0.015 in the U.S. analysis area in the worst-case future scenario.

The relatively high abundance projected in the future condition suggests that the species is likely to retain sufficient resiliency, and the wide distribution of modeled habitats suggests the species is likely to retain sufficient redundancy and representation. Therefore, the low predicted risk of quasi-extinction combined with the large numbers and wide distribution of habitat and tortoises in the foreseeable future suggest the species will have sufficient resiliency, redundancy, and representation such that it will not become in danger of extinction in the foreseeable future. Therefore, we find that the Sonoran desert tortoise does not meet the definition of a threatened species.

Endangered or Threatened in a Significant Portion of the Range

Having found that the Sonoran desert tortoise is not endangered or threatened throughout all of its range, we next consider whether there are any significant portions of its range in which the Sonoran desert tortoise is in danger of extinction or likely to become so.

Standard

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so throughout all or a significant portion of its range. The Act defines ''endangered species'' as any species which is ''in danger of extinction throughout all or a significant portion of its range,'' and ''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.'' The term ''species'' includes ''any subspecies of fish or wildlife or plants, and any distinct population segment (DPS) of any species of vertebrate fish or wildlife which interbreeds when mature.'' Last year, we published a final policy interpreting the phrase ''Significant Portion of its Range'' (SPR) (79 FR 37578, July 1, 2014). The final policy states that (1) if a species is found to be endangered or threatened throughout a significant portion of its range, the entire species is listed as an endangered species or a threatened species, respectively, and the Act's protections apply to all individuals of the species wherever found; (2) a portion of the range of a species is ''significant'' if the species is not currently endangered or threatened throughout all of its range, but the portion's contribution to the viability of the species is so important that, without the members in that portion, the species would be in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range; (3) the range of a species is considered to be the general geographical area within which that species can be found at the time FWS or NMFS makes any particular status determination; and (4) if a vertebrate species is endangered or threatened throughout an SPR, and the population in that significant portion is a valid DPS, we will list the DPS rather than the entire taxonomic species or subspecies.

The SPR policy is applied to all status determinations, including analyses for the purposes of making listing, delisting, and reclassification determinations. The procedure for analyzing whether any portion is an SPR is similar, regardless of the type of status determination we are making. The first step in our analysis of the status of a species is to determine its status throughout all of its range. If we determine that the species is in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range, we list the species as an endangered species (or threatened species) and no SPR analysis will be required. If the species is neither endangered nor threatened throughout all of its range, we determine whether the species is endangered or threatened throughout a significant portion of its range. If it is, we list the species as an endangered species or a threatened species, respectively; if it is not, we conclude that listing the species is not warranted.

When we conduct an SPR analysis, we first identify any portions of the species' range that warrant further consideration. The range of a species can theoretically be divided into portions in an infinite number of ways. However, there is no purpose to analyzing portions of the range that are not reasonably likely to be significant and either endangered or threatened. To identify only those portions that warrant further consideration, we determine whether there is substantial information indicating that (1) the portions may be significant and (2) the species may be in danger of extinction in those portions or likely to become so within the foreseeable future. We emphasize that answering these questions in the affirmative is not a determination that the species is endangered or threatened throughout a significant portion of its range—rather, it is a step in determining whether a more detailed analysis of the issue is required. In practice, a key part of this analysis is whether the threats are geographically concentrated in some way. If the threats to the species are affecting it uniformly throughout its range, no portion is likely to warrant further consideration. Moreover, if any concentration of threats applies only to portions of the range that clearly do not meet the biologically based definition of ''significant'' (*i.e.,* the loss of that portion clearly would not be expected to increase the vulnerability to extinction of the entire species), those portions will not warrant further consideration.

If we identify any portions that may be both (1) significant and (2) in danger of extinction or likely to become so, we engage in a more detailed analysis to determine whether these standards are indeed met. As discussed above, to determine whether a portion of the range of a species is significant, we consider whether, under a hypothetical scenario, the portion's contribution to the viability of the species is so important that, without the members in that portion, the species would be in danger of extinction or likely to become so in the foreseeable future throughout all of its range. This analysis considers the contribution of that portion to the viability of the species based on the conservation biology principles of redundancy, resiliency, and representation. (These concepts can similarly be expressed in terms of abundance, spatial distribution, productivity, and diversity.) The identification of an SPR does not create a presumption, prejudgment, or other determination as to whether the species in that identified SPR is endangered or threatened. We must go through a separate analysis to determine whether the species is endangered or threatened in the SPR. To determine whether a species is endangered or threatened throughout an SPR, we will use the same standards and methodology that we use to determine if a species is endangered or threatened throughout its range.

Depending on the biology of the species, its range, and the threats it faces, it may be more efficient to address the ''significant'' question first, or the status question first. Thus, if we determine that a portion of the range is not ''significant,'' we do not need to determine whether the species is endangered or threatened there; if we determine that the species is not endangered or threatened in a portion of

its range, we do not need to determine if that portion is ''significant.''

Evaluation and Finding

We evaluated the current range of the Sonoran desert tortoise to determine if there are any apparent geographic concentrations of potential threats to the species. Generally speaking, the risk factors affecting the tortoise occur throughout the range of the species; however, portions of the range that are within and near areas subject to urban development may be subject to impacts not found throughout the range of the species. If we assume that the entire area on unprotected land identified as having potential for urban development is developed and made entirely unusable to tortoises, that conversion would represent a loss of 9 percent of available habitat. At this scale, we have no information to suggest that the remaining 91 percent of available habitat would not continue to support sufficient resiliency and redundancy. Additionally, there is no information available that suggests there are unique genetic values in this area that would need to be maintained to support representation due to a lack of known genetic structuring for the tortoise. Based on this analysis, we conclude that the portion of the range of the tortoise outside the urban development area contains sufficient redundancy, resiliency, and representation that, even without the contribution of the urban development area, the tortoise would not be in danger of extinction. Therefore, we find that the Sonoran desert tortoise is not in danger of extinction in a significant portion of its range.

Conclusion

Our review of the best available scientific and commercial information indicates that the Sonoran desert tortoise is not in danger of extinction (endangered) nor likely to become endangered within the foreseeable future (threatened), throughout all or a significant portion of its range. Therefore, we find that listing the Sonoran desert tortoise as an endangered or threatened species under the Act is not warranted at this time, and as such the Sonoran desert tortoise will be removed from the candidate list.

We request that you submit any new information concerning the status of, or threats to, the Sonoran desert tortoise to our Arizona Ecological Services Field Office (see **ADDRESSES**) whenever it becomes available. New information will help us monitor the Sonoran desert tortoise and encourage its conservation. If an emergency situation develops for the Sonoran desert tortoise, we will act to provide immediate protection.

References Cited

A complete list of references cited is available in the SSA Report (Service 2015), available online at *http://www.regulations.gov*, under Docket Number FWS–R2–ES–2015–0150.

Author(s)

The primary author(s) of this notice are the staff members of the Arizona Ecological Services Field Office.

Authority

The authority for this section is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: September 22, 2015.

Cynthia T. Martinez,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2015–25286 Filed 10–5–15; 8:45 am]

BILLING CODE 4333–15P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2015–0142; 4500030113]

RIN 1018–BB09

Endangered and Threatened Wildlife and Plants; Proposed Threatened Species Status for the Suwannee Moccasinshell

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; 12-month finding and status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to list the Suwannee moccasinshell (*Medionidus walkeri*), a freshwater mussel species from the Suwannee River Basin in Florida and Georgia, as a threatened species under the Endangered Species Act of 1973, as amended (Act). If we finalize this rule as proposed, it would extend the Act's protections to this species. The effect of this regulation will be to add this species to the List of Endangered and Threatened Wildlife.

DATES: We will accept comments received or postmarked on or before December 7, 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 20, 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–2015–0142, 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–2015–0142; U.S. Fish and Wildlife Service Headquarters, 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: Catherine T. Phillips, Project Leader, U.S. Fish and Wildlife Service, Panama City Ecological Services Field Office, 1601 Balboa Avenue, Panama City, FL 32405; by telephone 850–769–0552; or by facsimile at 850–763–2177. If you use a telecommunications device for the deaf (TDD), please 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 are required to promptly publish a proposal in the **Federal Register** and make a determination on our proposal within 1 year. Critical habitat shall be designated, to the maximum extent prudent and determinable, for any species determined to be an endangered or threatened species under the Act. Listing a species as an endangered or threatened species and designations of critical habitat can only be completed by issuing a rule.

This rule proposes the listing of the Suwannee moccasinshell (*Medionidus walkeri*) as a threatened species. The Suwannee moccasinshell is a 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 regulation has been precluded by other higher priority listing activities. This rule reassesses all available information regarding status of and threats to the Suwannee moccasinshell.

This rule does not propose critical habitat for the Suwannee moccasinshell. We have determined that designation of critical habitat is prudent, but not determinable at this time because:

- While we have significant information on the habitat of the species, we need more information on biological needs of the species (*i.e.,* specific habitat features on the landscape) in order to identify specific areas appropriate for critical habitat designation.
- In addition, as we have not determined the areas that may qualify for designation, the information sufficient to perform a required analysis of the impacts of the designation is lacking.

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 this species is threatened by degradation of its habitat due to polluted runoff from agricultural lands, discharges from industrial and municipal wastewater sources and mining operations, sedimentation, decreased flows due to groundwater extraction and drought (Factor A); State and Federal water quality standards that are inadequate to protect sensitive aquatic organisms like mussels (Factor D); contaminant spills as a result of transportation accidents or from industrial, agricultural, and municipal facilities (Factor E); increased drought frequency as a result of changing climatic conditions (Factor E); greater vulnerability to certain threats because of small population size and range (Factor E); and competition and disturbance from the introduced Asian clam (Factor E).

We will seek peer review. We will seek comments from independent specialists to ensure that our designation is based on scientifically sound data, assumptions, and analyses. We will invite these peer reviewers to comment on our listing proposal.

Because we will consider all comments and information received during the comment period, our final determinations may differ from this 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 the public, 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 Suwannee moccasinshell's biology, range, and population trends, including:

(a) Biological or ecological requirements of the species, including habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy;

(c) Historical and current range including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species, its habitat, or both.

(2) Factors that may affect the continued existence of the species, 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 this species and existing regulations that may be addressing those threats. In particular, we seek information concerning the potential threats to the Suwannee moccasinshell, including:

(a) The effects of pesticides and their ingredients and metabolites on the species;

(b) The impact of diseases on the species;

(c) The impact of flood scour on the species and its habitat; and

(d) The impact of introduced flathead catfish on fishes needed by the species to reproduce.

(4) Additional information concerning the historical and current status, range, distribution, and population size of this species, including the locations of any additional populations of this species.

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 directs that determinations as to whether any species is a threatened or endangered 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 **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

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, Panama City Ecological Services 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 **FOR FURTHER INFORMATION CONTACT**. 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 are seeking the expert opinions of three appropriate and independent specialists regarding this proposed rule.

The purpose of peer review is to ensure that our listing determination is based on scientifically sound data, assumptions, and analyses. The peer reviewers have expertise in Suwannee moccasinshell biology, habitat, physical or biological factors, etc., and are currently reviewing the species status report, which will inform our determination. We invite comment from the peer reviewers during this public comment period.

Previous Federal Actions

We identified the Suwannee moccasinshell (*Medionidus walkeri*) as a Category 2 species in the Candidate Notice of Review (CNOR) published in the **Federal Register** of November 15, 1994 (59 FR 58982). Category 2 candidates were defined as species for which we had information that proposed listing was possibly appropriate, but for which conclusive data on biological vulnerability and threats were not available to support a proposed rule at the time. In the February 28, 1996, CNOR (61 FR 7596), we discontinued the designation of Category 2 species as candidates; therefore, the Suwannee moccasinshell was no longer a candidate species.

In 2010, the Center for Biological Diversity (CBD) petitioned the Service to list 404 aquatic, riparian, and wetland species from the southeastern United States under the Act. On September 27, 2011, the Service published a substantial 90-day finding for 374 of the 404 species, including the Suwannee moccasinshell, soliciting information about, and initiating status reviews for, those species (76 FR 59836). In 2013, CBD filed a complaint against the Service for failure to complete a 12-month finding for the Suwannee moccasinshell within the statutory timeframe. In 2014, the Service entered into a settlement agreement with CBD to address the complaint; the court-approved settlement agreement specified that a 12-month finding for the Suwannee moccasinshell would be delivered to the **Federal Register** by September 30, 2015.

Background

Taxonomy and Species Description

The Suwannee moccasinshell (*Medionidus walkeri*) is a freshwater mussel of the family Unionidae. The species was originally described by B.H. Wright in 1897; it was briefly considered a synonym of *Medionidus penicillatus* (Clench and Turner 1956), but subsequently was recognized as a valid species by Johnson (1977, p. 176). Its distinctiveness as a separate species is recognized by recent authors (Williams and Butler 1994, p. 85; Williams *et al.* 2014, p. 278). Its sharp posterior ridge and generally dark, rayless shell distinguishes it from other species of *Medionidus* in Gulf drainages (Johnson 1977, p. 177; Williams and Butler 1994, p. 86).

The Suwannee moccasinshell is a small mussel that rarely exceeds 50 millimeters (2.0 inches) in length. Its shell is oval in shape and sculptured with corrugations extending along the posterior ridge, although the corrugations are sometimes faint. The shell exterior (periostracum) is greenish yellow to brown with green rays of varying width and intensity in young individuals, and olive brown to brownish black with rays often obscured in mature individuals (Williams *et al.* 2014, p. 278). The sexes can be distinguished, with female shells being smaller and longer than the males (Johnson 1977, p. 177). The Suwannee moccasinshell is easily distinguished from all other mussels in the Suwannee River Basin by having an oval outline and sculpture on the posterior slope (Williams *et al.* 2014, p. 279).

Evaluation of Listable Entity

Under the Act, the term ''species'' includes any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature (16 U.S.C. 1532(16)). Based on our review of the best available scientific and commercial information (see *Taxonomy and Species Description* above) the taxonomic entity that is known as Suwannee moccasinshell (*Medionidus walkeri*) is a distinct species. Therefore, we conclude that the Suwannee moccasinshell does meet the definition of a species under section 3(16) of the Act, and that the petitioned entity does constitute a listable entity and can be listed under the Act.

Habitat and Biology

Unionid mussels live in the bottom substrates of streams and lakes where they generally burrow completely into the substrate and orient themselves near the substrate surface to take in food and oxygen. The Suwannee moccasinshell typically inhabits larger streams where it is found in substrates of muddy sand or sand with some gravel, and in areas with slow to moderate current (Williams and Butler 1994, p. 86; Williams 2015, p. 2). Recent surveys by the Florida Fish and Wildlife Conservation Commission (FFWCC) for the species in the Suwannee River main channel found individuals at depths ranging from around 0.5 to 2.5 meters (1.6 to 8.2 ft) (FFWCC 2014 unpub. data). Based on stream conditions in areas that still support the species, suitable Suwannee moccasinshell habitat appears to be clear stream reaches along bank margins with a moderate slope and stable sand substrates, where flow is moderate and slightly depositional conditions exist. These are ideal habitat conditions for most mussels in the main channel, and several species occur in areas where the Suwannee moccasinshell is found. In addition, the Suwannee moccasinshell is associated with large woody material, and individuals are often found near embedded logs. These attributes also likely indicate the habitat preferences of its host fishes.

Adult mussels obtain food items both from the water column and from the sediments. They filter feed by taking water in through the incurrent siphon and across four gills that are specialized for respiration and food collection. They can also move sediment material into the shell by using cilia (hair-like structures) on the foot or through currents created by cilia. Juvenile mussels typically burrow completely beneath the substrate surface for the first several months of their life. During this time, they feed primarily with their ciliated foot, which they sweep through the sediment to extract material, until the structures for filter feeding are more fully developed. Mussels feed on a variety of microscopic food particles that include algae, diatoms, bacteria, and fine detritus (disintegrated organic debris) (McMahon and Bogan 2001, p. 331; Strayer *et al.* 2004, pp. 430–431, Vaughn *et al.* 2008, p. 410).

Spawning in freshwater mussels general occurs from spring to late summer (Haag 2012, p. 38). Water temperature appears to be the primary cue for spawning (McMahon and Bogan 2001, p. 343; Galbraith and Vaughn 2009, p. 42). During spawning, males release sperm into the water column, which females take in through their inhalant aperture during feeding. Fertilization takes place inside the gills, and females brood the fertilized eggs in modified portions of one or both pairs of gills until they develop into mature larvae called glochidia. The timing and duration of the brooding period varies by species, but can be classified as either short term or long term. In short-term brooders, glochidia are released as soon as they are mature, generally 2–6 weeks after fertilization. In long-term brooders, the mature glochidia are brooded over the winter and released the following spring or summer.

Reproduction in unionid mussels is remarkable in that the glochidia of most

species must attach to a fish host in order to transform into a juvenile mussel. Many mussel species use only one or a few specific fish species as hosts, and have evolved lures to attract a particular fish species or group of related fish species (Haag 2012, p. 42). Females of some mussel species release their glochidia, either individually (sometimes in mucus strands for suspension), in packets termed conglutinates, which resemble fish food items, or in one large mass known as a superconglutinate, which resembles a small fish (Barnhart *et al.* 2008, pp. 374–379). In other species, female mussels transmit glochidia directly to the host fish by using mantel flap lures to entice an attack (Barnhart *et al.* 2008, p. 380) and expel glochidia into the host's mouth.

The number of glochidia released by a female in one reproductive cycle can range from several thousand to several million and is extremely variable among species (Haag 2012, p. 196). The variation is related to body size with larger females producing more eggs than smaller individuals (Haag 2012, pp. 200–206). If the glochidia encounter a fish, they attempt to clamp onto the gills, fins, or skin. Glochidia that attach to a suitable host encyst in the tissues and undergo a metamorphosis. The duration of the encystment varies by mussel species, usually lasting from 2–4 weeks, but can last for several months (Haag 2012, p. 42). When the metamorphosis is complete, the juveniles drop from the host and sink to the bottom to begin life as a free-living mussel.

Parasitism primarily serves as a means of upstream dispersal for this relatively sedentary group of organisms (Haag 2012, p. 145). The intimate relationship between freshwater mussels and their host fish plays a major role in mussel distributions on both a landscape and community scale. Haag and Warren (1998, p. 304) determined that mussel community composition was more a function of fish community pattern variability than of microhabitat variability, and that the type of strategy used by mussels for infecting host fishes was the determining factor.

An ongoing study has provided preliminary information about the reproductive biology of the Suwannee moccasinshell. Females were found gravid with mature glochidia from December to February, and also in late May/early June (Johnson 2015 unpub. data). In laboratory trials, Suwannee moccasinshell glochidia transformed primarily on the blackbanded darter (*Percina nigrofasciata*) and to a lesser extent on the brown darter (*Etheostoma edwini*) (Johnson 2015 unpub. data). Six other fish species from 5 families were also tested but none transformed moccasinshell larvae. This indicates that the Suwannee moccasinshell is a host specialist and dependent on darters for reproduction, and is consistent with other members of the genus *Medionidus,* which also use only darters (Percidae) as hosts (Haag and Warren 2003, p. 82; Fritts and Bringolf 2014, p. 54). To attract its darter host, the moccasinshell uses a small mantel lure consisting of a vibrant blue patch on the mantel interior that it flashes while wiggling papillae on the mantel margin (Johnson 2015 unpub. data). Darters are small, bottom-dwelling fish that generally do not move considerable distances (Freeman 1995, pp. 363–365; Holt 2013, p. 657). Thus, the exclusive use of darters as a host may limit the Suwannee moccasinshell's ability to disperse, and to recolonize some areas from which it has become extirpated.

Distribution and Abundance

The Suwannee moccasinshell is endemic to the Suwannee River Basin in Florida and Georgia. The Suwannee River Basin is a unique river system, characterized by blackwater streams in its headwaters and numerous springs (over 300) in its middle and lower reaches. The river originates in the Okefenokee Swamp and meanders more than 400 kilometers through south-central Georgia and north-central Florida before emptying into the Gulf of Mexico. There are three large tributaries to the Suwannee River—the Alapaha, Withlacoochee, and Santa Fe Rivers. The Suwannee moccasinshell's historical range includes the lower and middle Suwannee River proper, the Santa Fe River sub-basin, and the lower reach of the Withlacoochee River (Williams 2015, p. 7). There are no freshwater mussels in the upper Suwannee River Basin (upstream of the mouth of Swift Creek) due to naturally low pH and nutrient levels (Williams *et al.* 2014, p. 62). Within the Suwannee River mainstem, the species is historically known from the mouth of Manatee Springs run, upstream to the vicinity of the junction of the Withlacoochee River. Within the Santa Fe sub-basin, the species is known from several locations in the Santa Fe River, one location in the New River (a headwater tributary), and one location in a small unnamed tributary to the New River. In the Withlacoochee River, it is known from three historical locations in the lower reach of the river.

There is a single record of the species from the Hillsborough River Basin, a small river basin in Florida that empties into Tampa Bay, collected by van Hyning in 1932 (Williams *et al.* 2014, p. 280). However, recent information obtained while examining specimens in the collection of the University of Michigan's Museum of Zoology calls the record into question. There is a possibility that the specimen, along with at least two other species, were actually collected from the Suwannee River and mislabeled (Williams 2015a in litt.). Incorrect locality data seems plausible considering that none of the three species have been found in the basin before or since the van Hyning collection (Williams 2015, p. 3; Williams 2015a in litt.). Therefore, the Hillsborough River is not considered part of the Suwannee moccasinshell's range at this time, and further research is under way that may clarify this situation.

The Suwannee moccasinshell's range has declined in recent decades, and it is presently known only from the Suwannee River main channel and the lower Santa Fe River in Florida. Recent occurrence is based on collections made from 2000 to 2015. Within the Suwannee mainstem, the moccasinshell occurs intermittently throughout a 75-mile (121-kilometer) reach of the lower and middle river from river mile (RM) 50 in Dixie/Gilchrist Counties, upstream to RM 125, near the Withlacoochee River mouth. A shell fragment was collected in 2015 approximately 7 miles downstream of the mouth of Manatee Springs run (Williams 2015b in litt.). The fragment was estimated to be several years old, and additional survey work is needed; however, if the species is found to occur in this area, its distribution would be extended downstream by several miles. Within the Santa Fe sub-basin, the species is currently known from four localities (two are shell material only) in a 28-mile segment of the lower Santa Fe River downstream of the rise. The Santa Fe River runs underground for about 5 miles and ''rises'' back to the surface in Alachua County. The species was not detected in recent surveys in the Withlacoochee River or in the upper Santa Fe sub-basin (upstream of the rise), which includes its tributary, the New River. The species has not been collected in the past 50 years in the Withlacoochee River; however, the lower reach of the river continues to support good mussel diversity (Williams 2015, p. 3), and additional survey work is needed to verify if it is extirpated in this sub-basin.

Targeted surveys by FFWCC biologists in 2013 and 2014 show that Suwannee moccasinshell numbers are low.

Experienced mussel biologists surveyed 96 sites, covering most of its historical range, and collected a total of 67 live individuals at 21 sites, all from the Suwannee River main channel. Fourteen individuals were collected at one location, but at most sites 3 or fewer individuals were found (FFWCC 2014 unpub. data). At locations where the species was detected, it comprised only 1 percent of the mussel sample. In April of 2015, FFWCC biologists surveyed 14 sites in the lower Santa Fe River, and encountered only 1 Suwannee moccasinshell out of 1,880 mussels collected during the survey (Holcomb 2015 in litt.). A summary of occurrence, distribution, and abundance of Suwannee moccasinshell populations by waterbody are shown in Table 1 below.

TABLE 1—SUMMARY OF SUWANNEE MOCCASINSHELL POPULATIONS BY WATERBODY

Water body	State and county	Occurrence *	Distribution and abundance
Suwannee River mainstem	FL: Madison Suwannee, Lafayette, Gilchrist, Dixie, Levy,.	Recent	Occurs in a 75-mile reach; 67 individuals at 21 sites; abundance low but population is stable.
Santa Fe River	FL: Suwannee, Gilchrist, Columbia, Alachua, Union, Bradford.	Recent	Occurs in 28-mile reach in lower river; 2 individuals at 2 sites; drastic decline and abundance very low.
New River, and unnamed trib. to New River.	FL: Union, Alachua, Bradford	Historical	May be extirpated; last collected in system in 1996.
Withlacoochee River	GA: Brooks, Lowndes; FL: Madison, Hamilton.	Historical	May be extirpated; last collected in system in 1969.

* Recent occurrence is based on collections made from 2000 to 2015; historical occurrence is based on collections made prior to 2000.

Historical mussel collection data are often limited, making it difficult to compare trends in abundance over time. Available historical collection data seem to indicate that the species was more abundant at one time as several museum lots contain 20 or more individuals. However, it is difficult to compare historical collections to recent collections, as survey efforts for these collections (and for most early mussel collections) are unknown, and sometimes museum lots are split or combined. It does seem clear from museum collections that Suwannee moccasinshell numbers in the Santa Fe River sub-basin have declined dramatically in recent decades. Three lots in the Florida Museum of Natural History (4,133; 4,159; 4,160) collected from the Santa Fe River in 1934 contain a total of 70 individuals. In comparison, only two live moccasinshells have been collected in the entire Santa Fe River sub-basin since 2000 (one in 2012 and another in 2015) despite considerable survey effort in areas where the species historically occurred.

In summary, an evaluation of historical and recent collection data show the Suwannee moccasinshell has undergone a reduction in range, and may no longer persist at several locations where it historically occurred. The species may be extirpated from the Withlacoochee River, and its range and abundance have clearly declined in the Santa Fe River system, where it is now found only in the lower portion of the Santa Fe River mainstem in exceedingly low abundance. In addition, the species may not be able to reestablish populations in some areas due to its limited ability to disperse. The Suwannee moccasinshell continues to occur throughout most of its known range in the Suwannee River mainstem; however, its numbers are likely lower now than a few decades ago. Despite its low abundance, populations in the Suwannee River mainstem presently appear to be stable. We attribute its persistence in this reach to the stability of the streambed and habitat due to the prevalence of geomorphically stable limestone in the channel, and to the absence of excessive sedimentation. Also, certain threats such as contaminants and reduced flows are likely attenuated in the mainstem due to the larger volume of water (threats are discussed in detail in the following section).

Summary of Information Pertaining to the Five Factors

Section 4 of the Endangered Species Act (16 U.S.C. 1533) (ESA, Act) and its implementing regulations (50 CFR 424) set forth procedures for adding species to the Federal List of Endangered and Threatened Wildlife. Under section 4(a)(1) of the Act, we may determine that a species is endangered or threatened based on any of the following 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.

In making this finding, information pertaining to the Suwannee moccasinshell in relation to the five factors provided in section 4(a)(1) of the Act is discussed below. In considering what factors might constitute threats to this species, we must look beyond the exposure of the species to a particular factor to evaluate whether the species may respond to that factor in a way that causes actual impacts to the species. If there is exposure to a factor and the species responds negatively, the factor may be a threat and, during the status review, we attempt to determine how significant a threat it is. The threat is significant if it drives, or contributes to, the risk of extinction of the species so that the species warrants listing as an endangered or threatened species as those terms are defined in the Act. However, the identification of factors that could impact a species negatively may not be sufficient to compel a finding that the species warrants listing. The information must include evidence sufficient to suggest that these factors are threats that operate on the species to the point that the species may meet the definition of an endangered or threatened species under the Act.

Factor A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The stream habitats of freshwater mussels are vulnerable to degradation and modification from a number of threats associated with modern civilization. Within the Suwannee River Basin, a rapidly growing human population and changing land use represent significant threats to the aquatic ecosystem, primarily through pollution and water withdrawal (Katz and Raabe 2005, p. 14). The Suwannee moccasinshell's habitat is subject to degradation as a result of polluted runoff from croplands and poultry and dairy operations, discharges from industries, mines, and sewage treatment facilities, and from decreased flows due

to groundwater extraction (pumping) (Williams 2015, pp. 7–10). Based on our current knowledge of the Suwannee moccasinshell and related mussel species, the habitat characteristics needed to sustain healthy populations generally include (1) stable stream channels and banks; (2) stable bottom substrates that are free of excessive algae growth; (3) flows that are adequate to maintain benthic habitats, provide food and oxygen, transport sperm, and remove wastes; (4) good water quality including normal temperature, conductivity, and pH ranges, and adequate oxygen content; and (5) an environment free of toxic levels of pollutants.

Pollution

Water quality in the basin has been impaired due to a number of point and nonpoint sources of pollutants. As a group, mussels are more sensitive to pollution than many other aquatic organisms, and are one of the first species to respond to water quality impacts (Haag 2012, p. 355). Descriptions of localized mortality resulting from chemical spills and other discrete point source discharges have been reported. However, rangewide decreases in mussel density and diversity may result from the more damaging effects of chronic, low-level contamination (Newton 2003, p. 2,543; Newton *et al.* 2003, p. 2,554). There is no specific information on the sensitivity of the Suwannee moccasinshell to common agricultural, municipal, and industrial pollutants. A multitude of bioassays conducted on other mussels show that freshwater mussels, especially in early life stages, are more sensitive than previously known to some pollutants including chlorine, ammonia, copper, nickel, fungicides, and surfactants used in pesticides and household products (Keller and Zam 1991, p. 542; Jacobson *et al.* 1993, pp. 879–883; Jacobson *et al.* 1997, pp. 2,387–2,389; Augspurger *et al.* 2003, pp. 2,571–2,574; Wang *et al.* 2007, pp. 2,039–2,046; Gibson 2015, pp. 90–91).

Ammonia poses a serious threat to mussels due to its ubiquity in aquatic systems and its high toxicity to aquatic organisms. It originates primarily from agricultural sources (from fertilizers, which are often applied as ammonia and animal wastes), but also from municipal and industrial wastewater, and atmospheric deposition. Although ammonia may be taken up by plants or converted to less toxic nitrates by naturally occurring nitrifying bacteria, nitrates also have harmful effects on juvenile and adult mussels and may act as endocrine disrupters (Bauer 1988, p. 244; Patzner and Muller 2001, pp. 330–333; Pelley 2003, p. 162; Camargo and Alonso 2006, pp. 831–849). Moreover, ammonia may occur in sediments at greater concentrations than the water column (Frazier *et al.* 1996, pp. 92–99); such occurrences may go undetected by common water quality monitoring methods, but may have lethal or sublethal effects on mussels (Augspurger *et al.* 2003, pp. 2,571–2,574; Wang *et al.* 2007, pp. 2,039–2046), which burrow and feed (with their foot) in sediments. The Environmental Protection Agency (EPA) recently revised its water quality standards to levels considered protective of freshwater mollusks, but it will be several years before facilities must comply with the new limits (see discussion under Factor D).

Pesticides are other widespread contaminants that have long been implicated in mussel declines. Pesticides have been linked to freshwater mussel die-offs (Fleming *et al.* 1995, pp. 877–879), and lab studies show that mussel glochidia and juveniles are particularly sensitive to common pesticides (Conners and Black 2004, pp. 362–371; Bringolf *et al.* 2007a, pp. 2,089–2,093). A surfactant (MON 0818) used in the common herbicide Roundup® was found to be severely toxic to juvenile mussels and glochidia (Bringolf *et al.* 2007b, pp. 2,096–2,097). The potential role of pesticides in mussel declines has received more attention in recent years, but the full range of long-term effects of pesticides, and their ingredients and metabolites, remain unknown (Haag 2012, pp. 374–379).

An emerging category of contaminant threats to aquatic species is pharmaceuticals, including birth control drugs, antidepressants, and livestock growth hormones originating from municipal, agricultural, and industrial wastewater sources. These chemicals may act as endocrine disrupters and can affect mussel reproduction in a number of ways, including causing feminization of male mussels (Gagne *et al.* 2001, pp. 260–268; Gagne *et al.* 2011, pp. 99–106).

High levels of nutrients such as nitrogen and phosphorus may indirectly impact mussels by stimulating algae growth. In excess, these nutrients lead to algal blooms, which deplete oxygen and can also cause dense mats of filamentous algae to form that can entrain juvenile mussels (Hartfield and Hartfield 1996, p. 373). Juveniles may be particularly sensitive to hypoxic (oxygen-deprived) and eutrophic (nutrient-rich) conditions since they inhabit interstitial spaces in stream substrates rather than the sediment surfaces occupied by adults (Sparks and Strayer 1998, pp. 132–133).

As discussed under Factor D below, State and Federal regulatory mechanisms have helped to reduce the negative effects of point source discharges since the 1970s, yet discharges continue to impact water quality in the Suwannee River Basin. There are 246 National Pollutant Discharge Elimination System (NPDES) permitted facilities within the basin; most of them discharge into streams that ultimately flow into the middle and lower Suwannee River main channel where the majority of the moccasinshell population occurs. According to 2014 monitoring data, the top pollutants discharged into the Suwannee River Basin by weight were (in decreasing order of value) total suspended solids, nitrogen, phosphorus, fluoride, and ammonia (EPA 2014). Additionally, the toxic-weighted pound equivalent (TWPE), used to compare the potential toxic nature of one pollutant to another, indicates that the most hazardous pollutants discharged into the Suwannee River Basin are (in decreasing order of toxicity) toxaphene (a pesticide), fluoride, chlorine, iron, and ammonia (EPA 2014). In previous years, top toxicants discharged into the basin also included copper and cyanide.

Facilities permitted to discharge substantial amounts of wastewater into areas that may affect Suwannee moccasinshell populations include the Valdosta wastewater treatment plant (WWTP), which is permitted to discharge 12 million gallons per day (mgd) to the Withlacoochee River in Lowndes County, GA; Packaging Corp. of America, which is permitted to discharge 55 mgd to the Withlacoochee River in Lowndes County, GA; PCS Phosphate Company, Inc., which is permitted to discharge 200 mgd to creeks that flow to the Suwannee River in Hamilton County, FL; Florida Power Corp., which is permitted to discharge 342 mgd to the Suwannee River in Suwannee County, FL; and Pilgrim's Pride Poultry Processing Facility, which is permitted to discharge 1.5 mgd to the Suwannee River in Suwannee County, FL (EPA 2014).

Pollutants released by these facilities in 2014, and considered significant (either because of the amount or potential to affect mussels) include total suspended solids, nitrogen, phosphorus, ammonia, fluoride, iron, and copper (EPA 2014). In addition, spills of municipal wastewater at the treatment plant in Valdosta, GA, have leaked untreated sewage into the Withlacoochee River on multiple

occasions. This facility has been a source of periodic releases of millions of gallons of untreated sewage, the most recent occurring in the summer of 2013 (Williams 2015, p. 8). This issue is currently being addressed by the City of Valdosta, which is making numerous improvements, including a new WWTP, which is scheduled for completion in 2016. PCS Phosphate Company, Inc., is a large phosphate strip mining and fertilizer manufacturing operation near White Springs, FL. The facility is currently permitted to discharge effluent into creeks that flow to the Suwannee River, but surface runoff and periodic overflow of settling ponds as a result of heavy rain events may have resulted in inputs of total suspended solids, phosphorus, and ammonia into the river (Williams 2015, p. 8).

Nonpoint source pollution is another significant threat throughout the Suwannee Basin, entering the system by surface runoff or through groundwater. Nonpoint source impacts are attributable primarily to the conversion of forests and wetlands to agricultural lands; agriculture accounts for most of the developed land uses within the basin, and includes silviculture, row crops, and pasture (Katz and Raabe 2005, p. 9). Surface runoff from these lands may transport numerous pollutants including pesticides, fertilizers, metals, sediments, and pathogens into stream channels. Surface drainage is more prevalent in the upper two-thirds of the basin and the upper Santa Fe River sub-basin where the soils are resistant to infiltration (Katz and Raabe 2005, p. 5).

Pollutants can also enter stream channels via groundwater inflow. The Suwannee River Basin has the highest density of springs globally (FDEP 2003, p. 29). The majority of flow in the middle Suwannee River Basin originates from groundwater sources, as the region is highly connected to the underlying Floridan aquifer (FDEP 1985, p. iv). This is evidenced by the relative lack of surface water bodies in the middle Suwannee River Basin since most water flows through the overlying karst features and directly into the aquifer (FDEP 2003, p. 27). For these reasons, the middle and lower portions of the Basin are particularly vulnerable to groundwater contamination. Katz *et al.* (1999, pp. 49–50) observed groundwater nitrate levels that were seven times greater than background levels in areas dominated by cropland, and estimate that it may take several decades for nitrogen concentrations to return to their original state. Additionally, all nine springs in the basin monitored by the Florida Department of Environmental Protection (FDEP) from 2012–2013 exceeded the nitrate criterion for spring vents (FDEP 2014a, p. 228), suggesting that contamination is persistent and widespread in the central and lower Suwannee River Basin.

Trends suggest that certain nonpoint source pollutants are becoming more abundant in the Suwannee River Basin. According to FDEP (2003, pp. 76, 83) nitrates are by far the biggest water quality concern in the middle and lower portions of the Suwannee Basin. Total estimated nitrogen increased continuously from 1955 to 1997 in Gilchrist and Lafayette counties (Katz *et al.* 1999, pp. 45–48). Nitrates have been monitored at the U.S. Geological Survey (USGS) monitoring site at Branford, FL, since 1954 and the overall trend is increasing (Thom *et al.* 2015, p. 100). Of seven Florida surface water quality stations monitored by FDEP in the basin during 1999–2012, increases in total nitrogen were observed at four sites, levels of algae and nitrates increased at three sites, and phosphorus and fecal coliform increased at two sites (FDEP 2014a, pp. 106–123). Nitrogen levels in the Suwannee River Basin have likely increased due to nonpoint sources such as runoff from croplands, dairy farms, and poultry facilities (Katz *et al.* 1999, p. 49). Fertilizer use in the area probably peaked in the late 1970s (FDEP 2008, pp. 95–100), yet fertilizer-based nitrogen inputs remain high and have increased in parts of the Suwannee River Basin (Katz *et al.* 1999, pp. 49–50; FDEP 2014a, pp. 106–123).

For the 2000 water year, the FDEP determined that the middle Suwannee and lower Santa Fe watersheds contributed more than three-quarters of the basin-wide nitrate–nitrogen load, although these watersheds comprise less than 20 percent of the drainage area (FDEP 2003, p. 35). In 2007, the FDEP (2008, pp. 40–41) found that more than 40 percent of total nitrogen in the middle and lower Suwannee River Basin originates from fertilizer inputs, but also that dairy, poultry, and beef production are prominent nitrogen contributors in the area. The same report showed that atmospheric deposition contributed less than 20 percent of total nitrogen in the area (FDEP 2008, pp. 40–41), suggesting that modern nitrogen concentrations in the basin greatly surpass historical background levels. In addition, the area is also naturally rich in phosphorus, and active and inactive phosphate mining operations exist in the central part of the basin. Historically, discharges from phosphate-fertilizer production have been correlated with major changes in physiochemical properties of basin waters. Spikes in total phosphorus, fluoride, and soluble inorganic nitrogen, as well as depressed dissolved oxygen (DO) levels, were observed immediately downstream of the mouth of Swift Creek, a tributary accepting phosphate mine effluent (FDEP 1985, pp. iv–19).

Section 303(d) of the Clean Water Act (33 U.S.C. 1251 *et seq.*) requires States to identify waters that do not fully support their designated use classification. These impaired waters are placed on the State's 303(d) list, and a total maximum daily load (TMDL) must be developed for the pollutant of concern. A TMDL is an estimate of the total load of pollutants that a segment of water can receive without exceeding applicable water quality criteria. The Georgia Environmental Protection Division's (GEPD) draft 303(d) list for 2014 identifies a total of 64 impaired stream segments (a total of 695 stream miles) within the Suwannee River Basin (GEPD 2014, pp. 263–273). The list of causes of impairment with established TMDLs in Georgia include mercury, lead, low dissolved oxygen (DO), fecal coliform, pH, algae, and condition of the macroinvertebrate community (GEPD 2014, pp. 263–273). The potential sources of these violations are primarily attributed to nonpoint or unknown sources but also to municipal facilities and urban runoff. FDEP's 303(d) list identifies 52 impaired stream segments or water bodies in the Suwannee River Basin. Florida's list identifies coliform bacteria, specific conductance, dissolved oxygen, nutrients, and unionized ammonia as impaired parameters (FDEP 2014b). Impairments within the range of the Suwannee moccasinshell include mercury in the lower Suwannee River, and DO and nutrients (algal mats) in the lower Santa Fe River (FDEP 2003 pp. 138–139).

Water Withdrawals

Perhaps the most significant threat to the Suwannee moccasinshell is flow reduction due to the withdrawal of groundwater for agricultural purposes. Stream flows in the Suwannee River Basin are heavily dependent on groundwater contributions. Sufficient groundwater flows are essential for maintaining good mussel habitat in the Basin (Williams *et al.* 2014, p. 46). In the past 25 years, center pivot irrigation has increased in the Apalachicola–Chattahoochee–Flint (ACF) River Basin which borders the Suwannee River Basin to the northwest (Torak *et al.* 2010, p. 2). Most of the groundwater used for irrigation in the ACF Basin is withdrawn from the Upper Floridan aquifer. Increased pumping in the ACF Basin has lowered groundwater levels

along the boundary with neighboring Ochlockonee and Suwannee River Basins by more than 24 feet. In southeastern Colquitt County, GA, the aquifer has experienced unprecedented 40- to 50-foot declines since 1969 (Torak *et al.* 2010, p. 44). Periods of extreme dry conditions causing insufficient recharging flows into the Upper Floridan aquifer occurred in the 1980s–2000s (Torak *et al.* 2010, p. 47). The lower aquifer levels reduced the hydraulic gradient, thus the amount of groundwater flowing south and east into the Suwannee Basin (Torak *et al.* 2010, pp. 2, 40).

Declines in groundwater levels have the potential to lower stream base flows by decreasing the amount groundwater discharged to streams. This may also reduce high-magnitude flows (10,000–15,000-cubic feet per second), which could decrease floodplain connectivity and the transfer of matter and energy from overbank to riverine systems (Light *et al.* 2002, p. 85; Pringle 2003, entire). Mean annual flow discharge in the lower Suwannee River near Wilcox, FL, has declined more than 30 percent between 1942 and 2012 (USGS 2014). Similar discharge declines of approximately 30 percent have been observed in the Santa Fe River near Fort White between 1928 and 2013 (USGS 2014). Reductions in flow can alter hydraulically mediated sediment sorting throughout the river, which may displace or otherwise alter habitat for Suwannee moccasinshell and its host fishes. Groundwater pumping during long periods of drought can result in extremely reduced flow rates. The upper reaches of the Santa Fe River mainstem and the New River, a major tributary, have ceased to flow due to groundwater pumping during drought (Williams 2015, p. 9). Biologists conducting mussel surveys on the Santa Fe River near Worthington Springs during a dry period in June 2011 observed that a section of the channel was completely dewatered (FFWCC 2011a, p. 2). While pumping does not completely dewater the Withlacoochee River, flow rates are greatly reduced (Williams 2015 p. 9). Reduced flows may exacerbate drought conditions (elevating temperature, pH, and pollutant concentrations (causing biotic die-off, and reducing DO), which in turn may have lethal or other harmful effects (prematurely aborting glochidia, reduced growth rates) to the species, or may cause stranding mortality.

Sedimentation

Numerous potential sources of sand and silt sediments occur throughout the basin, and include development, silviculture, livestock grazing, croplands, and unpaved roads. Habitat may be degraded or destroyed in localized areas where sediments accumulate, and suspended fine particles can increase turbidity levels for considerable distances downstream. High levels of suspended sediments may reduce mussel feeding and respiratory efficiency (Dennis 1984, pp. 207–212; Brim Box and Mossa 1999, pp. 101–102). Highly turbid conditions may also affect mussel recruitment by impeding the ability of sight-feeding fishes to find glochidia and mussel lures. The Suwannee moccasinshell uses small mantel lures to attract its darter host fish (see *Habitat and Biology* section above) and, therefore, is reliant on good water clarity during times that it is reproducing. Another important issue related to sedimentation is that it may serve as a vehicle for pollutants (like pesticides and surfactants) to enter streams (Haag 2012, p. 378).

The Suwannee River main channel is relatively unimpacted by sedimentation, where inputs are generally low and impacts are mostly localized; however, sedimentation is a problem in the Santa Fe River sub-basin. Surface drainage is more prevalent in the Santa Fe watershed, which is more developed because of its proximity to Gainesville, FL, and several other incorporated areas (FDEP 2003, p. 23). Excessive silt sediment has been cited as a reason for the decline of mussel populations in the Santa Fe sub-basin (FFWCC 2011b, p. 14) and is considered a factor in the decline of the Suwannee moccasinshell in that system.

Conservation Efforts To Reduce Habitat Destruction, Modification, or Curtailment of Its Range

We are not aware of any conservation efforts that may help ameliorate threats specific to the Suwannee moccasinshell. However, the moccasinshell may be indirectly benefited by Federal, State, local, and private programs that acquire or manage lands within the basin, particularly along stream corridors. Florida's Suwannee River Water Management District (SRWMD) owns, manages, or co-manages a significant portion of the basin's riparian lands (more than 48,000 acres, CBI 2010) adjacent to or upstream of Suwannee moccasinshell habitats. Tracts are managed to maintain adequate water supply and water quality for natural systems by preserving riparian habitats and restricting development (SRWMD 2014, p. 3). The SRWMD also established minimum flows and levels for the river channel in the lower basin, downstream of Fanning Springs. Minimum flow and level criteria were not designed with specific consideration for freshwater mussels, but do establish a limit at which further withdrawals would be detrimental to water resources, taking into consideration fish and wildlife habitats, the passage of fish, sediment loads, and water quality, among others (SRWMD 2005, pp. 6–8).

Summary of Factor A

Habitat degradation is occurring throughout the entire range of the Suwannee moccasinshell and is due primarily to pollutants discharged from municipal and industrial facilities, polluted runoff from agricultural areas, and reduced flows as a result of groundwater pumping and drought. In portions of the species' range, sedimentation has also impacted the species' habitat. These threats are greater in the two tributary systems, as evidenced by the species' possible disappearance from the Withlacoochee River, and its dramatic decline in the Santa Fe River sub-basin. Currently, nearly the entire population resides in the middle and lower reach of the Suwannee River main channel. The two greatest threats to the species, pollutants and reduced flows, are somewhat attenuated in the main channel, where flows are generally sustained and pollutant concentrations may be diluted by higher flow volumes. While there are programs in place that may indirectly alleviate some detrimental impacts on aquatic habitats, there currently are no conservation efforts designed specifically to protect or recover Suwannee moccasinshell populations. Therefore, we conclude that habitat degradation is presently a significant threat to Suwannee moccasinshell populations in the Withlacoochee and Santa Fe River sub-basins, and a moderate threat to populations in the Suwannee River main channel. This threat is expected to continue into the future and, because it is linked to human activities, is expected to increase as the human population within the Suwannee River Basin grows.

Factor B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The Suwannee moccasinshell is not a commercially valuable species, and the Suwannee River is not subject to commercial mussel harvesting activities. Suwannee moccasinshell individuals have been taken for scientific and private collections in the past, but collecting is not considered a factor in its decline. Collection interest may increase as the Suwannee moccasinshell becomes an interest of scientific study, and as its rarity becomes better known.

However, individuals are very difficult to locate because the species occurs in a large mainstem river in low abundance. Therefore, we do not consider overutilization to be a threat to the Suwannee moccasinshell at this time.

Factor C. Disease or Predation

Juvenile and adult mussels are preyed upon by several aquatic predators (for example, dragonfly larvae, crayfishes, turtles, and some fishes), and are prey items for some terrestrial species (for example, raccoon, otter, feral hogs, and birds) (summarized in Hart and Fuller 1974, pp. 225–240; and in Williams *et al.* 2014, pp. 90–91). Although predation by native predators is a natural occurrence, it may exacerbate declines in mussel populations already diminished by other threats (Neves and Odom 1989, p. 940). However, we have no specific information indicating that predation is negatively impacting Suwannee moccasinshell populations.

Mussels commonly are hosts for a variety of parasites, including trematodes, copepods, and water mites, and also harbor bacteria and viruses (Grizzle and Brunner 2007, p. 4; Haag 2012, pp. 382–383). Heavy infestations by mites and trematodes have shown to adversely affect mussel reproductive and physiological fitness (Gangloff 2008, pp. 28–30). In addition, exposure to stressors like pollutants can weaken mussel immune systems, making them more prone to diseases. However, the role of diseases in mussel declines has received little attention, and diseases of freshwater mussels remain largely unstudied (Grizzle and Bruner 2007, p. 6; Haag 2012, p. 382). We have no specific information indicating that disease is negatively impacting Suwannee moccasinshell populations. Therefore, we do not consider disease or predation to be threats to the Suwanee moccasinshell at this time.

Factor D. The Inadequacy of Existing Regulatory Mechanisms

Point source discharges within the range of the Suwannee moccasinshell have been reduced since the inception of the Clean Water Act, but this statute still may not provide adequate protection for sensitive aquatic organisms like freshwater mussels, which can be impacted by extremely low levels of pollutants. Municipal wastewater plants continue to discharge large amounts of effluent and, in some circumstances, in excess of permitted levels (see discussion under Factor A). There is no specific information on the sensitivity of the Suwannee moccasinshell to common industrial and municipal pollutants, and very little information on other freshwater mussel species. Current State and Federal regulations regarding pollutants are designed to be protective of aquatic organisms; however, freshwater mollusks may be more susceptible to some pollutants than the test organisms commonly used in bioassays. Additionally, water quality criteria may not incorporate data available for freshwater mussels (March *et al.* 2007, pp. 2,066–2,067). A multitude of bioassays conducted on 16 mussel species (summarized by Augspurger *et al.* 2007, pp. 2025–2028) show that freshwater mollusks are more sensitive than previously known to some chemical pollutants, including chlorine, ammonia, copper, fungicides, and herbicide surfactants. Another study found that nickel and chlorine were toxic to a federally threatened mussel species at levels below the current criteria (Gibson 2015, pp. 90–91). The study also found the mussel was sensitive to SDS (sodium dodecyl sulfate), a surfactant commonly used in household detergents, for which water quality criteria do not currently exist.

Several studies have demonstrated that the criteria for ammonia developed by EPA in 1999 were not protective of freshwater mussels (Augspurger *et al.* 2003, p. 2,571; Newton *et al.* 2003, pp. 2,559–2,560; Mummert *et al.* 2003, pp. 2,548–2,552). However, in 2013 EPA revised its recommended criteria for ammonia. The new criteria are more stringent and reflect new toxicity data on sensitive freshwater mollusks (78 FR 52192, August 22, 2013; p. 2). Georgia and Florida have not yet adopted the new ammonia criteria. Although Florida's next triennial review will occur in 2015 and Georgia's in 2016, NPDES permits are valid for 5 years, so even after the new criteria are adopted, it could take several years before facilities must comply with the new limits.

In summary, despite existing authorities such as the Clean Water Act, pollutants continue to impair the water quality throughout the current range of the Suwannee moccasinshell. State and Federal regulatory mechanisms have helped reduce the negative effects of point source discharges since the 1970s, yet these regulations are difficult to implement and regulate. While new water quality criteria are being developed that take into account more sensitive aquatic species, most criteria currently do not. Thus, we conclude that existing regulatory mechanisms do not adequately protect the Suwannee moccasinshell.

Factor E. Other Natural or Manmade Factors Affecting Its Continued Existence

Catastrophic Weather Events

The Gulf coastal region is prone to extreme hydrologic events. Extended droughts result from persistent high-pressure systems, which inhibit moisture from the Gulf of Mexico from reaching the region (Jeffcoat *et al.* 1991, pp. 163–170). Warm, humid air from the Gulf of Mexico can produce strong frontal systems and tropical storms resulting in heavy rainfall events that cause severe flooding (Jeffcoat *et al.* 1991, pp. 163–170). Although floods and droughts are a natural part of the hydrologic processes that occur in these river systems, these events may exacerbate the decline of mussel populations suffering the effects of other threats. During high flows, flood scour can dislodge mussels (particularly juveniles) where they may be injured, buried, or swept into unsuitable habitats, or mussels may be stranded and perish when flood waters recede (Vannote and Minshall 1982, p. 4,105; Tucker 1996, p. 435; Hastie *et al.* 2001, pp. 107–115; Peterson *et al.* 2011, unpaginated). Flood scour generally is attenuated in larger stream channels but can radically alter smaller streams and cause mussel mortality (Hastie *et al.* 2001, pp. 107–115; Peterson *et al.* 2011, unpaginated).

During drought, stream channels may be dewatered entirely, or become disconnected pools where mussels are exposed to higher water temperatures, lower dissolved oxygen levels, and predators. Johnson *et al.* (2001, p. 6) monitored mussel responses during a severe drought in 2000 in tributaries of the lower Flint River in Georgia, and found that most mortality occurred when dissolved oxygen levels dropped below 5 mg/L. Increased demand for surface and ground water resources for irrigation and human consumption during drought can cause drastic reductions in stream flows and alterations to hydrology (Golladay *et al.* 2004, p. 504; Golladay *et al.* 2007 unpaginated). Extended periods of drought have occurred in the region during the last two decades (Torak *et al.* 2010, p. 47). Substantial declines in mussel diversity and abundance as a direct result of drought have been documented in smaller southeastern streams; however, assemblages in larger streams may be relatively unaffected (Golladay *et al.* 2004, pp. 494–503; Haag and Warren 2008, p. 1165). Reduced flows as a result of drought and water consumption has been cited as a factor negatively affecting mussels in the

Suwannee River Basin (FFWCC 2011b, p. 14), and has been identified as a threat to Suwannee moccasinshell populations in the Withlacoochee and Santa Fe Rivers (Williams 2015, p. 9)

Contaminant Spills

The linear nature of the Suwannee moccasinshell's habitat and its reduced range makes it vulnerable to contaminant spills. Spills as a result of transportation accidents are a constant potential threat to the species, as numerous highways and railroads traverse the basin. Spills emanating from industrial, agricultural, and municipal facilities are a threat as numerous potential sources are present within the basin, and these spills have occurred in the past. As discussed under Factor A, spills at the municipal WWTP in Valdosta, GA, have leaked raw sewage into the Withlacoochee River on multiple occasions, and the PCS Phosphate Company, Inc. mining operation has had periodic overflows of effluent ponds. Nearly the entire moccasinshell population resides within the Suwannee River main channel; therefore, a spill has the potential to impact a large portion of the population, depending on the type of contaminant and its concentration, amount, and location. In addition, because the species has limited ability to disperse, it may not be able recolonize areas after conditions have improved.

Climate Change

Our analyses under the Act include consideration of ongoing and projected changes in climate. The terms ''climate'' and ''climate change'' are defined by the Intergovernmental Panel on Climate Change (IPCC). ''Climate'' 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 2007, p. 78). 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 2007, p. 78). Various types of changes in climate can 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 the effects of interactions of climate with other variables (*e.g.,* habitat fragmentation) (IPCC 2007, pp. 8–14, 18–19). In our analyses, we use our expert judgment to weigh relevant information, including uncertainty, in our consideration of various aspects of climate change.

There is a growing concern that climate change may lead to increased frequency of severe storms and droughts (McLaughlin *et al.* 2002, p. 6,074; Golladay *et al.* 2004, p. 504; Cook *et al.* 2004, p. 1,015). The present conservation status, complex life histories, and specific habitat requirements of freshwater mussels suggest that they may be quite sensitive to climate change (Hastie *et al.* 2003, p. 45). Specific effects of climate change to mussels, their habitat, and their fish hosts could include changes in hydrologic and temperature regimes, the timing and levels of precipitation causing more frequent and severe floods and droughts, and alien species introductions.

Mussel distributions seem to be closely associated with complex hydraulic metrics (Morales *et al.* 2006 pp. 669–673; Zigler *et al.* 2008, p. 358) that may be altered by climate change. Mussels are particularly vulnerable to these changes since they are generally sessile and restricted in their ability to adjust their range in response to hydrology and physiochemical alterations mediated by climate change (Strayer 2008, p. 30). Additionally, increases in temperature and reductions in flow may lower dissolved oxygen levels in interstitial habitats, which can be lethal to juveniles (Sparks and Strayer 1998, pp. 131–133). Effects to mussel populations from these environmental changes could include reduced abundance and biomass, altered species composition, and host fish considerations (Galbraith *et al.* 2010, pp. 1,180–1,182). Since ammonia concentrations may increase with increasing temperatures and low stream flow (Cherry *et al.* 2005, p. 378; Cooper *et al.* 2005, p. 381), nitrogen-mediated threats may be intensified by climate change. In addition, saltwater encroachment, as a result of rising sea levels, has the potential to impact freshwater habitats in the lower reaches of coastal rivers.

Long-term sea level trends available from the Cedar Key tide gage suggest the local sea level is rising about 1.8 mm (0.7 inches) per year based on data from 1914 to 2006 (Thom *et al.* 2015, pp. 47–48). At this rate, this is equivalent to 0.14 meters (0.46 feet) by 2100. However, all indications are that sea level rise (SLR) is accelerating (Thom *et al.* 2015, p. 47), and, although there is a range of estimates, recent studies suggest that global mean sea level will rise at least 0.2 meters (0.66 ft) and no more than 2.0 meters (6.6 ft) by 2100 (Parris *et al.* 2012, pp. 1–2).

The effects of climate change may amplify stressors currently impacting the Suwannee moccasinshell, including the prospect of more frequent and intense droughts and increased temperatures, which would further reduce flows, increase pollutant toxicity levels, and exacerbate current problems of low DO and excessive algae growth (see discussions under Factor A). Saltwater encroachment also has the potential to impact moccasinshell populations in the lower river, especially during times of low flow conditions. The variables related to climate change are complex, and it is difficult to predict all of the possible ways climate change will affect Suwannee moccasinshell populations and habitat. However, information available is sufficient to indicate that climate change is a significant threat to the Suwannee moccasinshell in the future, as it will likely exacerbate certain stressors already affecting the species, such as reduced flows and degraded water quality.

Small Population Size

The Suwannee moccasinshell's reduced range and small population size may increase its vulnerability to many threats. Species with small ranges, few populations, and small or declining population sizes are the most vulnerable to extinction (Primack 2008, p. 137). The effects of certain environmental pressures, particularly habitat degradation and loss, catastrophic weather events, and introduced species, are greater when population size is small (Soulé 1980, pp. 33, 71; Primack 2008, pp. 133–137, 152). Suwannee moccasinshell populations are small and declining and are vulnerable to habitat degradation, droughts, and competition from the introduced Asian clam. In addition, its current range is relatively small, consisting of a stream channel segment of about 103 miles in length (see Distribution and Abundance discussion).

Nonindigenous Species

The Asian clam (*Corbicula fluminea*) was first detected in eastern Gulf drainages in the early 1960s and is presently widespread in the Suwannee River Basin. Anecdotal observations suggest that, when the Asian clam became established in other Gulf coast drainages, native mussel abundance declined drastically (Heard 1975, p. 2; Shelton 1995, p. 4). It is unknown, however, if the Asian clam competitively excluded the native mussels, are tolerant of whatever caused

them to disappear, or, as Haag (2012, p. 371) suggests, the Asian clam is a poor competitor and can only become dense after a decline in mussel abundance. Mechanisms by which the Asian clam may negatively affect mussels include as a competitor for food and space; by ingesting mussel sperm, glochidia, and newly metamorphosed juveniles; and by displacing newly metamorphosed mussels from the substrate, causing them to be washed downstream (Neves and Widlak 1987, p. 6; Leff *et al.* 1990, p. 415; Strayer 1999, p. 82; Yeager *et al.* 2000, pp. 255–257). Although the specific interaction between the Asian clam and native mussels is not well understood, enough information exists to conclude that dense Asian clam populations would negatively affect juvenile mussel survival (Haag 2012, p. 370). Surveys within the range of the Suwannee moccasinshell found Asian clam densities varied from relatively low in some areas to relatively high in other areas (S. Pursifull 2014 pers. obs.). The introduced Asian clam is negatively affecting the Suwannee moccasinshell, although we consider this threat to be low at present.

The flathead catfish (*Pylodictis olivaris*) has been introduced to the Suwannee River Basin and may be adversely impacting native fish populations. As discussed in the *Habitat and Biology* section above, the Suwannee moccasinshell requires a fish host in order to complete its life cycle, and the blackbanded darter and the brown darter were found to serve as larval hosts for the moccasinshell. The flathead catfish is a large predator native to the central United States, and since its introduction outside its native range, it has altered the composition of native fish populations through predation (Boschung and Mayden 2004, p. 350). Many feeding studies have found that flathead catfish prey heavily on other fishes, especially sunfishes (*Centrarchidae*) (Weller and Robbins 1999, p. 40; Pine *et al.* 2005, p. 904). One study in the Flint River system in Georgia found that young-of-the-year flatheads consumed several fish species including darters (*Etheostoma* spp.) (Quinn 1988, p. 88). The loss or reduction of darters, which are essential during the moccasinshell's parasitic larval stage, would affect the Suwannee moccasinshell's ability to recruit and disperse. However, it is not known if the specific darter species needed by this mussel to reproduce are being predated by introduced flatheads; therefore, it is difficult for us to evaluate this potential threat at this time.

In summary, the Suwannee moccasinshell is adversely affected by other natural or manmade factors including droughts that (along with groundwater consumption) cause reduced flows, past and future contaminant spills, and the introduced Asian clam. In addition, numerous future impacts associated with changing climatic patterns (increased drought frequency, altered water quality, saltwater encroachment) are anticipated, some of which could intensify stressors currently affecting the species, including reduced flows and low DO. For this reason, problems related to reduced flows and degraded water quality are expected to increase in the future. Finally, the Suwannee moccasinshell's small population size and restricted range makes it more vulnerable to certain threats. Therefore, we find that these threats, as a whole, pose a significant threat to the Suwannee moccasinshell, both now and continuing into the future. The Suwannee moccasinshell may also be affected by flood events, and predation of its host fishes by introduced flathead catfish. However, we do not have information indicating that these are currently acting on the species at this time.

Proposed Determination

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the Suwannee moccasinshell. The primary reason for the Suwannee moccasinshell's decline is the degradation of its habitat due to polluted runoff from agricultural lands, discharges from industrial and municipal wastewater sources and from mining operations, and decreased flows due to groundwater extraction and drought (Factor A). These threats occur throughout its range, but are more intense in the two tributaries, the Withlacoochee and Santa Fe River systems. In portions of its range, sedimentation has also impacted its habitat. Other threats to the species include State and Federal water quality standards that are inadequate to protect sensitive aquatic organisms like mussels (Factor D); contaminant spills as a result of transportation accidents or from industrial, agricultural, and municipal facilities (Factor E); increased drought frequency as a result of changing climatic conditions (Factor E); greater vulnerability to certain threats because of small population size and range (Factor E); and competition and disturbance from the introduced Asian clam (Factor E). These threats have resulted in the decline of the species throughout its range, and pose the highest risk to populations in the two tributary systems, as evidenced by the species' decline and possible disappearance in the Withlacoochee River, and its decline in the Santa Fe River sub-basin. In addition, the species likely has a limited ability to disperse and, therefore, may not be able recolonize areas from which it has been extirpated. Currently, nearly the entire population resides in the middle and lower reach of the Suwannee River main channel, where the two greatest threats, pollutants and reduced flows, are attenuated by higher flow volumes. Therefore, Suwannee moccasinshell populations in the Withlacoochee and Santa Fe River sub-basins are presently facing threats that are high in magnitude, and populations in the Suwannee River main channel are presently facing threats that are moderate in magnitude. Most of these threats, including reduced flows, pollutants, droughts, and climate change, are expected to increase in the future.

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.'' We find that the Suwannee moccasinshell is likely to become endangered throughout all or a significant portion of its range within the foreseeable future based on the overall severity and immediacy of threats currently impacting the species. The Suwannee moccasinshell's range and abundance have been reduced, and its remaining habitat and populations are threatened by a variety of factors acting in combination to reduce the overall viability of the species. The risk of becoming endangered is high because remaining Suwannee moccasinshell populations in the main channel are small and numerous threats impact those populations. However, we find that endangered species status is not appropriate, because despite low population densities and numerous threats, the populations in the main channel, which are the largest, appear to be stable, which has been attributed to the threats being attenuated and the streambed habitat being stable. Therefore, on the basis of the best available scientific and commercial information, we propose listing the Suwannee moccasinshell as threatened in accordance with sections 3(6) 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. Because we have determined that the Suwannee moccasinshell is threatened throughout all of its range, no portion of its range can be ''significant'' for purposes of the definitions of ''endangered species'' and ''threatened species.'' See the Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species'' (79 FR 37578; July 1, 2014).

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 (16 U.S.C. 1532(3)) also defines the terms ''conserve,'' ''conserving,'' and ''conservation'' to mean 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 this chapter 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 shall designate critical habitat at the time the species is determined to be an endangered or threatened species. Our regulations in title 50 of the Code of Federal 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 this species, and identification and mapping of critical habitat is not expected to initiate any such threat. 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 the 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 the Suwannee moccasinshell.

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.

Delineation of critical habitat requires, within the geographical area occupied by the Suwannee moccasinshell, identification of the physical or biological features essential to the conservation of the subspecies. While we have significant information on the habitat of the species, we need more information on biological needs of the species (*i.e.,* specific habitat features on the landscape) in order to identify specific areas appropriate for critical habitat designation. In addition, as we have not determined the areas that may qualify for designation, the information sufficient to perform a required analysis of the impacts of the designation is lacking. Accordingly, we find designation of critical habitat to be not determinable at this time.

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 this species is listed as proposed, a recovery outline, draft recovery plan, and the final recovery plan would be made available on our Web site (*http://www.fws.gov/endangered*), or from our Panama City 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 this species is 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 States of Florida and Georgia would be eligible for Federal funds to implement management actions that promote the protection or recovery of the Suwannee moccasinshell. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants*.

Although the Suwannee moccasinshell is only proposed for listing under the Act at this time, please let us know if you are interested in participating in conservation efforts for this species. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for conservation 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 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, 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 and the U.S. Department of Agriculture's (USDA) U.S. Forest Service; issuance of section 404 Clean Water Act permits by the U.S. Army Corps of Engineers; construction and maintenance of roads, highways, or bridges by the U.S. Department of Transportation's Federal Highway Administration; and funding assistance for various projects administered by USDA's Natural Resources Conservation Service and the Federal Emergency Management Agency.

Under section 4(d) of the Act, the Service has discretion to issue regulations that we find necessary and advisable to provide for the conservation of threatened species. The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to threatened wildlife. The prohibitions of section 9(a)(1) of the Act, as applied to threatened wildlife and codified at 50 CFR 17.31, make it illegal for any person subject to the jurisdiction of the United States to take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these) threatened wildlife within the United States or on the high seas. In addition, it is unlawful to import; export; deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of commercial activity; or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to employees of the Service, the National Oceanic and Atmospheric Administration's National Marine Fisheries Service, other Federal land management agencies, and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving threatened wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.32. With regard to threatened wildlife, a permit may be issued for the following purposes: for scientific purposes, to enhance the propagation or survival of the species and for incidental take in connection with otherwise lawful activities. There are also certain statutory exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

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 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 activities may potentially result in a violation of section 9 the Act; this list is not comprehensive:

Activities that the Service believes could potentially harm the Suwannee moccasinshell and result in ''take,'' include, but are not limited to:

(1) Unauthorized handling or collecting of the species;

(2) Destruction or alteration of the species' habitat by discharge of fill material, dredging, snagging, impounding, channelization, or modification of stream channels or banks;

(3) Discharge of pollutants into a stream or into areas hydrologically connected to a stream occupied by the species; and

(4) Diversion or alteration of surface or ground water flow.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Panama City Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

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 **ADDRESSES**. 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 Panama City Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this proposed rule are the staff members of the Panama City 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; 4201–4245; unless otherwise noted.

■ 2. In § 17.11(h), add an entry for ''Moccasinshell, Suwannee'' to the List of Endangered and Threatened Wildlife in alphabetical order under CLAMS to read as set forth below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
CLAMS							
*	*	*	*	*	*	*	
Moccasinshell, Suwannee.	*Medionidus walkeri*	U.S.A. (FL, GA)	NA	T	XX	NA	NA
*	*	*	*	*	*	*	

* * * * *

Dated: September 9, 2015.

Stephen Guertin,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2015–25280 Filed 10–5–15; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 80, No. 193
Tuesday, October 6, 2015

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Submission for OMB Review; Comment Request

September 30, 2015.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by November 5, 2015 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Research Service

Title: Web Forms for Research Data, Models, Materials, and Publications as well as Study and Event Registration.

OMB Control Number: 0518–0032.

Summary of Collection: OMB Circular 130 Management of Federal Information Resources, establishes that ''agencies will use electronic media and formats . . . in order to make government information more easily accessible and useful to the public'' In order to provide information and services related to its program responsibilities defined at 7 CFR 2.65, the Agricultural Research Service (ARS) needs to obtain certain basic information from the public. Online forms allow the public to request from ARS research data, models, materials, and publications as well as registration for scientific studies and events.

Need and Use of the Information: ARS will use the information to respond to requests for specific services. The information will be collected electronically. If this collection is not conducted, ARS will be hindered from reducing the burden on its customers by providing them the most timely and efficient way to request services.

Description of Respondents: Individuals or households.

Number of Respondents: 5,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 250.

Agricultural Research Service

Title: Electronic Mailing List Subscription Form—Water Quality Information Center.

OMB Control Number: 0518–0045.

Summary of Collection: The National Agricultural Library's Water Quality Information Center (WQIC) currently maintains an on-line announcement list (Enviro-News). The current voluntary ''Electronic Mailing List Subscription Form'' gives individuals interested in the subject area of water quality and agriculture an opportunity to receive and post messages to this list. The Electronic Mailing List Subscription is available for completion on-line at the Web site of the Water Quality Information Center. The authority for the National Agricultural Library to collect the information can be found at CFR, Title 7, Volume 1, Part 2 Subpart K, Section 2.65 (92).

Need and Use of the Information: The information requested on the form includes: Name, email address, job title, work affiliation, and topics of interest. Data collected using the form will help WQIC determine a person's eligibility to join the announcement list. In order to make sure people have a significant interest in the topic area, it is necessary to collect the information. WQIC will use the collected information to approve subscription to the Enviro-News on-line announcement list.

Description of Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; State, Local, or Tribal Government.

Number of Respondents: 30.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 1.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2015–25305 Filed 10–5–15; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Solicitation of Applications for the Rural Energy for America Program for Fiscal Year 2016

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service (the Agency) announces the acceptance of applications under the Rural Energy for America Program (REAP) which is designed to help agricultural producers and rural small businesses reduce energy costs and consumption and help meet the Nation's critical energy needs. REAP have two types of funding assistance: (1) Renewable Energy Systems and Energy Efficiency Improvements Assistance, and (2)

Energy Audit and Renewable Energy Development Assistance Grants.

The Renewable Energy Systems and Energy Efficiency Improvement Assistance provides grants and guaranteed loans to agricultural producers and rural small businesses to purchase and install renewable energy systems and make energy efficiency improvements to their operations. Eligible renewable energy systems for REAP provide energy from: Wind, solar, renewable biomass (including anaerobic digesters), small hydro-electric, ocean, geothermal, or hydrogen derived from these renewable resources.

The Energy Audit and Renewable Energy Development Assistance Grant is available to a unit of State, Tribal, or local government; instrumentality of a State, Tribal, or local government; institution of higher education; rural electric cooperative; a public power entity; or a council, as defined in 16 U.S.C. 3451. The recipient of grant funds, grantee, will establish a program to assist agricultural producers and rural small businesses with evaluating the energy efficiency and the potential to incorporate renewable energy technologies into their operations.

DATES: Grant applications, guaranteed loan-only applications, and combined grant and guaranteed loan applications for financial assistance under this subpart may be submitted at any time on an ongoing basis. Section IV.E. of this Notice establishes the deadline dates for the applications to be received in order to be considered for funding provided by the Agricultural Act of 2014 (Pub. L. 113–79), commonly referred to as the 2014 Farm Bill Act, for fiscal year 2016.

FOR FURTHER INFORMATION CONTACT: The applicable USDA Rural Development Energy Coordinator for your respective State, as identified via the following link: *http://www.rd.usda.gov/files/RBS_StateEnergyCoordinators.pdf*.

For information about this Notice, please contact Kelley Oehler, Branch Chief, USDA Rural Development, Energy Division, 1400 Independence Avenue SW., Stop 3225, Room 6870, Washington, DC 20250. Telephone: (202) 720–6819. Email: *kelley.oehler@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION: *Eligible Applicants:* This solicitation is for agricultural producers and rural small businesses, as well as units of State, Tribal, or local government; instrumentalities of a State, Tribal, or local government; institutions of higher education; rural electric cooperatives; public power entities; and councils, as defined in 16 U.S.C. 3451, which serve agricultural producers and rural small businesses.

I. Program Description

REAP is designed to help agricultural producers and rural small businesses reduce energy costs and consumption and help meet the Nation's critical energy needs. REAP has two types of funding assistance: (1) Renewable Energy Systems and Energy Efficiency Improvements Assistance and (2) Energy Audit and Renewable Energy Development Assistance Grants.

A. *General.* Applications for REAP can be submitted on an ongoing basis. This Notice announces the deadline times and dates to submit applications for the REAP funds provided by the Agricultural Act of 2014, on February 7, 2014 (2014 Farm Bill), for fiscal year 2016 for grants, guaranteed loans, and combined grants and guaranteed loans to purchase and install renewable energy systems, and make energy efficiency improvements; and for grants to conduct energy audits and renewable energy development assistance.

The Renewable Energy Systems and Energy Efficiency Improvement Assistance provides grants and guaranteed loans to agricultural producers and rural small businesses to purchase and install renewable energy systems and make energy efficiency improvements to their operations. Eligible renewable energy systems for REAP provide energy from wind, solar, renewable biomass (including anaerobic digesters), small hydro-electric, ocean, geothermal, or hydrogen derived from these renewable resources.

The Energy Audit and Renewable Energy Development Assistance Grant is available to a unit of State, Tribal, or local government; instrumentality of a State, Tribal, or local government; institution of higher education; rural electric cooperative; a public power entity; or a council, as defined in 16 U.S.C. 3451. The recipient of grant funds, (grantee), will establish a program to assist agricultural producers and rural small businesses with evaluating the energy efficiency and the potential to incorporate renewable energy technologies into their operations.

The administrative requirements applicable to each type of funding available under REAP are described in 7 CFR, part 4280, subpart B. The provisions specified in 7 CFR 4280.101 through 4280.111 apply to each funding type described in this Notice.

B. *Renewable Energy System and Energy Efficiency Improvement Project Grants.* In addition to the other provisions of this Notice, the requirements specified in 7 CFR 4280.112 through 4280.124 apply to renewable energy system and energy efficiency improvement project grants.

C. *Renewable Energy System and Energy Efficiency Improvement Project Guaranteed Loans.* In addition to the other provisions of this Notice, the requirements specified in 7 CFR 4280.125 through 4280.152 apply to guaranteed loans for renewable energy system and energy efficiency improvement projects. For fiscal year 2016, the guarantee fee amount is one percent of the guaranteed portion of the loan, and the annual renewal fee is one-quarter of 1 percent (0.250 percent) of the guaranteed portion of the loan.

D. *Renewable Energy System and Energy Efficiency Improvement Project Combined Grant and Guaranteed Loan Requests.* In addition to the other provisions of this Notice, the requirements specified in 7 CFR 4280.165 apply to a combined grant and guaranteed loan for renewable energy system and energy efficiency improvement projects.

E. *Energy Audit and Renewable Energy Development Assistance Grants.* In addition to the other provisions of this Notice, the requirements specified in 7 CFR 4280.186 through 4280.196 apply to energy audit and renewable energy development assistance grants.

II. Federal Award Information

A. *Statutory Authority.* This program is authorized under 7 U.S.C. 8107.

B. *Catalog of Federal Domestic Assistance (CFDA) Number.* 10.868.

C. *Funds Available.* This Notice is announcing deadline times and dates for applications to be submitted for the REAP funds provided by the 2014 Farm Bill for fiscal year 2016. This Notice is being published prior to the congressional enactment of a full-year appropriation for fiscal year 2016. The Agency will continue to process applications received under this announcement and should REAP receive appropriated funds, these funds will be announced on the following Web site: *www.rd.usda.gov/newsroom/notices-solicitation-applications-nosas* and subject to the same provisions in this Notice.

(1) *Renewable energy system and energy efficiency improvement grant-only funds.* For renewable energy system and energy efficiency improvement projects only, there will be an allocation of grant funds to each Rural Development State Office. The State allocations will include an allocation for grants of $20,000 or less funds and an allocation of grant funds that can be used to fund renewable

energy system and energy efficiency improvement grants of either $20,000 or less or grants of more than $20,000, as well as the grant portion of a combination grant and guaranteed loan. These funds are commonly referred to as unrestricted grant funds. The funds for grants of $20,000 or less can only be used to fund grants requesting $20,000 or less.

(a) To ensure that small projects have a fair opportunity to compete for the funding and are consistent with the priorities set forth in the statute, the Agency will set-aside 20 percent of the fiscal year 2016 funds until June 30, 2016, to fund grants of $20,000 or less.

(b) Grant funds available for renewable energy system and energy efficiency improvement will consist of fiscal year 2016 funds and any unused mandatory funding from fiscal year 2015.

(2) *Renewable energy system and energy efficiency improvement loan guarantee funds.* Rural Development's National Office will maintain a reserve of guaranteed loan funds. The amount of loan guarantee program level available will consist of fiscal year 2016 funds.

(3) *Renewable energy system and energy efficiency improvement guaranteed loan and grant combination funds.* The amount of funds available for guaranteed loan and grant combination applications are outlined in paragraphs C(b)(1) and C(2) of this section.

(4) *Energy audit and renewable energy development assistance grant funds.* The amount of funds available for energy audits and renewable energy development assistance in fiscal year 2016 will be 4 percent of fiscal year 2016 mandatory funds. Obligations of these funds will take place through March 31, 2016. Any unobligated balances will be moved to the renewable energy subsidy account as of April 1, 2016. These funds may be utilized in any of the renewable energy system and energy efficiency improvement national competitions.

D. *Approximate Number of Awards.* The estimated number of awards is 1,000 based on the historical average grant size and the anticipated mandatory funding of $50 million for fiscal year 2016, but will depend on the actual amount of funds made available and on the number of eligible applicants participating in this program.

E. *Type of Instrument.* Grant, guaranteed loan, and grant/guaranteed loan combinations.

III. Eligibility Information

A. *Eligible Applicants.* To be eligible for the grant portion of the program, an applicant must meet the requirements specified in 7 CFR 4280.109, 7 CFR 4280.110, and 7 CFR 4280.112, or 7 CFR 4280.186, as applicable.

B. *Eligible Lenders and Borrowers.* To be eligible for the guaranteed portion of the program, lenders and borrowers must meet the eligibility requirements in 7 CFR 4280.125 and 7 CFR 4280.127, as applicable.

C. *Eligible Projects.* To be eligible for this program, a project must meet the eligibility requirements specified in 7 CFR 4280.113, 7 CFR 4280.128, and 7 CFR 4280.187, as applicable.

D. *Cost Sharing or Matching.* The 2014 Farm Bill mandates the maximum percentages of funding that REAP can provide.

(1) Renewable energy system and energy efficiency improvement funding approved for guaranteed loan-only requests and for combination guaranteed loan and grant requests will not exceed 75 percent of eligible project costs, with any Federal grant portion not to exceed 25 percent of the total eligible project costs, whether the grant is part of a combination request or is a grant-only.

(2) Under the energy audit and renewable energy development assistance grants, a grantee that conducts energy audits must require that, as a condition of providing the energy audit, the agricultural producer or rural small business pay at least 25 percent of the cost of the energy audit.

E. *Other.* The definitions applicable to this Notice are published at 7 CFR 4280.103. Ineligible project costs can be found in 7 CFR 4280.114(d), 7 CFR 4280.129(f), and 7 CFR 4280.188(c), as applicable.

IV. Application and Submission Information

A. *Address to Request Application.* Application materials may be obtained by contacting one of Rural Development's Energy Coordinators, as identified via the following link: *http://www.rd.usda.gov/files/RBS_StateEnergyCoordinators.pdf.*

In addition, for grant applications, applicants may obtain electronic grant applications for REAP from *http://www.Grants.gov.* When you enter the Grants.gov site, you will find information about submitting an application electronically through the site. To use Grants.gov, all applicants must have a DUNS number, which can be obtained at no cost via a toll-free request line at (866) 705–5711 or online at *http://fedgov.dnb.com/webform.* USDA Rural Development strongly recommends that applicants do not wait until the application deadline date to begin the application process through Grants.gov.

B. *Application Submittal.*

(1) *Grant applications.* All grant applications may be submitted either as hard copy to the appropriate Rural Development Energy Coordinator or electronically using the Government-wide Grants.gov Web site. When submitting an application as hard copy, applicants must submit one original.

(a) All renewable energy system and energy efficiency improvement applications are to be submitted to the USDA Rural Development Energy Coordinator in the State in which the applicant's proposed project is located. A list of USDA Rural Development Energy Coordinators is available via the following link: *http://www.rd.usda.gov/files/RBS_StateEnergyCoordinators.pdf.*

(b) All energy audit and renewable energy development assistance applications are to be submitted to the USDA Rural Development Energy Coordinator in the State in which the applicant is headquartered.

(c) Grant-only applicants submitting their electronic applications to the Agency via the Grants.gov Web site may download a copy of the application package to complete it off line and then upload and submit the application via the Grants.gov site, including all information typically included in the application, and all necessary assurances and certifications. After electronically submitting an application through the Web site, the applicant will receive an automated acknowledgement from Grants.gov that contains a Grants.gov tracking number.

(2) *Guaranteed loan applications.* Guaranteed loan-only applications (*i.e.,* those that are not part of a guaranteed loan/grant combination request) must be submitted as hard copy to the appropriate Rural Development Energy Coordinator.

(3) *Guaranteed loan and grant combination applications.* Applications for guaranteed loans/grants (combination applications) must be submitted as hard copy to the appropriate Rural Development Energy Coordinator.

C. *Content and Form of Application Submission.* Applicants seeking to participate in this program must submit applications in accordance with this Notice and 7 CFR part 4280, subpart B. Applicants must submit complete applications containing all parts necessary for the Agency to determine applicant and project eligibility, to score the application, and to conduct the technical evaluation, as applicable, in order to be considered.

(1) *Competition.* The application dates published in Section IV.E. of this Notice identify the times and dates by which complete applications must be received in order to compete for the funds available.

(2) *Grant applications.* Information required for an application to be considered complete is found in 7 CFR part 4280, subpart B.

(a) Grant applications for renewable energy systems and energy efficiency improvement projects with total project costs of $80,000 or less must provide information required by 7 CFR 4280.119.

(b) Grant applications for renewable energy systems and energy efficiency improvement projects with total project costs of $200,000 or less, but more than $80,000, must provide information required by 7 CFR 4280.118.

(c) Grant applications for renewable energy systems and energy efficiency improvement projects with total project costs of greater than $200,000 must provide information required by 7 CFR 4280.117.

(d) Guaranteed loan applications for renewable energy systems and energy efficiency improvement projects must provide information required by 7 CFR 4280.137.

(e) Combined grant and guaranteed loan applications for renewable energy systems and energy efficiency improvement projects must provide information required by 7 CFR 4280.165(c).

(f) Applications for energy audits or renewable energy development assistance grants must provide information required by 7 CFR 4280.190.

(3) *Race, ethnicity, and gender.* The Agency is requesting that each applicant provide race, ethnicity, and gender information about the applicant. The information will allow the Agency to evaluate its outreach efforts to under-served and under-represented populations. Applicants are encouraged to furnish this information with their applications, but are not required to do so. An applicant's eligibility or the likelihood of receiving an award will not be impacted by furnishing or not furnishing this information.

(4) *Hybrid projects.* If the application is for a hybrid project, as defined in 7 CFR 4280.103, technical reports, as required under 7 CFR 4280.110(h)(3), must be prepared for each technology that comprises the hybrid project.

(5) *Multiple facilities.* Applicants may submit a single application that proposes to apply the same renewable energy system (including the same hybrid project) or energy efficiency improvement across multiple facilities. For example, a rural small business owner owns five retail stores and wishes to install solar panels on each store. The rural small business owner may submit a single application for installing the solar panels on the five stores. However, if this same owner wishes to install solar panels on three of the five stores and wind turbines for the other two stores, the owner can only submit an application for either the solar panels or for the wind turbines in the same fiscal year.

(6) *Fiscal Year 2015 Renewable Energy System and Energy Efficiency Improvement Grant Applications for $20,000 or less.* If an application for a project was submitted after April 30, 2015, for the first time for fiscal year 2015 funding and that initial application was determined eligible but was not funded in either the State or National unrestricted competitions, the Agency will consider that application for funding in the November 2, 2015, and May 2, 2016, State competitions for grants of $20,000 or less and the National competition for grants of $20,000 or less in fiscal year 2016. If an applicant submitted the initial application on or prior to April 30, 2015, the applicant must submit a new application, meeting the requirements of this Notice in order to be considered for fiscal year 2016 funds for that project, and a new submission date of record will be established.

D. *System for Award Management (SAM) and Dun and Bradstreet Universal Number System (DUNS) Number.* Unless exempt under 2 CFR 25.110, all applicants must:

(1) Be registered in SAM prior to submitting an application;

(2) Maintain an active SAM registration with current information at all times during which it has an active Federal award or an application under consideration by the Agency; and

(3) Provide its DUNS number in each application it submits to the Agency.

(4) At the time the Agency is ready to make an award, if the applicant has not complied with paragraphs A(1) through A(3) of this section, the Agency may determine the applicant is not eligible to receive the award.

E. *Submission Dates and Times.* Grant applications, guaranteed loan-only applications, and combined grant and guaranteed loan applications for financial assistance under this subpart may be submitted at any time on an ongoing basis. When an application window closes, the next application window opens on the following day. This Notice establishes the deadline dates for the applications to be received in order to be considered for funding provided by the 2014 Farm Bill for fiscal year 2016. An application received after these dates will be considered with other applications received in the next application window. In order to be considered for funds under this Notice, complete applications must be received by the appropriate USDA Rural Development State Office or via Grants.gov. The deadline for applications to be received to be considered for funding in fiscal year 2016 are outlined in the following paragraphs and also summarized in a table at the end of this section:

(1) *Renewable energy system and energy efficiency improvement grant applications and combination grant and guaranteed loan applications.* Application deadlines for fiscal years 2016 grant funds are:

(a) For applicants requesting $20,000 or less that wish to have their application compete for the ''Grants of $20,000 or less set aside,'' complete applications must be received no later than:

(i) 4:30 p.m. local time on November 2, 2015, or

(ii) 4:30 p.m. local time on May 2, 2016.

(b) For applicants requesting grant funds of over $20,000 (unrestricted) or funding for a combination grant and guaranteed loan, complete applications must be received no later than 4:30 p.m. local time on May 2, 2016.

(2) *Renewable energy system and energy efficiency improvement guaranteed loan-only applications.* Applications will be reviewed and processed when received with monthly competitions on the first business day of each month for those applications eligible and ready to be funded.

(3) *Energy audits and renewable energy development assistance grant applications.* Complete applications must be received no later than 4:30 p.m. local time on February 1, 2016.

Application	Application window opening dates	Application window closing dates
Renewable Energy Systems and Energy Efficiency Improvement Grants ($20,000 or less competing for up to 50 percent of the set aside funds).	July 1, 2015	November 2, 2015.
Renewable Energy Systems and Energy Efficiency Improvement Grants ($20,000 or less competing for the remaining set aside funds).	November 3, 2015	May 2, 2016.*
Renewable Energy Systems and Energy Efficiency Improvement Grants (Unrestricted grants, including combination grant and guaranteed loan).	July 1, 2015	May 2, 2016.*
Renewable Energy Systems and Energy Efficiency Improvement Guaranteed Loans	Continuous application cycle.	Continuous application cycle.
Energy Audit and Renewable Energy Development Assistance Grants	February 13, 2015	February 1, 2016.*

* Applications received after this date will be considered for the next funding cycle in the subsequent fiscal year.

F. *Intergovernmental Review.* REAP is not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

G. *Funding Limitations.* The following funding limitations apply to applications submitted under this Notice.

(1) *Renewable energy system and energy efficiency improvement projects.*

(a) Applicants may apply for only one renewable energy system project and one energy efficiency improvement project in fiscal year 2016.

(b) For renewable energy system grants, the minimum grant is $2,500 and the maximum is $500,000. For energy efficiency improvement grants, the minimum grant is $1,500 and the maximum grant is $250,000.

(c) For renewable energy system and energy efficiency improvement loan guarantees, the minimum REAP guaranteed loan amount is $5,000 and the maximum amount of a guaranteed loan to be provided to a borrower is $25 million.

(d) Renewable energy system and energy efficiency improvement guaranteed loan and grant combination applications. Paragraphs (b) and (c) of this section contain the applicable maximum amounts and minimum amounts for grants and guaranteed loans.

(2) *Energy audit and renewable energy development assistance grants.*

(a) Applicants may submit only one energy audit grant application and one renewable energy development assistance grant application for fiscal year 2016 funds.

(b) The maximum aggregate amount of energy audit and renewable energy development assistance grants awarded to any one recipient under this Notice cannot exceed $100,000 for fiscal year 2016.

(c) The 2014 Farm Bill mandates that the recipient of a grant that conducts an energy audit for an agricultural producer or a rural small business must require the agricultural producer or rural small business to pay at least 25 percent of the cost of the energy audit, which shall be retained by the eligible entity for the cost of the audit.

(3) *Maximum grant assistance to an entity.* For the purposes of this Notice, the maximum amount of grant assistance to an entity will not exceed $750,000 for fiscal year 2016 based on the total amount of the renewable energy system, energy efficiency improvement, energy audit, and renewable energy development assistance grants awarded to an entity under REAP.

H. *Other submission requirements and information.*

(1) *Environmental information.* For the Agency to consider an application, the application must include all environmental review documents with supporting documentation in accordance with 7 CFR part 1940, subpart G. Applications for financial assistance for planning or management purposes are typically categorically excluded from the environmental review process by 7 CFR 1940.310(e)(1). Any required environmental review must be completed prior to obligation of funds or the approval of the application. Applicants are advised to contact the Agency to determine environmental requirements as soon as practicable to ensure adequate review time.

(2) *Felony conviction and tax delinquent status.* Corporate applicants submitting applications under this Notice must include Form AD 3030, ''Representations Regarding Felony Conviction and Tax Delinquent Status for Corporate Applicants.'' Corporate applicants who receive an award under this Notice will be required to sign Form AD 3031, ''Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants.'' Both forms can be found online at *http://www.ocio.usda.gov/document/ad3030*; and *http://www.ocio.usda.gov/document/ad3031*.

(3) *Original signatures.* USDA Rural Development may request that the applicant provide original signatures on forms submitted through Grants.gov at a later date.

(4) *Transparency Act Reporting.* All recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive compensation in accordance with 2 CFR part 170. So long as an entity applicant does not have an exception under 2 CFR 170.110(b), the applicant must have the necessary processes and systems in place to comply with the reporting requirements should the applicant receive funding. See 2 CFR 170.200(b).

V. Application Review Information

A. *Evaluation Criteria.* All complete applications will be scored in accordance with 7 CFR 4280.120, 4280.135, and 4280.192 and as supplemented below.

(1) For fiscal year 2016, if the State Director and Administrator consider awarding priority points under 7 CFR 4280.120(g), the State Director and the Administrator will take into consideration paragraphs V.A(1)(a) and (b) below.

(a) With regard to 7 CFR 4280.120(g)(3), which addresses applicants who are members of unserved and under-served populations, a project that is:

(i) Owned by a veteran, including but not limited to individuals as sole proprietors, members, partners, stockholders, etc., of not less than 20 percent. In order to receive points, applicants must provide a statement in their applications to indicate that owners of the project have veteran status; and

(ii) Owned by a member of a socially-disadvantaged group, which are groups whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities. In order to receive points, the application must include a statement to indicate that the owners of

the project are members of a socially-disadvantaged group.

(b) With regard to 7 CFR 4280.120(g)(4), which addresses applications that further a Presidential initiative or a Secretary of Agriculture priority, projects:

(i) Located in rural areas with the lowest incomes where, according to the most recent 5-year American Community Survey data by census, tracts show that at least 20 percent of the population is living in poverty. This will support Secretary of Agriculture's priority of providing 20 percent of its funding by 2016 to these areas of need and

(ii) Located in designated Strike Force or Promise Zone areas, which is a Secretary of Agriculture's priority.

(2) Combined grant and guaranteed loan applications will be scored in accordance with 7 CFR 4280.120.

(3) For hybrid applications, each technical report will be evaluated based on its own merit.

B. *Review and Selection Process.* Grant-only applications, guaranteed loan-only applications, and combined grant and guaranteed loan applications for financial assistance may be submitted at any time. In order to be considered for funds, complete applications must be received by the appropriate USDA Rural Development State Office or via Grants.gov, as identified in Section IV.E., of this Notice.

(1) *Renewable energy system and energy efficiency improvement grants.* Due to the competitive nature of this program, applications are competed based on submittal date. The submittal date is the date the Agency receives a complete application. The complete application date is the date the Agency receives the last piece of information that allows the Agency to determine eligibility and to score, rank, and compete the application for funding.

(a) *Renewable energy system and energy efficiency improvement grants of $20,000 or less State funds.* Funds will be allocated to the States. Applications must be submitted by November 2, 2015, or May 2, 2016, in order to be considered for these set-aside funds. The State will award 50 percent of these funds for those complete applications the Agency receives by November 2, 2015, and 50 percent of the funds for those complete applications the Agency receives by May 2, 2016. All State allocated unused funds for grants of $20,000 or less will be pooled to the National Office.

(b) *Renewable energy system and energy efficiency improvement grants of $20,000 or less national funds.* All unfunded eligible applications for grants of $20,000 or less received by May 2, 2016, will be competed against other applications for grants of $20,000 or less from other States at a final national competition. Obligations of these funds will take place prior to June 30, 2016.

(c) *Renewable energy system and energy efficiency improvement unrestricted grant State funds.* Renewable energy system and energy efficiency improvement grant funds that can be awarded to any renewable energy system or energy efficiency improvement application, regardless of the amount of the funding request, will be allocated to the States. All unused funds for grant funds will be pooled to the National Office.

(d) *Renewable energy system and energy efficiency improvement national grant funds.* All unfunded eligible applications for grants, which include grants of $20,000 or less, that are received by May 2, 2016, and that are not funded by State allocations can be submitted to the National Office to compete against grant applications from other States at a final national competition.

(2) *Renewable energy system and energy efficiency improvement guaranteed loan funds.* The National Office will maintain a reserve for renewable energy system and energy efficiency improvement guaranteed loan funds. Applications will be reviewed and processed when received. Those applications that meet the Agency's underwriting requirements, are credit worthy, and score a minimum of 50 points will compete in national competitions for guaranteed loan funds on the first business day of each month. All unfunded eligible guaranteed loan-only applications received that do not score at least 50 points will be competed against other guaranteed loan-only applications from other States at a final national competition, if the guaranteed loan reserves have not been completely depleted, on September 1, 2016. If funds remain after the final guaranteed loan-only national competition, the Agency may elect to utilize budget authority to fund additional grant-only applications.

(3) *Combined grant and guaranteed loan applications.* Renewable energy system and energy efficiency improvement combined grant and guaranteed loan applications will compete with grant-only applications for grant funds allocated to their State referenced in paragraph B(1)(c) of this section. If the application is ranked high enough to receive State allocated grant funds, the State will request funding for the guaranteed loan portion of any combined grant and guaranteed loan applications from the National Office guaranteed loan reserve, and no further competition will be required.

(4) *Energy audit and renewable energy development assistance grants.* Energy audit and renewable energy development assistance grant funds will be maintained in a reserve at the National Office. The two highest scoring applications from each State, based on the scoring criteria established under § 4280.192, will compete for funding at a national competition. If funds remain after the energy audit and renewable energy development assistance national competition, the Agency may elect to transfer budget authority to fund additional renewable energy system and energy efficiency improvement grants from the National Office reserve after pooling.

(5) *Insufficient funds.* If a State allocation is not sufficient to fund the total amount of a grant or combination application, the applicant must be notified that they may accept the remaining funds or submit the total request for National Office reserve funds available after pooling. If the applicant agrees to lower its grant request, the applicant must certify that the purposes of the project will be met and provide the remaining total funds needed to complete the project.

(a) If two or more grant or combination applications have the same score and remaining funds in the State allocation are insufficient to fully award them, the remaining funds must be divided proportionally between the applications. The Agency will notify the applicants that they may either accept the proportional amount of funds or submit their total request for National Office reserve. If the applicant agrees to lower its grant request, the applicant must certify that the purposes of the project will be met and provide the remaining total funds needed to complete the project.

(b) At its discretion, the Agency may instead allow the remaining funds to be carried over to the next fiscal year rather than selecting a lower scoring application(s) or distributing funds on a pro-rata basis.

C. *Award Considerations.* All awards will be on a discretionary basis. In determining the amount of a renewable energy system or energy efficiency improvement grant or loan guarantee, the Agency will consider the six criteria specified in 7 CFR 4280.114(e) or 7 CFR 4280.129(g), as applicable.

D. *Anticipated Announcement and Federal Award Dates.* All awards should be completed by September 30, 2016.

VI. Federal Award Administration Information

A. *Federal Award Notices.* The Agency will award and administer renewable energy system and energy efficiency improvement grants, guaranteed loans in accordance with 7 CFR 4280.122, and 7 CFR 4280.139, as applicable. The Agency will award and administer the energy audit and renewable energy development assistance grants in accordance with 7 CFR 4280.195. Notification requirements of 7 CFR 4280.111, apply to this Notice.

B. *Administrative and National Policy Requirements.*

(1) *Equal Opportunity and Nondiscrimination.* The Agency will ensure that equal opportunity and nondiscrimination requirements are met in accordance with the Equal Credit Opportunity Act, 15 U.S.C. 1691 *et seq.* and 7 CFR part 15d, Nondiscrimination in Programs and Activities Conducted by the U.S. Department of Agriculture. The Agency will not discriminate against applicants on the basis of race, color, religion, national origin, sex, marital status, or age (provided that the applicant has the capacity to contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act, 15 U.S.C. 1601 *et seq.*

(2) *Civil Rights Compliance.* Recipients of grants must comply with the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 *et seq.,* Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.,* and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794. This may include collection and maintenance of data on the race, sex, and national origin of the recipient's membership/ownership and employees. These data must be available to conduct compliance reviews in accordance with 7 CFR 1901.204.

(3) *Environmental Analysis.* 7 CFR part 1940, subpart G, or successor regulation outlines environmental procedures and requirements for this subpart. Prospective applicants are advised to contact the Agency to determine environmental requirements as soon as practicable after they decide to pursue any form of financial assistance directly or indirectly available through the Agency.

(4) *Appeals.* A person may seek a review of an Agency decision or appeal to the National Appeals Division in accordance with 7 CFR 4280.105.

C. *Reporting.*

Reporting requirements will be in accordance with the Grant Agreement, 7 CFR 4280.123(j), 7 CFR 4280.143, and 7 CFR 4280.196, as applicable. Any question on reporting can be directed to the appropriate Rural Development Energy Coordinator as identified in the ''For Further Information Contact'' section of this notice.

VII. Other Information

A. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, the information collection requirements associated with renewable energy system and energy efficiency improvement grants and guaranteed loans, as covered in this Notice, have been approved by the Office of Management and Budget (OMB) under OMB Control Number 0570–0050. The information collection requirements associated with energy audit and renewable energy development assistance grants have also been approved by OMB under OMB Control Number 0570–0059.

B. Nondiscrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the basis of race, color, national origin, age, disability, sex, gender identity, religion, reprisal and where applicable, political beliefs, marital status, familial or parental status, religion, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form (PDF), found online at *http://www.ascr.usda.gov/complaint_filing_cust.html*, or complete the form at any USDA office, or call (866) 632–9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, by fax (202) 690–7442 or email at *program.intake@usda.gov*.

Individuals who are deaf, hard of hearing or have speech disabilities and wish to file either an EEO or program complaint, please contact USDA through the Federal Relay Service at (800) 877–8339 or (800) 845–6136 (in Spanish).

Persons with disabilities, who wish to file a program complaint, please see information above on how to contact us directly by mail or by email. If you require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Dated: September 29, 2015.

Samuel H. Rikkers,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 2015–25321 Filed 10–5–15; 8:45 am]

BILLING CODE 3410–XY–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Montana Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the Montana Advisory Committee to the Commission will convene at 1:00 p.m. (MDT) on Thursday, October 22, 2015, via teleconference. The purpose of the planning meeting is for the Advisory Committee to continue their discussion and plans to conduct a community forum on Border Town Discrimination Against Native Americans.

Members of the public may listen to the discussion by dialing the following Conference Call Toll-Free Number: 1–888–397–5352; Conference ID: 261115. Please be advised that before being placed into the conference call, the operator will ask callers to provide their names, their organizational affiliations (if any), and an email address (if available) prior to placing callers into the conference room. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free phone number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service (FRS) at 1–800–977–8339 and provide the FRS operator with the Conference Call Toll-Free Number: 1–888–397–5352, Conference ID: 261115. Members of the public are invited to submit written comments; the comments must be received in the regional office by

Monday, November 22, 2015. Written comments may be mailed to the Rocky Mountain Regional Office, U.S. Commission on Civil Rights, 1961 Stout Street, Suite 13–201, Denver, CO 80294, faxed to (303) 866–1050, or emailed to Evelyn Bohor at *ebohor@usccr.gov.* Persons who desire additional information may contact the Rocky Mountain Regional Office at (303) 866–1040.

Records and documents discussed during the meeting will be available for public viewing as they become available at *http://www.facadatabase.gov/committee/meetings.aspx?cid=259* and clicking on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Rocky Mountain Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Rocky Mountain Regional Office at the above phone number, email or street address.

Agenda

Welcome and Introductions
Norma Bixby, Chair
Civil Rights Discussion
Montana State Advisory Committee
Administrative Matters
Malee V. Craft, Regional Director and Designated Federal Official (DFO)

DATES: Thursday, October 22, 2015, at 1:00 p.m. (MDT)

ADDRESSES: To be held via teleconference: Conference Call Toll-Free Number: 1–888–397–5352, Conference ID: 261115. TDD: Dial Federal Relay Service 1–800–977–8339 and give the operator the above conference call number and conference ID.

FOR FURTHER INFORMATION CONTACT: Malee V. Craft, Regional Director, *mcraft@usccr.gov,* 303–866–1040

Dated: October 1, 2015.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2015–25374 Filed 10–5–15; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Institute of Standards and Technology (NIST).

Title: National Voluntary Laboratory Accreditation Program (NVLAP) Information Collection System.

OMB Control Number: 0693–0003.

Form Number(s): None.

Type of Request: Regular submission.

Number of Respondents: 800.

Average Hours per Response: 3 hours.

Burden Hours: 2,400.

Needs and Uses: This information is collected from all testing and calibration laboratories that apply for National Voluntary Laboratory Accreditation Program (NVLAP) accreditation. It is used by NVLAP to assess laboratory conformance with applicable criteria as defined in 15 CFR part 285, Section 285.14. The information provides a service to customers in business and industry, including regulatory agencies and purchasing authorities that are seeking competent laboratories to perform testing and calibration services. An accredited laboratory's contact information and scope of accreditation are provided on NVLAP's Web site (*http://www.nist.gov/nvlap*).

Affected Public: Business or other for-profit organizations, not-for-profit institutions, and Federal, State or Local government.

Frequency: Annually.

Respondent's Obligation: Required to obtain or retain benefits.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: September 30, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–25338 Filed 10–5–15; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Industry and Security.

Title: License Transfer and Duplicate License Services.

OMB Control Number: 0694–0126.

Form Number(s): N/A.

Type of Request: Regular.

Burden Hours: 38 hours.

Number of Respondents: 110 respondents.

Average Hours per Response: 16 to 66 minutes per response.

Needs and Uses: This collection is needed to provide services to exporters who have either lost their original license and require a duplicate, or who wish to transfer their ownership of an approved license to another party.

Affected Public: Businesses and other for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain benefits.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to OIRA *Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: October 1, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–25368 Filed 10–5–15; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

DATES: Effective date: October 6, 2015.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD

Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (''POR''), it must notify the Department within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *http://access.trade.gov* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (''the Act''). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on the Department's service list.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the period of review. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 30 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments five days after the deadline for the initial comments.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be ''collapsed'' (*i.e.*, treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.*, investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (''Q&V'') Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

Separate Rates

In proceedings involving non-market economy (''NME'') countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991), as amplified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994). In accordance with the separate rates criteria, the Department assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, the Department requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to the Department no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [2] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to the Department no later than 30 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation Of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than August 31, 2016.

	Period to be reviewed
Antidumping Duty Proceedings	
MALAYSIA: Polyethylene Retail Carrier Bags, A–557–813	8/1/14–7/31/15
Euro SME Sdn Bhd	
MEXICO: Light Walled Rectangular Pipe and Tube, A–201–836	8/1/14–7/31/15
Perfiles y Herrajes LM, S.A. de C.V.	
REPUBLIC OF KOREA: Large Power Transformers, A–580–867	8/1/14–7/31/15
Iljin	
Iljin Electric Co., Ltd.	
Hyosung Corporation	
Hyundai Heavy Industries Co., Ltd.	
LSIS Co., Ltd.	
RUSSIAN FEDERATION: Solid Urea [4], A–821–801	7/1/14–6/30/15
SOCIALIST REPUBLIC OF VIETNAM: Frozen Fish Fillets, A–552–801	8/1/14–7/31/15
An Giang Agriculture and Foods Import-Export Joint Stock Company (AFIEX)	
An Giang Fisheries Import and Export Joint Stock Company (also known as Agifish or AnGiang Fisheries Import and Export)	
An My Fish Joint Stock Company (also known as Anmyfish or Anmyfishco)	
An Phat Seafood Co. Ltd.	
An Phu Seafood Corp. (also known as ASEAFOOD)	
Anvifish Co., Ltd.	
Anvifish Joint Stock Company (ANVIFISH)	
Asia Commerce Fisheries Joint Stock Company (also known as Acomfish JSC or Acomfish)	
Asia Pangasius Company Limited	
Basa Joint Stock Company (BASACO)	
Bien Dong Seafood Company Ltd., (Bien Dong Seafood)	
Binh An Seafood Joint Stock Co.	
Bentre Aquaproduct Import & Export Joint Company (also known as Bentre Aquaproduct or Ben Tre Aquaproduct Import and Export Joint Stock Company or Aquatex Bentre)	
Bentre Forestry and Aquaproduct Import Export Joint Stock Company (also known as Ben Tre Forestry and Aquaproduct Import-Export Company or Ben Tre Forestry Aquaproduct Import-Export Company or Ben Tre Frozen Aquaproduct Export Company or Faquimex)	
C.P. Vietnam Corporation	
Cadovimex II Seafood Import-Export and Processing Joint Stock Company (also known as CADOVIMEX II or)	
Cafatex Corporation (CAFATEX) as CADOVIMEX II Seafood Import-Export)	
Can Tho Animal Fishery Products Processing Export Enterprise (also known as Cafatex)	
Can Tho Import-Export Seafood Joint Stock Company	

[2] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[3] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

[4] In the July initiation notice published on September 2, 2015, 80 FR 53106 (July Initiation notice), we inadvertently listed two of MCC EuroChem's production subsidiaries, OJSC Nevinnomyssky Azot & OJSC NAK Azot, as separate companies. In this notice, we are hereby correcting the error to list only MCC EuroChem. Moreover because the request for review from the petitioner, the Ad Hoc Committee of Domestic Nitrogen Producers, and its individual members, CF Industries, Inc. and PCS Nitrogen Fertilizer, L.P. misspelled the production subsidiary as OJSC Nevinnomysskiy Azot instead of OJSC Nevinnomyssky Azot, the July Initiation notice contained an incorrect spelling.

	Period to be reviewed
Cantho Import-Export Joint Stock Company (CASEAMEX)	
Cuu Long Fish Joint Stock Company (CL-Fish),	
Dai Thanh Seafoods Company Limited (DATHACO)	
East Sea Seafoods LLC (ESS)	
Europe Joint Stock Company	
Fatifish Company Limited (FATIFISH)	
GODACO Seafood Joint Stock Company (GODACO)	
Golden Quality Seafood Corporation (GOLDEN QUALITY)	
Green Farms Seafood Joint Stock Company (Green Farms)	
Hai Huong Seafood Joint Stock Company (also known as HHFish or HH Fish)	
Hiep Thanh Seafood Joint Stock Co.	
Hoa Phat Seafood Import-Export and Processing J.S.C. (HOPAFISH)	
Hoang Long Seafood Processing Co., Ltd. (HLS)	
Hung Vuong Corporation	
Hung Vuong Joint Stock Company	
Hung Vuong Mascato Company Limited	
Hung Vuong Seafood Joint Stock Company	
Hung Vuong-Sa Dec Co. Ltd.	
Hung Vuong-Vinh Long Co., Ltd.	
International Development & Investment Corporation (IDI)	
Lian Heng Investment Co., Ltd. (also known as Lian Heng)	
Lian Hengg Trading Co., Ltd. (also known as Lian Heng)	
Nam Phuong Seafood Company Ltd. (also known as Nam Phoung Seafood Company Ltd. or NAFISHCO)	
Nam Viet Company Ltd.	
Nam Viet Corporation (NAVICO)	
Ngoc Ha Co., Ltd. Food Processing and Trading	
Nha Trang Seafoods, Inc. (also known as Nha Trang Seafoods-F89 or Nha Trang Seafoods)	
NTACO Corporation (NTACO)	
NTSF Seafoods Joint Stock Company (NTSF)	
Quang Minh Seafood Co., Ltd.	
QVD Dong Thap Food Co., Ltd. (also known as Dong Thap)	
QVD Food Company, Ltd.	
Saigon-Mekong Fishery Co., Ltd. (also known as SAMEFICO)	
Seafood Joint Stock Company No. 4—Branch Dong Tam Fisheries Processing Company (DOTASEAFOODCO)	
Southern Fisheries Industries Company, Ltd. (also known as South Vina)	
Southern Fishery Industries Company, Ltd. (also known as South Vina)	
Sunrise Corporation	
TG Fishery Holdings Corporation (also known as TG)	
Thanh Hung Co., Ltd. (also known as Thanh Hung Frozen Seafood Processing Import Export Co., Ltd. or Thanh Hung)	
Thien Ma Seafood Co., Ltd. (also known as THIMACO)	
Thien Ma Seafoods Co., Ltd. (also known as THIMACO)	
Thien Phat Seafood Co., Ltd.	
Thuan Hung Co.,Ltd. (also known at THUFICO)	
Thuan An Production Trading and Service Co., Ltd. (TAFISHCO)	
Thuan An Production Trading and Services Co., Ltd. (TAFISHCO)	
Thuan Hung Co., Ltd. (also known as THUFICO)	
To Chau Joint Stock Company (TOCHAU)	
Viet Phu Foods and Fish Corporation (Viet Phu)	
Vinh Hoan Corporation (also known as Vinh Hoan)	
Vinh Long Import-Export Company (also known as Vinh Long or Imex Cuu Long)	
Vinh Quang Fisheries Corporation (also known as Vinh Quang)	
Vinh Quang Fisheries Joint-Stock Company	
THAILAND: Polyethylene Retail Carrier Bags, A–549–821	8/1/14–7/31/15
2 P Work Co., Ltd.	
2PK Interplas Co., Ltd.	
Angkapol Plastech Co., Ltd.	
Asia Industry Co., Ltd.	
Asian Packaging Limited Partnership	
Bags and Gloves Co., Ltd.	
Completely Co., Ltd.	
C.P. Poly Industry Co., Ltd.	
CT Import-Export Co., Ltd.	
Dpac Inter. Corporation Co., Ltd.	
DTOP Co., Ltd.	
Ecoplas (Thailand) Co., Ltd.	
Elite Poly and Packaging Co., Ltd.	
Firstpack Co. Ltd.	
G.L.K. (Thailand) Co., Ltd.	
Green Smile Supply Co., Ltd.	
Hinwiset Packaging Limited Partnership	
K. International Packing Co., Ltd.	
King Bag Co., Ltd.	
King Pac Industrial Co., Ltd.	

	Period to be reviewed
KPA Packing & Product Co., Ltd.	
Napa Plastic Co., Ltd.	
Naraipak Co., Ltd.	
NKD Intertrade Limited Partnership	
NNN Packaging Limited Partnership	
Northeast Pack Company Limited	
P.C.S. International Company Limited	
Pasiam Ltd., Partnership	
PMC Innopack Co., Ltd.	
Poly Plast (Thailand) Co., Ltd.	
Poly World Co., Ltd.	
PPN Plaspack Limited Partnership	
Prepack Thailand Co., Ltd.	
PSSP Plaspack Co., Ltd.	
SSGT Products Limited Partnership	
Super Grip Co., Ltd.	
T.P. Plaspack Co., Ltd.	
T.T.P. Packaging (Thailand) Co., Ltd.	
Thantawan Industry Public Co., Ltd.	
Triple B Pack Co., Ltd.	
Triyamook Vanich Limited Partnership	
Two Path Plaspack Co., Ltd.	
Udomrutpanich Limited Partnership	
Win Win and Pro Pack Co. Ltd.	
Winbest Industrial (Thailand) Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Steel Nails, A–570–909	8/1/14–7/31/15
Besco Machinery Industry (Zhejiang) Co., Ltd.	
Cana (Tianjin) Hardware Industrial Co., Ltd.	
Certified Products International Inc.	
Chiieh Yung Metal Industrial Corporation	
China Staple Enterprise (Tianjin) Co., Ltd.	
Dezhou Hualude Hardware Products Co., Ltd.	
Hebei Cangzhou New Century Foreign Trade Co. Ltd.	
Huanghu Jinhai Hardware Products Co. Ltd	
Huanghua Xiong Hua Hardware Product Co., Ltd.	
Huanghua Yufutai Hardware Products Limited	
Jining Huarong Hardware Products	
Liaocheng Minghui Hardware Products Co., Ltd.	
Mingguang Abundant Hardware Products Co., Ltd.	
Mingguang Ruifeng Hardware Products Co., Ltd.	
Nanjing Caiqing Hardware Co., Ltd.	
Nanjing Yuechang Hardware Co., Ltd.	
PT Enterprise Inc.	
Qingdao D&L Group, Ltd.	
Qingdao D&L Group Co., Ltd.	
SDC International Aust. PTY. Ltd.	
SDC International Australia (PTY) Ltd.	
Shandong Dinglong Import & Export Co., Ltd.	
Shandong Oriental Cherry Hardware Group	
Shandong Oriental Cherry Hardware Import & Export Co., Ltd.	
Shandong Qingyun Hongyi Hardware Products Co., Ltd.	
Shanghai Curvet Hardware Products Co., Ltd.	
Shanghai Yueda Nails Industry Co., Ltd.	
Shanghai Yueda Fasterners Co., Ltd.	
Shanxi Hairui Trade Co., Ltd.	
Shanxi Pioneer Hardware Industrial Co., Ltd.	
Shanxi Tianli Enterprise Co., Ltd.	
Shanxi Tianli Industries Co., Ltd.	
Shanxi Yuci Broad Wire Products Co., Ltd.	
S-Mart (Tianjin) Technology Development Co., Ltd.	
Smart (Tianjin) Technology Development Co., Ltd.	
Suntec Industries Co., Ltd.	
Suzhou Xingya Nail Co., Ltd.	
The Stanley Works (Langfang) Fastening Systems Co., Ltd.	
Stanley Black & Decker, Inc.	
Tianjin Hongli Qiangsheng Import and Export Co., Ltd.	
Tianjin Jinchi Metal Products Co., Ltd.	
Tianjin Jinghai County Hongli Industry & Business Co.,Ltd.	
Tianjin Juxiang Metal Products Co.	
Tianjin Lianda Group Ltd.	
Tianjin Lianda Group Co., Ltd.	
Tianjin Universal Machinery Import & Export Corp.	
Tianjin Zhonglian Metals Ware Co., Ltd.	

	Period to be reviewed
Xi'an Metals & Minerals Import & Export Co., Ltd.	
Zhejiang Gem-Chun Hardware Accessory Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Polyethylene Retail Carrier Bags, A–570–886	8/1/14–7/31/15
Dongguan Nozawa Plastics Products Co., Ltd. and United Power Packaging, Ltd. (collectively Nozawa)	
UKRAINE: Silicomanganese, A–823–805	8/1/14–7/31/15
JSC Nikopol Ferroalloy Plant	
JSC Zaporizhzhya Ferroalloy Plant	

Countervailing Duty Proceedings

None.

Suspension Agreements

None.

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine, consistent with *FAG Italia* v. *United States,* 291 F.3d 806 (Fed Cir. 2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Revised Factual Information Requirements

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013), which modified two regulations related to antidumping and countervailing duty proceedings: The definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all segments initiated on or after May 10, 2013. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.[5] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.[6] The Department intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

Revised Extension of Time Limits Regulation

On September 20, 2013, the Department modified its regulation concerning the extension of time limits for submissions in antidumping and countervailing duty proceedings: *Final Rule,* 78 FR 57790 (September 20, 2013). The modification clarifies that parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal,

[5] *See* section 782(b) of the Act.

[6] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (''*Final Rule*''); *see also* the frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning U.S. Customs and Border Protection data; and (5) quantity and value questionnaires. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: September 30, 2015.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2015–25414 Filed 10–5–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Board of Overseers of the Malcolm Baldrige National Quality Award

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The Board of Overseers of the Malcolm Baldrige National Quality Award (Board) will meet in open session on Wednesday, December 2, 2015. The purpose of this meeting is to review and discuss the work of the private sector contractor, which assists the Director of the National Institute of Standards and Technology (NIST) in administering the Malcolm Baldrige National Quality Award (Award), and information received from NIST and from the Chair of the Judges' Panel of the Malcolm Baldrige National Quality Award in order to make such suggestions for the improvement of the Award process as the Board deems necessary. Details on the agenda are noted in the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: The meeting will be held on Wednesday, December 2, 2015 from 8:30 a.m. Eastern Time until 3:00 p.m. Eastern Time. The meeting will be open to the public.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, 100 Bureau Drive, Building 101, Lecture Room A, Gaithersburg, Maryland 20899. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Robert Fangmeyer, Director, Baldrige Performance Excellence Program, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, Maryland 20899–1020, telephone number (301) 975–2360, or by email at *robert.fangmeyer@nist.gov.*

SUPPLEMENTARY INFORMATION:

Authority: 15 U.S.C. 3711a(d)(2)(B) and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the Board will meet in open session on Wednesday, December 2, 2015 from 8:30 a.m. Eastern Time until 3:00 p.m. Eastern Time. The Board is composed of eleven members selected for their preeminence in the field of organizational performance excellence and appointed by the Secretary of Commerce. The Board consists of a balanced representation from U.S. service, manufacturing, nonprofit, education, and health care industries. The Board includes members familiar with the quality improvement operations and competitiveness issues of manufacturing companies, service companies, small businesses, health care providers, and educational institutions. Members are also chosen who have broad experience in for-profit and nonprofit areas. The purpose of this meeting is to review and discuss the work of the private sector contractor, which assists the Director of the National Institute of Standards and Technology (NIST) in administering the Award, and information received from NIST and from the Chair of the Judges' Panel of the Malcolm Baldrige National Quality Award in order to make such suggestions for the improvement of the Award process as the Board deems necessary. The Board shall make an annual report on the results of Award activities to the Director of NIST, along with its recommendations for the improvement of the Award process. The agenda will include: Report from the Judges Panel of the Malcolm Baldrige National Quality Award, Baldrige Program Business Plan Status Report, Baldrige Foundation Fundraising Update, Products and Services Update, and Recommendations for the NIST Director. The agenda may change to accommodate Board business. The final agenda will be posted on the NIST Baldrige Performance Excellence Web site at *http://www.nist.gov/baldrige/community/overseers.cfm.* The meeting will be open to the public.

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Board's affairs are invited to request a place on the agenda. On December 2, 2015 approximately one-half hour will be reserved in the afternoon for public comments, and speaking times will be assigned on a first-come, first-served basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be about 3 minutes each. The exact time for public comments will be included in the final agenda that will be posted on the Baldrige Web site at *http://www.nist.gov/baldrige/community/overseers.cfm.* Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak, but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements to the Baldrige Performance Excellence Program, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, Maryland 20899–1020, via fax at 301–975–4967 or electronically by email to *nancy.young@nist.gov.*

All visitors to the National Institute of Standards and Technology site must pre-register to be admitted. Please submit your name, time of arrival, email address and phone number to Nancy Young no later than 5:00 p.m. Eastern Time, Wednesday, November 25, 2015 and she will provide you with instructions for admittance. Non-U.S. citizens must submit additional information and should contact Ms. Young for instructions. Ms. Young's email address is *nancy.young@nist.gov* and her phone number is (301) 975–2361. For participants attending in person, please note that federal agencies, including NIST, can only accept a state-issued driver's license or

identification card for access to federal facilities if such license or identification card is issued by a state that is compliant with the REAL ID Act of 2005 (P.L. 109–13), or by a state that has an extension for REAL ID compliance. NIST currently accepts other forms of federal-issued identification in lieu of a state-issued driver's license. For detailed information please contact Ms. Young or visit: *http://www.nist.gov/public_affairs/visitor/*.

Richard Cavanagh,

Acting Associate Director for Laboratory Programs.

[FR Doc. 2015–25310 Filed 10–5–15; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 150917865–5865–01]

National Cybersecurity Center of Excellence (NCCoE) Domain Name System-Based Security (DNS) for Electronic Mail Building Block

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology (NIST) invites organizations to provide products and technical expertise to support and demonstrate security platforms for the Domain Name System-Based (DNS) Security for Electronic Mail Building Block. This notice is the initial step for the National Cybersecurity Center of Excellence (NCCoE) in collaborating with technology companies to address cybersecurity challenges identified under the Domain Name System-Based Security for Electronic Mail Building Block. Participation in this building block is open to all interested organizations.

DATES: Interested parties must contact NIST to request a letter of interest template to be completed and submitted to NIST that identifies the organization requesting participation in the Domain Name System-Based Security for Electronic Mail Building Block and the capabilities and components that are being offered to the collaborative effort. Letters of interest will be accepted on a first come, first served basis. Collaborative activities will commence as soon as enough completed and signed letters of interest have been returned to address all the necessary components and capabilities, but no earlier than November 5, 2015. When the building block has been completed, NIST will post a notice on the Domain Name System-Based Security for Electronic Mail Building Block Web site at *http://nccoe.nist.gov/DNSSecuredEmail* announcing the completion of the building block and informing the public that it will no longer accept letters of interest for this building block.

ADDRESSES: The NCCoE is located at 9600 Gudelsky Drive, Rockville, MD 20850. Letters of interest must be submitted to *dns-email-nccoe@nist.gov* or via hardcopy to National Institute of Standards and Technology, NCCoE; 9600 Gudelsky Drive; Rockville, MD 20850. Organizations whose letters of interest are accepted in accordance with the process set forth in the **SUPPLEMENTARY INFORMATION** section of this notice will be asked to sign a Cooperative Research and Development Agreement (CRADA) with NIST. A CRADA template can be found at: *http://nccoe.nist.gov/node/138*.

FOR FURTHER INFORMATION CONTACT: William C. Barker via email to *dns-email-nccoe@nist.gov*; by telephone 301–975–3655; or by mail to National Institute of Standards and Technology, NCCoE; 9600 Gudelsky Drive; Rockville, MD 20850. Additional details about the Domain Name System-Based Security for Electronic Mail Building Block are available at *http://nccoe.nist.gov/DNSSecuredEmail*.

SUPPLEMENTARY INFORMATION:

Background: The NCCoE, part of NIST, is a public-private collaboration for accelerating the widespread adoption of integrated cybersecurity tools and technologies. The NCCoE brings together experts from industry, government, and academia under one roof to develop practical, interoperable cybersecurity approaches that address the real-world needs of complex Information Technology (IT) systems. By accelerating dissemination and use of these integrated tools and technologies for protecting IT assets, the NCCoE will enhance trust in U.S. IT communications, data, and storage systems; reduce risk for companies and individuals using IT systems; and encourage development of innovative, job-creating cybersecurity products and services.

Process: NIST is soliciting responses from all sources of relevant security capabilities (see below) to enter into a Cooperative Research and Development Agreement (CRADA) to provide products and technical expertise to support and demonstrate security platforms for the Domain Name System-Based Security for Electronic Mail Building Block. The full building block description can be viewed at: *http://nccoe.nist.gov/DNSSecuredEmail*.

Interested parties should contact NIST using the information provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice. NIST will then provide each interested party with a letter of interest template, which the party must complete, certify that it is accurate, and submit to NIST and which identifies the organization requesting participation in the Domain Name System-Based Security for Electronic Mail Building Block and the capabilities and components that are being offered to the collaborative effort. NIST will contact interested parties if there are questions regarding the responsiveness of the letters of interest to the building block objective or requirements identified below and to obtain additional information. NIST will select participants who have submitted complete letters of interest on a first come, first served basis within each category of product components or capabilities listed below up to the number of participants in each category necessary to carry out the Domain Name System-Based Security for Electronic Mail Building Block. However, there may be continuing opportunity to participate even after initial activity commences. Selected participants will be required to enter into a consortium CRADA with NIST (for reference, see **ADDRESSES** section above). NIST published a notice in the **Federal Register** on October 19, 2012 (77 FR 64314) inviting U.S. companies to enter into National Cybersecurity Excellence Partnerships (NCEPs) in furtherance of the NCCoE. For this demonstration project, NCEP partners will not be given priority for participation.

Building Block Objective

Both public and private sector business operations are heavily reliant on electronic mail (email) exchanges. The need to protect business plans and tactics, the integrity of transactions, financial and other proprietary information, and privacy of employees and clients are only four of the factors that motivate organizations to secure their email exchanges. Whether the security service desired is authentication of the source of an email message, assurance that the message has not been altered by an unauthorized party, or confidentiality of message contents, cryptographic functions are usually employed in providing the service. Economies of scale and a need for uniform security implementation drive most enterprises to rely on mail

servers to provide security to the members of an enterprise rather than end-to-end security mechanisms operated by individual users. Most current server-based email security mechanisms are vulnerable to, and have been defeated by, attacks on the integrity of the cryptographic implementations on which they depend. The consequences frequently involve unauthorized parties being able to read or modify supposedly secure information, or to use email as a vector for inserting malware into the system that is intended to deny access to critical information or processes or to damage or destroy system components and/or information. Improved email security can help protect organizations and individuals against these consequences and also serve as a marketing discriminator for email service providers as well as improve the trustworthiness of enterprise email exchanges.

Domain Name System Security Extensions (DNSSEC) for the Domain Name System (DNS) are technical mechanisms employed by internet service providers to protect against unauthorized modification to network management information and connections to devices operated by untrustworthy parties. DNS-based Authentication of Named Entities (DANE) is a protocol that securely associates domain names with cryptographic certificates and related security information so that they can't be fraudulently modified or replaced to breach the security of Internet exchanges. In spite of the dangers of failure to authenticate the identities of network devices, adoption of DNSSEC has been slow. Demonstration of DANE-supported applications such as reliably secure email may support increased user demand for domain name system security. Follow-on projects might include HTTPS, IOT, IPSEC keys in DNS, and DNS service discovery.

The current project will demonstrate a proof of concept security platform composed of off the shelf components that provides trustworthy mail server-to-mail server email exchanges across organizational boundaries. The DANE protocol will be used to authenticate servers and certificates in two roles in the DNS-Based Security for Email Project: (1) By binding the X.509 certificates used for Transport Layer Security (TLS) to DNS names verified by DNSSEC and supporting the use of these certificates in the mail server-to-mail server communication; and (2) by binding the X.509 certificates used for Secure Secure/Multipurpose Internet Mail Extensions (S/MIME) to email addresses encoded as DNS names verified by DNSSEC. These bindings support trust in the use of S/MIME certificates in the end-to-end email communication. The resulting building block will encrypt email traffic between servers, allow individual email users to digitally sign and/or encrypt email messages to other end users, and allow individual email users to obtain other users' certificates in order to validate signed email or send encrypted email. The project will include an email sending policy consistent with a stated privacy policy that can be parsed by receiving servers so that receiving servers can apply the correct security checks and report back the correctness of the email stream. Documentation of the resulting platform will include statements of the security and privacy policies and standards (*e.g.,* Executive Orders, NIST standards and guidelines, IETF RFCs) supported, technical specifications for hardware and software, implementation requirements, and a mapping of implementation requirements to the applicable policies, standards, and best practices.

The secure email project will involve composition of a variety of components that will be provided by a number of different vendors. Client systems, DNS/DNSSEC services, mail transfer agents, and certificate providers (CAs) are generally involved. Collaborators are being sought to provide components and expertise for DNS resolvers (stub and recursive) for DNSSEC, authoritative DNS servers for DNSSEC signed zones, mail servers and mail security components, extended validation and domain validation TLS certificates.

This project will result in one or more demonstration prototype DNS-based secure email platforms, a publicly available NIST Cybersecurity Practice Guide that explains how to employ the platform(s) to meet security and privacy requirements, and platform documentation necessary to compose a DNS-based email security platform from off the shelf components.

A detailed description of the Domain Name System-Based Security for Electronic Mail Building Block is available at: *http://nccoe.nist.gov/DNSSecuredEmail*.

Requirements: Each responding organization's letter of interest should identify which security platform component(s) or capability(ies) it is offering. Letters of interest should not include company proprietary information, and all components and capabilities must be commercially available. Components are listed in section eight of the Domain Name System-Based Security for Electronic Mail Building Block description (for reference, please see the link in the PROCESS section above) and include, but are not limited to:

- Client systems
- DNS/DNSSEC services
- Mail transfer agents
- DNS resolvers (stub and recursive) for DNSSEC validation
- Authoritative DNS servers for DNSSEC signed zones
- Mail server/mail security systems
- S/MIME certificates
- Extended validation and domain validation TLS certificates

Each responding organization's letter of interest should identify how their product(s) address one or more of the desired solution characteristics in section five of the Domain Name System-Based Security for Electronic Mail Building Block description (for reference, please see the link in the PROCESS section above).

Additional details about the Domain Name System-Based Security for Electronic Mail Building Block are available at: *http://nccoe.nist.gov/DNSSecuredEmail*.

NIST cannot guarantee that all of the products proposed by respondents will be used in the demonstration. Each prospective participant will be expected to work collaboratively with NIST staff and other project participants under the terms of the consortium CRADA in the development of the Domain Name System-Based Security for Electronic Mail Building Block. Prospective participants' contribution to the collaborative effort will include assistance in establishing the necessary interface functionality, connection and set-up capabilities and procedures, demonstration harnesses, environmental and safety conditions for use, integrated platform user instructions, and demonstration plans and scripts necessary to demonstrate the desired capabilities. Each participant will train NIST personnel, as necessary, to operate its product in capability demonstrations. Following successful demonstrations, NIST will publish a description of the security platform and its performance characteristics sufficient to permit other organizations to develop and deploy security platforms that meet the security objectives of the Domain Name System-Based Security for Electronic Mail Building Block. These descriptions will be public information.

Under the terms of the consortium CRADA, participants will commit to providing:

1. Access for all participants' project teams to component interfaces and

the organization's experts necessary to make functional connections among security platform components

2. Support for development and demonstration of the Domain Name System-Based Security for Electronic Mail Building Block in NCCoE facilities which will be conducted in a manner consistent with Federal requirements (*e.g.,* FIPS 200, FIPS 201, SP 800–53, and SP 800–63)

In addition, NIST will support development of interfaces among participants' products by providing IT infrastructure, laboratory facilities, office facilities, collaboration facilities, and staff support to component composition, security platform documentation, and demonstration activities.

The dates of the demonstration of the Domain Name System-Based Security for Electronic Mail Building Block capability will be announced on the NCCoE Web site at least two weeks in advance at *http://nccoe.nist.gov/*. The expected outcome of the demonstration is to improve domain name system-based security for electronic mail within the enterprise. Participating organizations will gain from the knowledge that their products are interoperable with other participants' offerings.

For additional information on the NCCoE governance, business processes, and NCCoE operational structure, visit the NCCoE Web site *http://nccoe.nist.gov/*.

Richard Cavanagh,

Acting Associate Director for Laboratory Programs.

[FR Doc. 2015–25304 Filed 10–5–15; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Environmental Compliance Questionnaire for National Oceanic and Atmospheric Administration Federal Financial Assistance Applicants.

OMB Control Number: 0648–0538.

Form Number(s): None.

Type of Request: Regular (revision and extension of a currently approved information collection).

Number of Respondents: 1,000.

Average Hours per Response: One to three hours.

Burden Hours: 3,000.

Needs and Uses: This request is for a revision and extension of a currently approved information collection. The National Environmental Policy Act (''NEPA''; 42 U.S.C. 4321–4370) requires federal agencies to complete an environmental analysis for all major federal actions, including funding non-federal projects through federal financial assistance awards where Federal participation in the funded activity is expected to be significant. This *Environmental Compliance Questionnaire for National Oceanic and Atmospheric Administration Federal Financial Assistance Applicants* (Questionnaire) is used by the National Oceanic and Atmospheric Administration (NOAA) to collect information about proposed activities for NEPA and other environmental compliance requirements associated with proposed projects, such as federal consultations. The Questionnaire is used in conjunction with NOAA Funding Opportunity Announcements (FOA). Applicants are required to provide only the information from this Questionnaire that is specified in the FOA to which they are applying. The FOA may present these questions in one of two ways: (1) The applicable questions can be inserted directly into the FOA with reference to the OMB Control Number (0648–0538) for this form; or (2) The FOA can specify which questions (*e.g.* 1, 2) an applicant must answer, with the entire OMB-approved Questionnaire attached to the FOA. This Questionnaire has been revised to (1) remove repetitive questions; (2) revise specific questions to use plain language instead of NEPA-specific language; and (3) add questions that would be helpful to a wider range of NOAA programs. The revision reduced the overall number of questions by 22.

Affected Public: Individuals or households; business or other for-profit organizations; not-for-profit institutions; state, local, or tribal government; and federal government.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: October 1, 2015.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015–25378 Filed 10–5–15; 8:45 am]

BILLING CODE 3510–NW–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Limits of Application of the Take Prohibitions

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before December 7, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Gary Rule, NOAA Fisheries, 1201 NE Lloyd Blvd. Suite 1100, Portland, OR 97232, (503) 230–5424 or *gary.rule@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection. Section 4(d) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 et seq.) requires the National Marine Fisheries Service (NMFS) to adopt such regulations as it ''deems necessary and advisable to provide for the conservation of'' threatened species. Those regulations may include any or all of the

prohibitions provided in section 9(a)(1) of the ESA, which specifically prohibits ''take'' of any endangered species (''take'' includes actions that harass, harm, pursue, kill, or capture). The first salmonid species listed by NMFS as threatened were protected by virtually blanket application of the section 9 take prohibitions. There are now 22 separate Distinct Population Segments (DPS) of west coast salmonids listed as threatened, covering a large percentage of the land base in California, Oregon, Washington and Idaho. NMFS is obligated to enact necessary and advisable protective regulations. NMFS makes section 9 prohibitions generally applicable to many of those threatened DPS, but also seeks to respond to requests from states and others to both provide more guidance on how to protect threatened salmonids and avoid take, and to limit the application of take prohibitions wherever warranted (see 70 FR 37160, June 28, 2005, 71 FR 834, January 5, 2006, and 73 FR 55451, September 25, 2008). The regulations describe programs or circumstances that contribute to the conservation of, or are being conducted in a way that limits impacts on, listed salmonids. Because we have determined that such programs/circumstances adequately protect listed salmonids, the regulations do not apply the ''take'' prohibitions to them. Some of these limits on the take prohibitions entail voluntary submission of a plan to NMFS and/or annual or occasional reports by entities wishing to take advantage of these limits, or continue within them.

The currently approved application and reporting requirements apply to Pacific marine and anadromous fish species, as requirements regarding other species are being addressed in a separate information collection.

II. Method of Collection

Submissions may be electronically or on paper.

III. Data

OMB Control Number: 0648–0399.

Form Number(s): None.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: Federal government; State, local, or tribal government; business or other for-profit organizations.

Estimated Number of Respondents: 300.

Estimated Time per Response: 20 hours for a road maintenance agreement; 5 hours for a diversion screening limit project; 30 hours for an urban development package; 10 hours for an urban development report; 20 hours for a tribal plan; and 5 hours for a report of aided, salvaged, or disposed of salmonids.

Estimated Total Annual Burden Hours: 1,705.

Estimated Total Annual Cost to Public: $1,000 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 29, 2015.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015–25332 Filed 10–5–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Interim Capital Construction Fund Agreement, Certificate Family of Forms and Deposit/Withdrawal Report

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before December 7, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Richard VanGorder at (301)427–8784 or *Richard.VanGorder@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection.

Respondents will be commercial fishing industry individuals, partnerships, and corporations which entered into Capital Construction Fund (CCF) agreements with the Secretary of Commerce allowing deferral of Federal taxation on fishing vessel income deposited into the fund for use in the acquisition, construction, or reconstruction of fishing vessels. Deferred taxes are recaptured by reducing an agreement vessel's basis for depreciation by the amount withdrawn from the fund for its acquisition, construction, or reconstruction. The interim Capital Construction Fund Agreement and Certificate Family of Forms is required pursuant to 50 CFR part 259.30 and Public Law 99–514 (The Tax Reform Act, 1986). The deposit/withdrawal information collected from agreement holders is required pursuant to 50 CFR part 259.35 and Pub L. 99–514. The information collected from applicants for the Interim CCF Agreement is used to determine their eligibility to participate in the CCF Program. The information collected from agreement holders for the Certificate Family of Forms is used to identify their program eligible vessels, their program projects and to certify the cost of a project at completion. The information collected on the deposit/withdrawal report form is required to ensure that agreement holders are complying with fund deposit/withdrawal requirements established in program regulations and properly accounting for fund activity on their Federal income tax returns. The information collected on the deposit/withdrawal report must also be reported semi-annually to the Secretary of Treasury in accordance with the Tax Reform Act.

II. Method of Collection

The information will be collected on forms submitted electronically or by mail.

III. Data

OMB Control Number: 0648–0041.

Form Numbers: NOAA Form 34–82, NOAA Form 88–14.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 3,000.

Estimated Time per Response: NOAA Form 34–82, 20 minutes;

NOAA Form 88–14, 3.5 hours for agreements and 1 hour for certificate.

Estimated Total Annual Burden Hours: 2,917.

Estimated Total Annual Cost to Public: $15,320 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 30, 2015.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015–25331 Filed 10–5–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–P–2015–0049]

Change in Practice Regarding Correction of Foreign Priority Claims

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The American Inventors Protection Act of 1999 (AIPA) provided for publication of patent applications at eighteen months from the earliest filing date for which a benefit is claimed. Thus, the patent laws and regulations require that foreign priority or domestic benefit claims, specifying the application number, country (or intellectual property authority), and filing date of any foreign application for which priority is claimed and the application number of any domestic application for which benefit is claimed, be submitted in a timely manner to allow for publication at eighteen months from the earliest filing date for which a benefit is claimed. It has been United States Patent and Trademark Office (USPTO) practice to require that any correction of the application number in a domestic benefit claim after the time period for filing a priority or benefit claim be via a petition to accept an unintentionally delayed benefit claim, but to permit correction of the application number in a foreign priority claim after the time period for filing a priority or benefit claim without such a petition. This dissimilar treatment of the correction of foreign priority claims and domestic benefit claims results in the publication of a corrected patent application publication reflecting the accurate domestic benefit claim information whenever an applicant corrects the application number in a domestic benefit claim in a pending application, but not whenever an applicant corrects the application number of the foreign application in a foreign priority claim. The rationale for the practice of permitting correction of the application number in a foreign priority claim without a petition was because the filing date of a prior foreign patent application did not affect the effective prior art date of a U.S. patent application publication and because the USPTO schedules publication of an application with the filing date provided by applicant in a foreign priority claim. The Leahy-Smith America Invents Act (AIA), however, now provides that the filing date of an earlier foreign patent application may now be the effective prior art date for subject matter disclosed in a U.S. patent or a U.S. patent application publication. Therefore, U.S. patent application publications should reflect accurate foreign priority information to minimize the burden on examiners and members of the public in assessing the effective prior art date for subject matter disclosed in such U.S. patent application publications. The USPTO will thus now require that any correction of the identification of the foreign application (by application number, country (or intellectual property authority), and filing date) in a foreign priority claim after the time period for filing a priority or benefit claim be via a petition to accept an unintentionally delayed priority claim, and once the petition is granted in a pending application, will now publish a corrected patent application publication reflecting the accurate foreign priority claim information. Requiring a petition and publishing a corrected patent application publication whenever an applicant corrects the application number in a foreign priority claim or a domestic benefit claim will provide for common treatment of the correction of the identification of a foreign or domestic application in a priority or benefit claim. The publication of a corrected patent application publication by the USPTO will result in corrected patent application publications with accurate foreign priority information which will benefit examiners, applicants and members of the public in assessing the effective prior art date for subject matter disclosed in a U.S. patent application publication.

DATES: *Effective Date:* The change in this notice takes effect on November 5, 2015. Any corrections to the foreign application number in a foreign priority claim that were previously accepted are not affected by this change in practice.

FOR FURTHER INFORMATION CONTACT: Eugenia A. Jones, Senior Legal Advisor, by telephone at (571) 272–7727, or Erin M. Harriman, Legal Advisor, by telephone (571) 272–7747, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, or by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450, marked to the attention of Eugenia A. Jones.

SUPPLEMENTARY INFORMATION:

Background: In view of the AIPA, foreign priority or domestic benefit claims must be submitted in a timely manner to allow for publication of patent applications at eighteen months from the earliest filing date for which a benefit is claimed. *See* 35 U.S.C. 122(b). The requirements for making a domestic benefit claim are set forth in 37 CFR 1.78 and the requirements for making a foreign priority claim are set forth in 37 CFR 1.55. As provided in 37 CFR 1.55 and 1.78, the claim for priority or benefit must be filed within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior

application (hereinafter referred to as the 4/16 month time period) in a patent application filed under 35 U.S.C. 111(a). Note that the 4/16 month time period does not apply to an application for a design patent or an application filed before November 29, 2000. A claim for foreign priority must identify the foreign application by specifying the application number, country (or intellectual property authority), and the filing date (day, month, and year) of the foreign application. *See* 37 CFR 1.55(d).

It has been USPTO practice to require that any correction of the application number in a domestic benefit claim after the 4/16 month time period be via a petition to accept an unintentionally delayed benefit claim, but to permit correction of the application number in a foreign priority claim after the 4/16 month time period without such a petition (discussed in the Eighteen-Month Publication Questions and Answers on the USPTO Web site). This dissimilar treatment of the correction of foreign priority claims and domestic benefit claims results in the publication of a corrected patent application publication reflecting the accurate domestic benefit claim information whenever an applicant corrects the application number in a domestic benefit claim in a pending application, but not whenever an applicant corrects the application number of the foreign application in a foreign priority claim. The rationale for this practice was because the USPTO was able to schedule the application for publication with the filing date of the foreign application provided by applicant and the prior art date under pre-AIA 35 U.S.C. 102(e) of the publication was not affected. *See* the Patent FAQs Web page available at *http://www.uspto.gov/help/patent-help*.

Under the first inventor to file provisions of the AIA, a U.S. patent or patent application publication may be effective as prior art as of the filing date of an earlier foreign application. *See* AIA 35 U.S.C. 102(d) and the Manual of Patent Examining Procedure (MPEP) (9th Ed. 2014), Section 2154.01(b). Therefore, the rationale for not requiring a petition to correct an error in the application number of a foreign priority claim is no longer appropriate. In view of the first inventor to file provisions of the AIA, U.S. patent application publications should reflect accurate foreign priority information to minimize the burden on examiners and members of the public in assessing the effective prior art date for subject matter disclosed in such U.S. patent application publications.

Change in Practice: The USPTO will now require compliance with all the requirements of 37 CFR 1.55 and thus require a petition to accept an unintentionally delayed claim for foreign priority under 37 CFR 1.55(e) in order to correct any error in a foreign priority claim if the correction is being made after the 4/16 month time period. This is consistent with the practice for correcting any error in a domestic benefit claim under 37 CFR 1.78 if the correction is being made after the 4/16 month time period and will result in a corrected patent application publication with the accurate foreign priority information being published by the USPTO for a pending application.

Requiring compliance with all the requirements of 37 CFR 1.55 will create consistency between the practices under 37 CFR 1.55 and 1.78 and will result in corrected patent application publications with accurate foreign priority information being published by the USPTO. A U.S. patent application publication which claims priority to a foreign application that identifies the correct foreign application number, country (or intellectual property authority), and date of filing will help ensure that proper examination of patent applications being examined under the first inventor to file provisions of the AIA will occur. Identification of the correct foreign priority information on U.S. patent application publications will also minimize the burden on examiners and members of the public in obtaining a copy of the correct foreign priority document in the event that a copy is not available in the application file of the reference. This change in practice will benefit examiners, applicants, and members of the public by reducing any uncertainty caused by the dissimilar treatment of the correction of foreign priority claims and domestic benefit claims and by ensuring that a corrected U.S. patent application publication reflecting accurate foreign priority information will be published by the USPTO enabling accurate assessment of the effective prior art date for subject matter disclosed in U.S. patent application publications.

The Patent FAQs will be modified to reflect that a petition under 37 CFR 1.55(e), including the petition fee, will be required to correct any error in a foreign priority claim after the 4/16 month period of 37 CFR 1.55(d).

Dated: September 26, 2015.

Michelle K. Lee,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2015–25407 Filed 10–5–15; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2015–ICCD–0118]

Agency Information Collection Activities; Comment Request; Application for Grants Under the Talent Search Program

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a reinstatement of a previously approved information collection.

DATES: Interested persons are invited to submit comments on or before December 7, 2015.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2015–ICCD–0118. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E103, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Craig Pooler, 202–502–7640.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department

assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Application for Grants under the Talent Search Program.

OMB Control Number: 1840–0818.

Type of Review: A reinstatement of a previously approved information collection.

Respondents/Affected Public: Private Sector, State, Local and Tribal Governments.

Total Estimated Number of Annual Responses: 1,230.

Total Estimated Number of Annual Burden Hours: 40,860.

Abstract: The Department of Education is requesting a reinstatement with change of the application for grants under the Talent Search (TS) Program. The Department is requesting a reinstatement with change because the previous TS application expired in October 2013 and the application will be needed for a Fiscal Year (FY) 2016 competition for new awards. The FY 2016 application incorporates new competitive preference priorities and removes the previously-used invitational priorities.

Dated: October 1, 2015.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2015–25354 Filed 10–5–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Idaho National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Idaho National Laboratory. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, October 29, 2015, 8:00 a.m.–4:00 p.m.

The opportunity for public comment is at 3:45 p.m. This time is subject to change; please contact the Federal Coordinator (below) for confirmation of times prior to the meeting.

ADDRESSES: Sun Valley Inn, 1 Sun Valley Road, Sun Valley, ID 83353.

FOR FURTHER INFORMATION CONTACT: Robert L. Pence, Federal Coordinator, Department of Energy, Idaho Operations Office, 1955 Fremont Avenue, MS–1203, Idaho Falls, Idaho 83415. Phone (208) 526–6518; Fax (208) 526–8789 or email: *pencerl@id.doe.gov* or visit the Board's Internet home page at: *http://inlcab.energy.gov/.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Topics (agenda topics may change up to the day of the meeting; please contact Robert L. Pence for the most current agenda):

- Welcome and Opening Remarks
- Agency Update Presentations—Idaho Cleanup Project Progress to Date
- EM SSAB Chairs' Meeting Update
- Public Comment

Public Participation: The EM SSAB, Idaho National Laboratory, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Robert L. Pence at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Robert L. Pence at the address or telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Robert L. Pence, Federal Coordinator, at the address and phone number listed above. Minutes will also be available at the following Web site: *http://inlcab.energy.gov/pages/meetings.php.*

Issued at Washington, DC, on September 30, 2015.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2015–25393 Filed 10–5–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Orders Granting Authority To Import and Export Natural Gas, and To Import and Export Liquefied Natural Gas During May 2015

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of orders.

	FE Docket No.
TRIPOLARITY ENERGY CORPORATION	15–37–NG
ECOGAS DE MEXICO S. DE R.L. DE C.V	15–48–NG
ENVIRO EXPRESS, INC	15–55–LNG
ENCANA MARKETING (USA) INC	15–56–NG
E.ON GLOBAL COMMODITIES NORTH AMERICA LLC	15–58–NG
CP ENERGY MARKETING (US) INC	15–60–NG
MIECO INC	15–61–NG
DOMINION COVE POINT LNG, LP	11–128–LNG

	FE Docket No.
CHENIERE MARKETING, LLC AND CORPUS CHRISTI LIQUEFACTION, LLC	12–97–LNG
PIERIDAE ENERGY (USA) INC	14–179–LNG
CITIGROUP ENERGY INC	15–64–LNG
REPSOL ENERGY NORTH AMERICA CORPORATION	15–66–NG
REV LNG LLC	15–77–LNG
ALASKA LNG PROJECT, LLC	14–96–LNG
IDAHO POWER COMPANY	15–59–NG
CITADEL NPGE LLC	15–65–NG
CASTLETON COMMODITIES CANADA LP	15–68–NG
GDF SUEZ GAS NA LLC	15–69–LNG
CITY OF PASADENA	15–70–NG
BIG SKY GAS LLC	15–71–NG
APACHE CORPORATION	15–72–NG
PACIFIC SUMMIT ENERGY LLC	15–73–NG
COMANCHE TRAIL PIPELINE, LLC	15–74–NG
CNE GAS SUPPLY, LLC	15–76–NG
PENTACLES ENERGY LLLP	15–79–NG
U.S. GAS & ELECTRIC, INC.	15–80–NG
AMERICAN LNG MARKETING LLC	15–19–LNG

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during January 2015, it issued orders granting authority to import and export natural gas, and to import and export liquefied natural gas (LNG). These orders are summarized in the attached appendix and may be found on the FE Web site at *http://energy.gov/fe/downloads/listing-doefe-authorizationsorders-issued-2015*.

They are also available for inspection and copying in the Office of Fossil Energy, Office of Oil and Gas Global Security and Supply, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on September 30, 2015.

John A. Anderson,

Director, Office of Oil and Gas Global Security and Supply, Office of Oil and Natural Gas.

Appendix

DOE/FE ORDERS GRANTING IMPORT/EXPORT AUTHORIZATIONS

3631	05/07/15	15–37–NG	Tripolarity Energy Corporation.	Order granting blanket authority to import/export natural gas from/to Canada/Mexico.
3632	05/07/15	15–48–NG	Ecogas Mexico S. de R.L. de C.V.	Order granting blanket authority to import natural gas from Canada and to export natural gas to Mexico.
3633	05/07/15	15–55–LNG	Enviro Express, Inc	Order granting blanket authority to import LNG from Canada by truck.
3634	05/07/15	15–56–NG	Encana Marketing (USA) Inc	Order granting blanket authority to import/export natural gas from/to Canada/Mexico.
3635	05/07/15	15–58–NG	E.On Global Commodities North America LLC.	Order granting blanket authority to import/export natural gas from/to Canada/Mexico, to import LNG from Canada/Mexico by truck, to export LNG to Canada/Mexico by vessel, and to import LNG from various sources by vessel.
3636	05/07/15	15–60–NG	CP Energy Marketing (US) Inc.	Order granting blanket authority export natural gas to Canada.
3637	05/07/15	15–61–NG	Mieco Inc	Order granting blanket authority to export natural gas to Canada.
3331–A	05/07/15	11–128–LNG	Dominion Cove Point LNG, LP.	Order granting blanket authority to import/export natural gas from/to Canada/Mexico, to export LNG to Canada/Mexico, and to import LNG from various international sources.
3638	05/12/15	12–97–LNG	Cheniere Marketing, LLC and Corpus Christi Liquefaction, LLC.	Final Order and Opinion granting long-term, Multi-contract authority to export LNG by vessel from the proposed Corpus Christi Liquefaction Project to be located in Corpus Christi, Texas, to Non-Free Trade Agreement Nations.
3639	05/22/15	14–179–LNG	Pieridae Energy (USA) Inc	Order granting long-term, Multi-contract authority to export LNG to Canada and to other Free Trade Agreement Nations.
3640	05/21/15	15–64–LNG	Citigroup Energy Inc	Order granting blanket authority to import LNG from various international sources by vessel.
3641	05/21/15	15–66–NG	Repsol Energy North America Corporation.	Order granting blanket authority to export natural gas to Canada.
3642	05/22/15	15–77–LNG	Rev LNG LLC	Order granting blanket authority to export LNG to Canada by truck.
3643	05/28/15	14–96–LNG	Alaska LNG Project, LLC	Order granting blanket authority to export natural gas to Canada.

DOE/FE ORDERS GRANTING IMPORT/EXPORT AUTHORIZATIONS—Continued

3644	05/28/15	15–59–NG	Idaho Power Company	Order granting blanket authority to export natural gas to Canada.
3645	05/28/15	15–65–NG	Citadel NGPE LLC	Order granting blanket authority import/export natural gas from/to Canada/Mexico.
3646	05/28/15	15–68–NG	Castleton Commodities Canada LP.	Order granting blanket authority to import/export natural gas from/to Canada.
3647	05/28/15	15–69–LNG	GDF Suez Gas NA LLC	Order granting blanket authority to import LNG from Canada by truck.
3648	05/28/15	15–70–NG	City of Pasadena	Order granting blanket authority to import/export natural gas from/to Canada.
3649	05/28/15	15–71–NG	Big Sky Gas LLC	Order granting blanket authority to import natural gas from Canada.
3650	05/28/15	15–72–NG	Apache Corporation	Order granting blanket authority to import/export natural gas from/to Canada.
3651	05/28/15	15–73–NG	Pacific Summit Energy LLC	Order granting blanket authority to import/export natural gas from/to Canada/Mexico and to import LNG from various international sources.
3652	05/28/15	15–74–NG	Comanche Trail Pipeline, LLC.	Order granting blanket authority to import/export natural gas from/to Mexico.
3653	05/28/15	15–76–NG	CNE Gas Supply, LLC	Order granting blanket authority to import natural gas from Canada.
3654	05/28/15	15–79–NG	Pentacles Energy, LLLP	Order granting blanket authority to export natural gas to Mexico.
3655	05/28/15	15–80–NG	U.S. Gas & Electric, Inc	Order granting blanket authority to import/export natural gas from/to Canada.
3656	05/29/15	15–19–LNG	American LNG Marketing LLC.	Order granting long-term, Multi-contract authority to export LNG in ISO containers loaded at the proposed Titusville Facility in Titusville, Florida, and exported by vessel to Free Trade Agreement Nations.

[FR Doc. 2015–25437 Filed 10–5–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

DOE/NSF Nuclear Science Advisory Committee

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of renewal.

SUMMARY: Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act (Pub. L. 92–463) and in accordance with Title 41 of the Code of Federal Regulations, section 102–3.65, and following consultation with the Committee Management Secretariat of the General Services Administration, notice is hereby given that the DOE/NSF Nuclear Science Advisory Committee (NSAC) has been renewed for a two-year period.

The Committee will provide advice and recommendations to the Director, Office of Science (DOE), and the Assistant Director, Directorate for Mathematical and Physical Sciences (NSF), on scientific priorities within the field of basic nuclear science research.

Additionally, the Secretary of Energy has determined that renewal of the NSAC is essential to conduct business of the Department of Energy and the National Science Foundation and is in the public interest in connection with the performance duties imposed by law upon the Department of Energy. The Committee will continue to operate in accordance with the provisions of the Federal Advisory Committee Act, the Department of Energy Organization Act (Pub. L. 95–91), and the rules and regulations in implementation of these acts.

FOR FURTHER INFORMATION CONTACT: Dr. Timothy Hallman at (301) 903–3613.

Issued in Washington, DC, on September 30, 2015.

Erica De Vos,

Acting Committee Management Officer.

[FR Doc. 2015–25436 Filed 10–5–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Orders Granting Authority To Import and Export Natural Gas, To Import and Export Liquefied Natural Gas, and Vacating Authority and Change in Control During April 2015

AGENCY: Office of Fossil Energy, Department of Energy (DOE).

ACTION: Notice of orders.

	FE Docket Nos.
CONSTELLATION ENERGY SERVICES, INC. (formerly INTEGRYS ENERGY SERVICES, INC.)	15–40–NG
PANGEA LNG (NORTH AMERICA) HOLDINGS, LLC	12–174–LNG 12–184–LNG 14–002–CIC 14–003–CIC
CAMERON LNG, LLC	14–204–LNG
LATIN AMERICA NG FUELS LLC	15–28–LNG
NOBLE AMERICAS GAS & POWER CORP	15–35–NG
PILOT POWER GROUP, INC	15–42–NG
SEMPRA GENERATION, LLC	15–47–NG
STATOIL NATURAL GAS LLC	15–50–LNG
OMIMEX CANADA, LTD	15–52–NG
FREEPOINT COMMODITIES LLC	15–46–NG

	FE Docket Nos.
ENI USA GAS MARKETING LLC	15–13–LNG
FERUS NATURAL GAS FUELS INC	14–191–LNG
RBC ENERGY SERVICES L.P	15–49–NG
J.P. MORGAN COMMODITIES CORPORATION	13–76–NG
J.P. MORGAN COMMODITIES CANADA CORPORATION	12–151–NG

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during March 2015, it issued orders granting authority to import and export natural gas, to import and export liquefied natural gas (LNG), and vacating authority and Change in Control (CIC). These orders are summarized in the attached appendix and may be found on the FE Web site at *http://energy.gov/fe/downloads/listing-doefe-authorizationsorders-issued-2015.*

They are also available for inspection and copying in the Office of Fossil Energy, Office of Oil and Gas Global Security and Supply, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on September 30, 2015.

John A. Anderson,

Director, Office of Oil and Gas Global Security and Supply, Office of Oil and Natural Gas.

APPENDIX—DOE/FE ORDERS GRANTING IMPORT/EXPORT AUTHORIZATIONS

3619	15–40–NG	04/01/15	Constellation Energy Services, Inc. (formerly Integrys Energy Services, Inc.).	Order granting blanket authority to import/export natural gas from/to Canada and vacating prior authority.
3227–A	12–174–LNG 12–184–LNG 14–002–CIC 14–003–CIC	04/08/15	Pangea LNG (North America) Holdings, LLC.	Order vacating authority in Docket No. 12–174–LNG; withdrawing application in Docket No. 12–184–LNG, and vacating Notice of Corporate Reorganization or Change in Control in Docket No. 12–184–LNG and related dockets.
3620	14–204–LNG	04/09/15	Cameron LNG, LLC	Order granting long-term Multi-contract authority to export LNG by vessel from the Cameron LNG Terminal in Cameron Parish, Louisiana, to Free Trade Agreement Nations.
3621	15–28–LNG	04/09/15	Latin America NG Fuels LLC	Order granting blanket authority to import/export LNG from/to Mexico by truck.
3622	15–35–NG	04/09/15	Noble Americas Gas & Power Corp.	Order granting blanket authority to import/export natural gas from/to Canada/Mexico and to import LNG from various international sources by vessel.
3623	15–42–NG	04/09/15	Pilot Power Group, Inc	Order granting blanket authority to import/export natural gas from/to Canada/Mexico.
3624	15–47–NG	04/09/15	Sempra Generation, LLC	Order granting blanket authority to import/export natural gas from/to Mexico.
3625	15–50–LNG	04/09/15	Statoil Natural Gas LLC	Order granting blanket authority to import LNG from various international sources.
3626	15–52–NG	04/09/15	Omimex Canada, Ltd	Order granting blanket authority to import/export natural gas from/to Canada.
3627	15–46–NG	04/15/15	Freepoint Commodities LLC	Order granting blanket authority to import/export natural gas from/to Canada/Mexico.
3628	15–13–LNG	04/23/15	Eni USA Gas Marketing LLC	Order granting blanket authority to export previously imported LNG by vessel.
3629	14–191–LNG	04/30/15	Ferus Natural Gas Fuels Inc	Order granting blanket authority to import/export LNG from/to Canada by truck.
3630	15–49–NG	04/30/15	RBC Energy Services L.P	Order granting blanket authority to import/export natural gas from/to Canada.
3308–A	13–76–NG	04/30/15	J.P. Morgan Commodities Corporation.	Order vacating authority to import/export natural gas from/to Canada.
3246–A	12–151–NG	04/30/15	J.P. Morgan Commodities Canada Corporation.	Order vacating authority to export natural gas to Canada.

[FR Doc. 2015–25392 Filed 10–5–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Orders Granting Authority To Import and Export Natural Gas, and To Export Liquefied Natural Gas During August 2015

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of orders.

	FE Docket Nos.
EMERA ENERGY SERVICES, INC	15–93–NG
OXY ENERGY CANADA, INC	15–95–NG
B AND A GLOBAL ENERGY INC	15–108–NG
TOYOTA MOTOR ENGINEERING & MANUFACTURING NORTH AMERICA	15–109–NG
PACIFIC GAS AND ELECTRIC COMPANY	15–112–NG
ENTERPRISE PRODUCTS OPERATING LLC	15–113–NG
PORT ARTHUR LNG, LLC	15–53–LNG
CORPUS CHRISTI LIQUEFACTION, LLC	15–97–LNG

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during August 2015, it issued orders granting authority to import and export natural gas, and to export liquefied natural gas (LNG). These orders are summarized in the attached appendix and may be found on the FE Web site at *http://energy.gov/fe/downloads/listing-doefe-authorizationsorders-issued-2015.*

They are also available for inspection and copying in the Office of Fossil Energy, Office of Oil and Gas Global Security and Supply, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on September 30, 2015.

John A. Anderson,

Director, Office of Oil and Gas Global Security and Supply, Office of Oil and Natural Gas.

APPENDIX—DOE/FE ORDERS GRANTING IMPORT/EXPORT AUTHORIZATIONS

08/13/15	15–93–NG	Emera Energy Services, Inc	Order granting blanket authority to import/export natural gas from/to Canada.
08/13/15	15–95NG	Oxy Energy Canada, Inc	Order granting blanket authority to import/export natural gas from/to Canada.
08/13/15	15–108–NG	B and A Global Energy Inc	Order granting blanket authority to export natural gas to Canada.
08/13/15	15–109–NG	Toyota Motor Engineering & Manufacturing North America.	Order granting blanket authority to export natural gas to Mexico.
08/20/15	15–112–NG	Pacific Gas and Electric Company	Order granting blanket authorization to import natural gas from Canada.
08/20/15	15–113–NG	Enterprise Products Operating LLC.	Order granting blanket authority to import/export natural gas from/to Canada/Mexico.
08/20/15	15–53–LNG	Port Arthur LNG, LLC	Order granting long-term, multi-contract authorization to export LNG by vessel from the proposed Venture Port Arthur LNG Project in Port Arthur, Texas, to Free Trade Agreement nations.
08/27/15	15–97–LNG	Corpus Christi Liquefaction, LLC	Order granting long-term, multi-contract authorization to export LNG by vessel from the Corpus Christie LNG Terminal in San Patricio and Nueces Counties, Texas, to Free Trade Agreement nations.

[FR Doc. 2015–25391 Filed 10–5–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration

Defense Programs Advisory Committee

AGENCY: Office of Defense Programs, National Nuclear Security Administration, Department of Energy.

ACTION: Notice of closed meeting.

SUMMARY: This notice announces a closed meeting of the Defense Programs Advisory Committee (DPAC). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of meetings be announced in the **Federal Register**. Due to national security considerations, under section 10(d) of the Act and 5 U.S.C. 552b(c), the meeting will be closed to the public and matters to be discussed are exempt from public disclosure under Executive Order 13526 and the Atomic Energy Act of 1954, 42 U.S.C. 2161 and 2162, as amended.

DATES: October 22, 2015, 8:00 a.m. to 5:00 p.m. and October 23, 2015, 8:30 a.m. to 5:00 p.m.

ADDRESSES: U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Loretta Martin, Office of RDT&E (NA–113), National Nuclear Security Administration, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585, (202) 586–7996.

SUPPLEMENTARY INFORMATION:

Background: The DPAC provides advice and recommendations to the Deputy Administrator for Defense Programs on the stewardship and maintenance of the Nation's nuclear deterrent.

Purpose of the Meeting: The purpose of this meeting of the DPAC is to discuss the final draft of the classified report to be provided to the National Nuclear Security Administration in response to the charge to the Committee.

Type of Meeting: In the interest of national security, the meeting will be closed to the public. The Federal Advisory Committee Act, 5 U.S.C. App. 2, section 10(d), and the Federal Advisory Committee Management Regulation, 41 CFR 102–3.155, incorporate by reference the Government in the Sunshine Act, 5 U.S.C. 552b, which, at 552b(c)(1) and (c)(3) permits closure of meetings where restricted data or other classified matters will be discussed. Such data and matters will be discussed at this meeting.

Tentative Agenda: Day 1—Welcome, discussion and editing of draft report; Day 2—Discussion and editing of draft report, reconciliation of input, (tentative) acceptance of report; conclusion.

Public Participation: There will be no public participation in this closed meeting. Those wishing to provide written comments or statements to the Committee are invited to send them to Loretta Martin at the address listed above.

Minutes: The minutes of the meeting will not be available.

Issued in Washington, DC, on September 30, 2015.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2015–25397 Filed 10–5–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2601–040]

Duke Energy Carolinas, LLC;

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Request to amend the project boundary.

b. *Project No:* 2601–040.

c. *Date Filed:* September 23, 2015.

d. *Applicant:* Duke Energy Carolinas, LLC.

e. *Name of Project:* Bryson Hydroelectric Project.

f. *Location:* Oconaluftee River in Swain County, North Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Jeff Lineberger, Director of Water Strategy & Hydro Licensing, Duke Energy, 526 South Church Street, Charlotte, North Carolina 28202–1006; Telephone: (704) 382–5942; Email: *jeff.lineberger@duke-energy.com.*

i. *FERC Contact:* Mark Carter at (678) 245–3083; Email: *mark.carter@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* October 30, 2015.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, or recommendations using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–2601–040.

k. *Description of Request:* Duke Energy Carolinas, LLC proposes to amend the project boundary in order to resolve a property ownership issue with the Eastern Band of Cherokee Indians who owns lands adjacent to the project. The proposed project boundary would include 0.41 acre of new lands and exclude 5.66 acres of existing project lands for a net decrease of 5.25 acres of project lands, and would result in a decrease in the amount of shoreline in the project boundary from 2.11 miles to 2.10 miles. The application states that the proposed project boundary would only include property that is necessary for the safe and effective operation of the project, and states that the removal of project lands would not affect operations, public infrastructure, recreational use, or environmental resources.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field (P–2601) to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: September 30, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–25381 Filed 10–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 9842–006]

Mr. Ray F. Ward; Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Minor New License.

b. *Project No.:* 9842–006.

c. *Date filed:* August 28, 2014.

d. *Applicant:* Mr. Ray F. Ward.

e. *Name of Project:* Ward Mill Hydroelectric Project.

f. *Location:* On the Watauga River, in the Township of Laurel Creek, Watauga County, North Carolina. The project does not occupy lands of the United States.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Andrew C. Givens, Cardinal Energy Service, Inc., 620 N. West St., Suite 103, Raleigh, North Carolina 27603, (919) 834–0909.

i. *FERC Contact:* Adam Peer (202) 502–8449, *adam.peer@ferc.gov.*

j. Deadline for filing comments, recommendations, terms and conditions, and prescriptions: 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file comments, recommendations, terms and conditions, and prescriptions using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–9842–006.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted, and is ready for environmental analysis at this time.

l. The Ward Mill Project consists of: (1) A 4.6 acre reservoir with an estimated gross storage capacity of 16.3 acre-feet; (2) a 130-foot-long by 20-foot-high dam; (3) a 14-footlong, 5-foot-wide, and 7.5-foot-tall penstock made of rock, concrete and reinforced steel; (4) a powerhouse containing two generating units for a total installed capacity of 168 kilowatts; (5) interconnection with the utility at the meter point on the southwest, exterior wall of the powerhouse; and (6) appurtenant facilities. The project is estimated to generate from about 290,000 to about 599,000 kilowatt-hours annually. The dam and existing facilities are owned by the applicant. No new project facilities are proposed.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

All filings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies should indicate which recommendations are being submitted pursuant to section 10(j) of the Federal Power Act (16 U.S.C. 803(j)). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. A license applicant must file no later than 60 days following the date of issuance of this notice: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

Dated: September 30, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–25389 Filed 10–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2485–070]

FirstLight Hydro Generating Company; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Application for Amendment of Minimum and Maximum Reservoir Elevation Requirement.

b. *Project No.:* 2485–070.

c. *Date Filed:* September 1, 2015.

d. *Applicant:* FirstLight Hydro Generating Company (Firstlight).

e. *Name of Project:* Northfield Mountain Pumped Storage Project.

f. *Location:* The project is located on the east side of the Connecticut River, in the towns of Northfield and Erving, in Franklin County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. John S. Howard, Director FERC Compliance, FirstLight Hydro Generating Company, Northfield Mountain Station, 99 Millers Falls Road, Northfield, MA 01360. Phone (413) 659–4489.

i. *FERC Contact:* Mr. Christopher Chaney, (202) 502–6778, or *christopher.chaney@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests is 30 days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene, protests, or comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please include the project number (P–2485–070) on any comments, motions to intervene, or protests filed.

k. *Description of Request:* FirstLight is seeking authorization to modify the upper reservoir's upper and lower water surface elevation limits from 1,000.5 feet mean sea level (msl) and 938 feet msl, to 1,004.5 feet msl and 920 feet msl, respectively. FirstLight proposes to use the additional storage capacity annually between December 1 and March 31, beginning December 1, 2015, and continuing until the Commission issues a new license for the project. According to FirstLight, approval of changes in the water surface elevation limits would result in an increase in the maximum daily generation from 8,475 megawatt-hours (MWh) to 10,645 MWh, and provide Independent System Operator-New England with additional resources to address winter reliability needs.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document (*i.e.* P–2485). You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to the amendment request. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: September 29, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–25390 Filed 10–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–132–000]

Kern River Transmission Company; Notice of Availability of the Environmental Assessment for the Proposed Summerlin Pipe Replacement Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Summerlin Pipe Replacement Project, proposed by Kern River Transmission Company (Kern River) in the above-referenced docket. Kern River requests authorization to construct, operate, and maintain a new natural gas pipeline and associated facilities in Clark County, Nevada, and remove a corresponding segment of existing pipeline.

The EA assesses the potential environmental effects of the construction and operation of the Summerlin Pipe Replacement Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The U.S. Bureau of Land Management (BLM) participated as a cooperating agency in the preparation of the EA. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposal and participate in the NEPA analysis. The BLM will adopt and use the EA to consider the issuance of a right-of-way grant for the portion of the project on BLM lands.

The proposed Summerlin Pipe Replacement Project includes replacing a 1.56-mile-long segment of its existing 36-inch-diameter A-Line pipeline and expanding an existing 0.22-acre valve and pig launcher yard to 0.37 acre to accommodate a new crossover valve and crossover piping.

The FERC staff mailed CD copies of the EA to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes;

potentially affected landowners and other interested individuals and groups; newspapers and libraries in the project area; and parties to this proceeding.

In addition, the EA is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC on or before October 30, 2015.

For your convenience, there are three methods you can use to file your comments to the Commission. In all instances, please reference the project docket number (CP15–132–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You can file your comments electronically using the eComment feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number excluding the last three digits in the Docket Number field (*i.e.,* CP15–132). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: September 30, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–25388 Filed 10–5–15; 8:45 am]

BILLING CODE 6717–01–P

[1] See the previous discussion on the methods for filing comments.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF14–17–000]

Louisiana LNG Energy, LLC; Supplemental Notice of Intent To Prepare an Environmental Impact Statement for the Planned Mississippi River LNG Project, and Request for Comments on Environmental Issues Related to Project Changes

On October 3, 2014, the Federal Energy Regulatory Commission (FERC or Commission) issued in Docket No. PF14–17–000 a *Notice of Intent to Prepare an Environmental Impact Statement for the Planned Mississippi River LNG Project and Request for Comments on Environmental Issues* (NOI). Since the NOI was issued Louisiana LNG Energy, LLC (Louisiana LNG) has made project changes. This Supplemental Notice is being issued to seek comments on the project changes and opens a new scoping period for interested parties to file comments on environmental issues specific to these facilities.

The October 3, 2014 NOI announced that the FERC is the lead federal agency responsible for conducting the environmental review of the Mississippi River LNG Project (Project) and that the Commission staff will prepare an environmental impact statement (EIS) that discusses the environmental impacts of the Project. Please refer to the NOI for more information about the overall facilities proposed by Louisiana LNG and FERC staff's EIS process. This EIS will be used in part by the Commission to determine whether the Mississippi River LNG Project is in the public convenience and necessity. On November 17, 2015, Louisiana LNG is planning on having another open house to give the new landowners the opportunity to attend and learn about the Project and the FERC process.

This Supplemental Notice is being sent to the Commission's current environmental mailing list for this Project, including new landowners that would be affected by the project changes. We encourage elected officials and government representatives to notify their constituents about the Project and inform them on how they can comment on their areas of concern. Please note that comments on this Notice should be filed with the Commission by October 30, 2015.

If your property would be affected by the Project, you should have already been contacted by a Louisiana LNG representative. A Louisiana LNG

representative may have also contacted you or may contact you in the near future about the acquisition of an easement to construct, operate, and maintain the planned pipeline facilities or request permission to perform environmental surveys on your property. If the Commission approves the Project, that approval conveys with it the right of eminent domain for easement acquisition for the pipeline. Therefore, if easement negotiations fail to produce an agreement, the company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

To help potentially affected landowners better understand the Commission and its environmental review process, the ''For Citizens'' section of the FERC Web site (*www.ferc.gov*) provides information about getting involved in FERC jurisdictional projects, and a citizens' guide entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need to Know?'' This guide addresses a number of frequently asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Summary of the Planned Project Changes

Louisiana LNG is planning the following changes in response to new ownership and additional environmental and engineering analysis:

- Increase the production capacity to 6.0 million tons per annum (MTPA) from 2.0 MTPA;
- increase the storage capacity of the LNG storage tanks to 140,000 cubic meters (net) from 100,000 cubic meters;
- increase the pipeline from the 1.9-mile 24-inch-diameter to 1.9-mile 36-inch-diameter (northern pipeline) with an associated meter station that would deliver gas from the Tennessee Gas interstate pipeline system;
- increase the pipeline from the 1.6-mile 12-inch-diameter to 3.5-mile 36-inch-diameter (southern pipeline) that would deliver gas from the Tennessee Gas Pipeline system to the facility;
- eliminate the truck loading facility from the Project design; and
- eliminate the compressor station from the Project design.

A map depicting the general location of the Project facilities is included in Appendix 1.[1]

Land Requirements for Construction

The planned construction would impact a 190-acre site on the east bank of the Mississippi River in Plaquemines Parish, Louisiana, which would include the liquefaction trains, LNG storage tanks, marine loading facilities, the electrical power station, and ancillary facilities. The full 190-acre site would be fenced and retained for operations of the planned Project. Construction of the two pipelines and associated meter stations would require approximately 65 acres of land, 33 of which would be permanently impacted during operations. Louisiana LNG is still in the planning phase for the Project and requirements for construction workspaces, access roads, and pipe storage/contractor yards would be determined during engineering and design.

The EIS Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the authorization of LNG facilities. NEPA also requires us [2] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EIS. We will consider all filed comments during the preparation of the EIS.

In the EIS we will discuss impacts that could occur as a result of the construction and operation of the proposed Project. We will also evaluate reasonable alternatives to the planned Project or portions of the Project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EIS will present our independent analysis of the issues. We will publish and distribute the draft EIS for public comment. After the comment period, we will consider all timely comments and revise the document, as necessary, before issuing a final EIS. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section below.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the Louisiana Office of Historic Preservation (State Historic Preservation Office [SHPO]), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the Project's potential effects on historic properties.[3] We will define the Project-specific Area of Potential Effects (APE) in consultation with the SHPO as the Project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include the terminal plot, construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EIS for this Project will document our findings on the impacts on historic properties and summarize the status of consultations with the Louisiana Office of Historic Preservation under section 106.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the Project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before October 30, 2015.

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances please reference the Project docket number (PF14–17–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy

[1] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' of fromthe Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

[3] The Advisory Council on Historic Preservation's regulations are at title 36, Code of Federal Regulations, part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments electronically using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for Project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the Project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed Project.

When we publish and distribute the EIS, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (Appendix 2).

Becoming an Intervenor

Once Louisiana LNG files its application with the Commission, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the User's Guide under the ''e-filing'' link on the Commission's Web site. Please note that the Commission will not accept requests for intervenor status at this time. You must wait until the Commission receives a formal application for the project.

Additional Information

Additional information about the Project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.*, PF14–17). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: September 30, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–25387 Filed 10–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of the Commission's staff may attend the following meetings related to the transmission planning activities of the PJM Interconnection, L.L.C. (PJM):

PJM Planning Committee

October 8, 2015, 9:30 a.m.–12:00 p.m. (EST)

PJM Transmission Expansion Advisory Committee

October 8, 2015, 11:00 a.m.–3:00 p.m. (EST)

The above-referenced meetings will be held at: PJM Conference and Training Center, PJM Interconnection, 2750 Monroe Boulevard, Audubon, PA 19403.

The above-referenced meetings are open to stakeholders.

Further information may be found at *www.pjm.com.*

The discussions at the meetings described above may address matters at issue in the following proceedings:

Docket Nos. ER15–33, *et al., The Dayton Power and Light Company*
Docket No. ER15–994, *PJM Interconnection, L.L.C.*
Docket No. ER14–2867, *Baltimore Gas & Electric Company, et al., and PJM Interconnection, L.L.C.*
Docket Nos. ER14–972 and ER14–1485, *PJM Interconnection, L.L.C.*
Docket No. ER14–1485, *PJM Interconnection, L.L.C.*
Docket Nos. ER13–1957, *et al., ISO New England, Inc. et al.*
Docket Nos. ER13–1944, *et al., PJM Interconnection, L.L.C.*
Docket No. ER15–1344, *PJM Interconnection, L.L.C.*
Docket No. ER15–1387, *PJM Transmission Owners*
Docket No. ER15–2648, *PJM Interconnection, L.L.C.*
Docket No. ER15–2562, *PJM Interconnection, L.L.C.*
Docket No. ER15–2563, *PJM Interconnection, L.L.C.*
Docket No. EL15–18, *Consolidated Edison Company of New York, Inc.* v. *PJM Interconnection, L.L.C.*
Docket No. EL15–41, *Essential Power Rock Springs, LLC et al.* v. *PJM Interconnection, L.L.C.*
Docket No. ER13–1927, *et al., PJM Interconnection—SERTP*
Docket No. ER15–2114, *PJM Interconnection, L.L.C. and Transource West Virginia, LLC*
Docket No. EL15–79, *TransSource, LLC* v. *PJM Interconnection, L.L.C.*
Docket No. EL15–95, *Delaware Public Service Commission et al.,* v. *PJM Interconnection, L.L.C. et al.*
Docket No. EL15–67, *Linden VFT, LLC* v. *PJM Interconnection, L.L.C.*
Docket No. EL05–121, *PJM Interconnection, L.L.C.*

For more information, contact the following: Jonathan Fernandez, Office of Energy Market Regulation, Federal

Energy Regulatory Commission, (202) 502–6604, *Jonathan.Fernandez@ferc.gov,* Alina Halay, Office of Energy Market Regulation, Federal Energy Regulatory Commission, (202) 502–6474, *Alina.Halay@ferc.gov*.

Dated: September 30, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–25380 Filed 10–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12486–008—Idaho]

Twin Lakes Canal Company; Notice of Availability of the Draft Environmental Impact Statement for the Bear River Narrows Hydroelectric Project

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission (Commission or FERC) regulations contained in the Code of Federal Regulations (CFR)(18 CFR part 380 [FERC Order No. 486, 52 FR 47897]), the Office of Energy Projects has reviewed the application for license for the Bear River Narrows Hydroelectric Project (FERC No. 12486) and prepared a draft environmental impact statement (EIS) for the project.

The proposed project would be located on the Bear River, near the city of Preston, in Franklin County, Idaho. The project would occupy 243 acres of federal land managed by the Bureau of Land Management.

The draft EIS contains staff's analysis of the applicant's proposal and the alternatives for licensing the Bear River Narrows Project. The draft EIS documents the views of governmental agencies, non-governmental organizations, affected Indian tribes, the public, the license applicant, and Commission staff.

A copy of the draft EIS is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov,* using the ''e-Library'' link. Enter the docket number, excluding the last three digits, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

All comments must be filed by Monday, November 30, 2015, and should reference Project No. 12486–008. The Commission strongly encourages electronic filing. Please file comments using the Commission's efiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. In lieu of electronic filing, please send a paper copy to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Anyone may intervene in this proceeding based on this draft EIS (18 CFR 380.10). You must file your request to intervene as specified above. You do not need intervenor status to have your comments considered.

For further information, please contact Shana Murray at (202) 502–8333 or at *shana.murray@ferc.gov.*

Dated: September 30, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–25383 Filed 10–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[FFP Project 92, LLC; Project No. 14276–002—Kentucky]

Kentucky River Lock and Dam No. 11 Hydroelectric Project; Notice of Proposed Restricted Service List for a Programmatic Agreement

Rule 2010 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.2010, provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding. The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission staff is consulting with the Kentucky State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (Advisory Council) pursuant to the Advisory Council's regulations, 36 CFR part 800, implementing section 106 of the National Historic Preservation Act, *as amended,* (54 U.S.C. 306108), to prepare a Programmatic Agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places that could be affected by issuance of a license for the proposed Kentucky River Lock and Dam No. 11 Hydroelectric Project.

The Programmatic Agreement, when executed by the Commission, the Kentucky SHPO, and the Advisory Council, would satisfy the Commission's section 106 responsibilities for all individual undertakings carried out in accordance with the license until the license expires or is terminated (36 CFR 800.13(e)). The Commission's responsibilities pursuant to section 106 for the project would be fulfilled through the Programmatic Agreement, which the Commission staff proposes to draft in consultation with certain parties listed below.

FFP Project 92, LLC, as the applicant for Project No. 14276–002, is invited to participate in consultations to develop the Programmatic Agreement and to sign as a concurring party to the Programmatic Agreement. For purposes of commenting on the Programmatic Agreement, we propose to restrict the service list for Project No. 14276–002 as follows:

John Eddins, Advisory Council on Historic, Preservation, 401 F St. NW., Suite 308, Washington, DC 20001–2637.

Craig Potts, State Historic Preservation Officer, Kentucky Heritage Council, 300 Washington St., Frankfurt, KY 40601.

Kary Stackelbeck, Manager, Site Protection Program, Kentucky Heritage Council, 300 Washington St., Frankfurt, KY 40601.

Jennifer Ryall, Environmental Review Coordinator, Kentucky Heritage Council, 300 Washington St., Frankfurt, KY 40601.

Jerry Graves, Executive Director, Kentucky River Authority, 627 Wilkinson Blvd., Frankfort, KY 40601.

David Hamilton, Environmental Engineer, Kentucky River Authority, 627 Wilkinson Blvd., Frankfort, KY 40601.

Lisa C. Baker, Acting THPO, United Keetoowah Band of Cherokee, Indians in Oklahoma, P.O. Box 746, Tahlequah, OK 74465.

Ramya Swaminathan or Representative, Rye Development acting as Agent for:

FFP Project 92, LLC, 745 Atlantic Avenue, 8th Floor, Boston, MA 02111.

Kellie Doherty, Rye Development acting as Agent for: FFP Project 92, LLC, 745 Atlantic Avenue, 8th Floor, Boston, MA 02111.

Patricia Stallings, Senior Historian/Program Manager, Brockington and Associates, Inc., 3850 Holcomb Bridge Road, Suite 105, Norcross, GA 30092.

Any person on the official service list for the above-captioned proceeding may request inclusion on the restricted service list, or may request that a restricted service list not be established, by filing a motion to that effect within 15 days of this notice date. In a request for inclusion, please identify the reason(s) why there is an interest to be included. Also please identify any concerns about historic properties, including Traditional Cultural Properties. If historic properties are to be identified within the motion, please use a separate page, and label it NON-PUBLIC Information.

Any such motions may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the ''eFiling'' link. For a simpler method of submitting text only comments, click on ''eComment.'' For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov;* call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please put the project number (P–14276–002) on the first page of the filing.

If no such motions are filed, the restricted service list will be effective at the end of the 15 day period. Otherwise, a further notice will be issued ruling on the motion.

Dated: September 30, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–25385 Filed 10–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP13–483–000; Docket No. CP13–492–000]

Jordan Cove Energy Project LP; Pacific Connector Gas Pipeline LP; Notice of Availability of the Final Environmental Impact Statement for the Proposed Jordan Cove Liquefaction and Pacific Connector Pipeline Projects

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a final environmental impact statement (EIS) for the Jordan Cove Liquefaction Project proposed by Jordan Cove Energy Project LP (Jordan Cove) and the Pacific Connector Pipeline Project proposed by Pacific Connector Gas Pipeline LP (Pacific Connector) in the above-referenced dockets. Jordan Cove requests authorization under section 3 of the Natural Gas Act (NGA) to produce a maximum of 6.8 million metric tonnes per annum of liquefied natural gas (LNG) at a terminal in Coos County, Oregon for export to overseas markets. Pacific Connector seeks a Certificate of Public Convenience and Necessity under section 7 of the NGA to transport about 1.07 billion cubic feet per day of natural gas in a pipeline from the Malin hub to the Jordan Cove terminal, crossing portions of Klamath, Jackson, Douglas, and Coos Counties, Oregon.

The final EIS assesses the potential environmental effects of the construction and operation of the Jordan Cove Liquefaction and Pacific Connector Pipeline Projects in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that the proposed projects would have some limited adverse environmental impacts. However, with implementation of Jordan Cove's and Pacific Connector's proposed mitigation measures, and the additional mitigation measures recommended by the FERC staff and federal land managing agencies in the EIS, most of these impacts would be avoided or reduced to less-than-significant levels.

The United States (U.S.) Department of Agriculture Forest Service (Forest Service); U.S. Army Corps of Engineers; U.S. Department of Energy; U.S. Environmental Protection Agency; U.S. Department of Homeland Security Coast Guard; U.S. Department of the Interior Bureau of Land Management (BLM), Bureau of Reclamation (Reclamation), and Fish and Wildlife Service; and the Pipeline and Hazardous Materials Safety Administration within the U.S. Department of Transportation participated as cooperating agencies in preparation of the EIS. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposals and participated in the NEPA analysis.

The BLM, with the concurrence of the Forest Service and Reclamation, would adopt and use the EIS to consider issuing a Right-of-Way Grant for the portion of the Pacific Connector pipeline easement on federal lands. Both the BLM and the Forest Service would also use this EIS to evaluate proposed amendments to their District or National Forest land management plans to make provision for the Pacific Connector pipeline. Other cooperating agencies would use this EIS in their regulatory process, and to satisfy compliance with the NEPA and other federal environmental laws. Although the cooperating agencies provided input to the conclusions and recommendations presented in the EIS, the agencies would present their own conclusions and recommendations in their respective Records of Decision for the projects.

Jordan Cove's proposed facilities would include an access channel from the existing Coos Bay navigation channel; a terminal marine slip including a single LNG vessel berth and tug boat berth; a barge berth; a loading platform and transfer pipeline; two LNG storage tanks; four liquefaction trains and associated refrigerant storage bullets; fire water ponds; ground flares; 420-megawatt South Dune Power Plant; support buildings; utility and access corridor between the terminal and the power plant; Southwest Oregon Resource Security Center; and a natural gas treatment plant.

Pacific Connector's proposed facilities would include a 232-mile-long, 36-inch-diameter underground welded steel pipeline between Malin and Coos Bay; the 41,000 horsepower Klamath Compressor Station; the Klamath-Eagle Receipt Meter Station and Klamath-Beaver Receipt Meter Station within the compressor station tract; the Clarks Branch Delivery Meter Station at the interconnection with Northwest Pipeline's Grants Pass Lateral; the Jordan Cove Delivery Meter Station at the interconnection with the Jordan Cove LNG terminal; 5 pig [1] launchers and receivers; 17 mainline block valves;

[1] A ''pig'' is a tool for cleaning and inspecting the inside of a pipeline.

and 11 communication towers co-located with other facilities.

The FERC staff mailed copies of the EIS to federal, state, and local government agencies; elected officials; regional environmental groups and non-governmental organizations; Indian tribes; affected landowners; newspapers and libraries in the project area; other interested individuals; and parties to the proceedings. Paper copy versions of the EIS were mailed to those specifically requesting them; all others received a compact disc version. In addition, the EIS is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link. A limited number of copies are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Additional information about the projects are available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number excluding the last three digits in the Docket Number field (*i.e.*, CP13–483). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676; for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

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Dated: September 30, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–25386 Filed 10–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12451–034]

SAF Hydroelectric, LLC; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Request to amend the project boundary.

b. *Project No.:* 12451–034.

c. *Date Filed:* August 31, 2015.

d. *Applicant:* SAF Hydroelectric, LLC.

e. *Name of Project:* Lower St. Anthony Falls Hydroelectric Project.

f. *Location:* The existing U.S. Army Corps of Engineers' (Corps) Lower St. Anthony Falls Lock and Dam on the Mississippi River, in the city of Minneapolis, Hennepin County, Minnesota.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Bruce Welbourne, Licensing & Compliance Manager, Brookfield Renewable Energy Group, 243 Industrial Park Cr., Sault Ste. Marie, ON P6B 5P3, (705) 256–4493, *bruce.welboume@brookfieldrenewable.com.*

i. *FERC Contact:* Mr. Jeremy Jessup, (202) 502–6779, *Jeremy.Jessup@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests, is 30 days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/doc-sfiling/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–12451–034.

k. *Description of Request:* The applicant proposes remove approximately 0.53 acre of land along the south shore of the Mississippi River adjacent to the Corps Lower St. Anthony Falls Dam from the project boundary. The application explains that the parcel of land is not necessary for the operation and maintenance of the project. The application also includes revised Exhibits A and G that the application revised to reflect as-built conditions of the project.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208- 3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Motions To Intervene, or Protests:* Anyone may submit comments, a motion to intervene, or a protest in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, motions to intervene, or protests must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''MOTION TO INTERVENE'', or ''PROTEST'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person intervening or protesting; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary

basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the application. Agencies may obtain copies of the application directly from the applicant. A copy of any motion to intervene or protest must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: September 29, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–25382 Filed 10–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13704–002; Project No. 13701–002, et. al.]

Notice of Availability of Environmental Assessment

Arkabutla Lake Hydroelectric Project	[Project No. 13704–002]
Sardis Lake Hydroelectric Project	[Project No. 13701–002]
Enid Lake Hydroelectric Project	[Project No. 13703–002]
Grenada Lake Hydroelectric Project	[Project No. 13702–002]

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission (Commission or FERC) regulations, 18 Code of Federal Regulations part 380, the Office of Energy Projects has reviewed applications for original licenses for the Arkabutla Lake Hydroelectric Project (FERC Project No. 13704–002), Sardis Lake Hydroelectric Project (FERC Project No. 13701–002), Enid Lake Hydroelectric Project (FERC Project No. 13703–002), and Grenada Lake Hydroelectric Project (FERC Project No. 13702–002). The proposed projects would be constructed at the U.S. Army Corps of Engineers' (Corps') existing Arkabutla, Sardis, Enid, and Grenada dams located within the Yazoo River Basin in Mississippi. The Arkabutla Lake Hydroelectric Project would be near the town of Hernando, Mississippi, in Tate and DeSoto Counties on the Coldwater River at river mile (RM) 86. The Sardis Lake Hydroelectric Project would be located near the town of Sardis, Mississippi, in Panola County on the Little Tallahatchie River at RM 69. The Enid Lake Hydroelectric Project would be located near the town of Enid, Mississippi, in Yalobusha County on the Yocona River at RM 14.5. The Grenada Lake Hydroelectric Project would be located near the town of Grenada, Mississippi, in Grenada County on the Yalobusha River at RM 47.3. The projects would occupy a total of 172.7 acres of federal land administered by the Corps.

Staff has prepared a multi-project environmental assessment (EA) that analyzes the potential environmental effects of constructing and operating the four projects. Based on staff's analysis with appropriate environmental protection measures, constructing and operating the projects would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the EA is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, 202–502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to these or other pending projects. For assistance, contact FERC Online Support.

Any comments should be filed within 30 days from the date of this notice. The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, 202–502–8659. In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include: ''Arkabutla Lake Hydroelectric Project No. 13704–002, Sardis Lake Hydroelectric Project No. 13701–002, Enid Lake Hydroelectric Project No. 13703–002, and Grenada Lake Hydroelectric Project No. 13702–002'' as appropriate, on the first page of any comments.

For further information, contact Jeanne Edwards at 202–502–6181 or by email at *jeanne.edwards@ferc.gov*.

Dated: September 30, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–25384 Filed 10–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–00XX; Docket No. 2015–0055; Sequence 49]

Information Collection; Payment to Small Business Subcontractors

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB), a request to review and approve a new information collection requirement regarding Payment of Subcontractors.

DATES: Submit comments on or before December 7, 2015.

ADDRESSES: Submit comments identified by Information Collection

9000–00XX, Payment of Subcontractors, by any of the following methods:

• Regulations.gov: *http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching OMB control number 9000–00XX. Select the link ''Comment Now'' that corresponds with ''Information Collection 9000–00xx, ''Payment of Subcontractors''. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 9000–00xx, Payment of Subcontractors'' on your attached document.

• Mail: General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., ATTN: Hada Flowers, Washington, DC 20405.

Instructions: Please submit comments only and cite Information Collection, Payment of Subcontractors, in all correspondence related to this case. All comments received will be posted, without change, to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, GSA, at 202–501–1448.

SUPPLEMENTARY INFORMATION:

A. Purpose

Section 1334 of the Small Business Jobs and Credit Act of 2010 (Pub. L. 111–240) and the Small Business Administration's Final Rule at 78 FR 42391, Small Business Subcontracting, published on July 16, 2013, and effective August 15, 2013, requires the prime contractor to self- report to the contracting officer when the prime contractor makes late or reduced payments to small business subcontractors. In addition, the contracting officer is required to record the identity of contractors with a history of late or reduced payments to small business subcontractors in the Federal Awardee Performance and Integrity Information System (FAPIIS). FAR Part 42 is revised to include in the past performance evaluation reduced or untimely payments reported to the contracting officer by the prime contractor in accordance with the clause at 52.242–XX, Payments to Small Business Subcontractors, that are determined by the contracting officer to be unjustified.

B. Annual Reporting Burden

Respondents: 5457.
Responses per respondent: 1.
Total annual responses: 5457.
Preparation hours per response: 2.
Total response burden hours: 10,914.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20404, telephone 202–501–4755. Please cite OMB Control No. 9000–00xx, Payment of Subcontractors, in all correspondence.

Edward Loeb,

Acting Director, Federal Acquisition Policy Division, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2015–25297 Filed 10–5–15; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0075; Docket 2015–0055; Sequence 6]

Submission for OMB Review; Government Property

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning government property. A notice was published in the **Federal Register** at 80 FR 34433 on June 16, 2015. No comments were received.

DATES: Submit comments on or before November 5, 2015.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for Information Collection 9000–0075– Government Property. Select the link ''Comment Now'' that corresponds with ''Information Collection 9000–0075: Government Property''. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 9000–0075; Government Property'' on your attached document.

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0075.

Instructions: Please submit comments only and cite Information Collection 9000–0075, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, Office of Acquisition Policy, GSA 202–501–1448 or email *curtis.glover@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Government property, as used in FAR Part 45, means all property owned or leased by the Government. Government property includes both Government-furnished property and contractor-acquired property. Government property includes material, equipment, special tooling, special test equipment, and real property. Government property does not include intellectual property and software.

This part prescribes policies and procedures for providing Government property to contractors; contractors' management and use of Government property; and reporting, redistributing, and disposing of contractor inventory.

This clearance covers the following requirements:

(a) FAR 52.245–1(f)(1)(ii) requires contractors to document the receipt of Government property.

(b) FAR 52.245–1(f)(1)(ii)(A) requires contractors to submit report if overages, shortages, or damages and/or other discrepancies are discovered upon receipt of Government-furnished property.

(c) FAR 52.245–1(f)(1)(iii) requires contractors to create and maintain records of all Government property accountable to the contract.

(d) FAR 52.245–1(f)(1)(iv) requires contractors to periodically perform, record, and report physical inventories during contract performance, including upon completion or termination of the contract.

(e) FAR 52.245–1(f)(1)(vii)(B) requires contractors to investigate and report all incidents of Government property loss as soon as the facts become known.

(f) FAR 52.245–1(f)(1)(viii) requires contractors to promptly disclose and report Government property in its possession that is excess to contract performance.

(g) FAR 52.245–1(f)(1)(ix) requires contractors to disclose and report to the Property Administrator the need for replacement and/or capital rehabilitation.

(h) FAR 52.245–1(f)(1)(x) requires contractors to perform and report to the Property Administrator contract property closeout.

(i) FAR 52.245–1(f)(2) requires contractors to establish and maintain source data, particularly in the areas of recognition of acquisitions and dispositions of material and equipment.

(j) FAR 52.245–1(j)(2) requires contractors to submit inventory disposal schedules to the Plant Clearance Officer via the Standard Form 1428, Inventory Disposal Schedule.

(k) FAR 52.245–9(d) requires a contractor to identify the property for which rental is requested.

B. Annual Reporting Burden

Number of Respondents: 11,375.
Responses per Respondent: 1,057.
Total Responses: 12,023,375.
Average Burden Hours per Response: .3092.
Total Burden Hours: 3,717,627.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Federal Acquisition Regulations (FAR), and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20006, telephone 202–501–4755. Please cite OMB Control No. 9000–0075, Government Property, in all correspondence.

Edward Loeb,

Acting Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Govenrmentwide Policy.

[FR Doc. 2015–25366 Filed 10–5–15; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Common Formats for Reporting on Health Care Quality and Patient Safety

AGENCY: Agency for Healthcare Research and Quality (AHRQ), Department of Health and Human Services (HHS).

ACTION: Notice of Availability—New Common Formats.

SUMMARY: As authorized by the Secretary of HHS, AHRQ coordinates the development of sets of common definitions and reporting formats (Common Formats) for reporting on health care quality and patient safety. The purpose of this notice is to announce the availability of two new sets of Common Formats for public review and comment: 1) Common Formats for retail pharmacies—Common Formats for Retail Pharmacy; and 2) the healthcare associated infection (HAI) module for Common Formats for Surveillance.

DATES: Ongoing public input.

ADDRESSES: The Common Formats for Retail Pharmacy, the HAI module for Common Formats for Surveillance, and the remaining Common Formats can be accessed electronically at the following HHS Web site: *http://www.pso.ahrq.gov/common/*.

FOR FURTHER INFORMATION CONTACT: Cathryn Bach, Center for Quality Improvement and Patient Safety, AHRQ, 540 Gaither Road, Rockville, MD 20850; Telephone (toll free): (866) 403–3697; Telephone (local): (301) 427–1111; TTY (toll free): (866) 438–7231; TTY (local): (301) 427–1130; Email: *PSO@AHRQ.hhs.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Patient Safety and Quality Improvement Act of 2005, 42 U.S.C. 299b–21 to b–26, (Patient Safety Act) and the related Patient Safety and Quality Improvement Final Rule, 42 CFR part 3 (Patient Safety Rule), published in the **Federal Register** on November 21, 2008, (73 FR 70732–70814), provide for the formation of Patient Safety Organizations (PSOs), which collect, aggregate, and analyze confidential information regarding the quality and safety of health care delivery. The collection of patient safety work product allows the aggregation of data that help to identify and address underlying causal factors of patient quality and safety problems.

The Patient Safety Act and Patient Safety Rule establish a framework by which doctors, hospitals, skilled nursing facilities, and other healthcare providers may assemble information regarding patient safety events and quality of care. Information that is assembled and developed by providers for reporting to PSOs and the information received and analyzed by PSOs—called ''patient safety work product''—is privileged and confidential. Patient safety work product is used to conduct patient safety activities, which may include identifying events, patterns of care, and unsafe conditions that increase risks and hazards to patients. Definitions and other details about PSOs and patient safety work product are included in the Patient Safety Act and Patient Safety Rule which can be accessed electronically at: *http://www.pso.ahrq.gov/legislation/*.

Definition of Common Formats

The term ''Common Formats'' refers to the common definitions and reporting formats, specified by AHRQ, that allow health care providers to collect and submit standardized information regarding patient quality and safety to PSOs and other entities. The Common Formats are not intended to replace any current mandatory reporting system, collaborative/voluntary reporting system, research-related reporting system, or other reporting/recording

system; rather the formats are intended to enhance the ability of health care providers to report information that is standardized both clinically and electronically.

In collaboration with the interagency Federal Patient Safety Workgroup (PSWG), the National Quality Forum (NQF), and the public, AHRQ has developed Common Formats for three settings of care—acute care hospitals, skilled nursing facilities, and retail pharmacies—in order to facilitate standardized data collection and analysis. The scope of Common Formats applies to all patient safety concerns including: Incidents—patient safety events that reached the patient, whether or not there was harm; near misses or close calls—patient safety events that did not reach the patient; and unsafe conditions—circumstances that increase the probability of a patient safety event.

AHRQ's Common Formats for patient safety event reporting include:

- Event descriptions (definitions of patient safety events, near misses, and unsafe conditions to be reported);
- Specifications for patient safety aggregate reports and individual event summaries that derive from event descriptions;
- Delineation of data elements and algorithms to be used for collection of adverse event data to populate the reports; and
- Technical specifications for electronic data collection and reporting.

The technical specifications promote standardization of collected patient safety event information by specifying rules for data collection and submission, as well as by providing guidance for how and when to create data elements, their valid values, conditional and go-to logic, and reports. These specifications will ensure that data collected by PSOs and other entities have comparable clinical meaning. They also provide direction to software developers, so that the Common Formats can be implemented electronically, and to PSOs, so that the Common Formats can be submitted electronically to the PSO Privacy Protection Center (PPC) for data de-identification and transmission to the Network of Patient Safety Databases (NPSD).

Common Formats Development

In anticipation of the need for Common Formats, AHRQ began their development by creating an inventory of functioning private and public sector patient safety reporting systems. This inventory provided an evidence base to inform construction of the Common Formats. The inventory included many systems from the private sector, including prominent academic settings, hospital systems, and international reporting systems (*e.g.,* from the United Kingdom and the Commonwealth of Australia). In addition, virtually all major Federal patient safety reporting systems were included, such as those from the Centers for Disease Control and Prevention (CDC), the Food and Drug Administration (FDA), the Department of Defense (DoD), and the Department of Veterans Affairs (VA).

Since February 2005, AHRQ has convened the PSWG to assist AHRQ with developing and maintaining the Common Formats. The PSWG includes major health agencies within HHS—CDC, Centers for Medicare & Medicaid Services, FDA, Health Resources and Services Administration, Indian Health Service, National Institutes of Health, National Library of Medicine, Office of the National Coordinator for Health Information Technology, Office of Public Health and Science, and Substance Abuse and Mental Health Services Administration—as well as the DoD and VA.

When developing Common Formats, AHRQ first reviews existing patient safety practices and event reporting systems. In collaboration with the PSWG and Federal subject matter experts, AHRQ drafts and releases beta versions of the Common Formats for public review and comment. The PSWG assists AHRQ with assuring the consistency of definitions/formats with those of relevant government agencies as refinement of the Common Formats continues.

Since the initial release of the Common Formats in August 2008, AHRQ has regularly revised the formats based upon public comment. AHRQ solicits feedback on beta (and subsequent) versions of Common Formats from private sector organizations and individuals. Based upon the feedback received, AHRQ further revises the Common Formats. To the extent practicable, the Common Formats are also aligned with World Health Organization (WHO) concepts, frameworks, and definitions.

Participation by the private sector in the development and subsequent revision of the Common Formats is achieved through working with the NQF. The Agency engages the NQF, a non-profit organization focused on health care quality, to solicit comments and advice regarding proposed versions of the Common Formats. AHRQ began this process with the NQF in 2008, receiving feedback on AHRQ's 0.1 Beta release of the Common Formats for Event Reporting—Hospital. After receiving public comment, the NQF solicits the review and advice of its Common Formats Expert Panel and subsequently provides feedback to AHRQ. The Agency then revises and refines the Common Formats and issues them as a production version. AHRQ has continued to employ this process for all subsequent versions of the Common Formats.

Beginning in 2013, AHRQ began development of Common Formats for Surveillance for hospitals which are also called the Quality and Safety Review System (QSRS). These formats are different than previously-developed Common Formats because they do not support event reporting in hospitals or other settings. QSRS supports retrospective review or audit of medical records in hospitals, and data are entered by medical record coders/abstractors. While Common Formats that support event reporting are of great importance to the quality improvement process, by informing users on the nature and causes of patient safety events, they do not support collection of populations at risk and hence do not allow generation of rates. QSRS allows generation of rates of adverse events and benchmarking and trending of performance in hospitals, including documentation of improvement over time. The principle immediate use planned for QSRS is to update and expand on the scope of the Medicare Patient Safety Monitoring System (MPSMS) that is currently in use by HHS to audit a sample of U.S. medical records for purposes of establishing national adverse event rates.

Commenting on Common Formats for Retail Pharmacy

In 2014, representatives from U.S. retail pharmacies approached AHRQ regarding collaboration to develop Common Formats for the retail pharmacy setting. Development of the new Formats began using the existing AHRQ Common Formats Medication module from the AHRQ Common Formats for Event Reporting—Hospital, version 1.2, as a starting point. AHRQ, in conjunction with retail pharmacy representatives, designed Common Formats for Retail Pharmacy for use in U.S. retail pharmacies. These formats will facilitate improved detection and understanding of medication-related events originating in pharmacies and, if implemented as specified, will allow aggregation of medication-related data across different pharmacy providers.

The Agency is specifically interested in obtaining feedback from both the private and public sectors on the new Common Formats for Retail Pharmacy. At this time, only the Event

Description—which defines adverse events of interest in the retail pharmacy setting—is available. Other elements of the Common Formats, including aggregate reports and technical specifications, will be developed following revision of the Common Formats for Retail Pharmacy based on public comment and NQF advice. Information on how to comment and provide feedback on the Common Formats for Retail Pharmacy is available at the NQF Web site: *http://www.qualityforum.org/Project_Pages/Common_Formats_for_Patient_Safety_Data.aspx*.

Commenting on HAI Module for Common Formats for Surveillance

Common Formats addressing all QSRS modules—except for those for HAIs—were made available for public comment in 2014. During the intervening time, AHRQ was able to consult with CDC in order to refine the HAI module. When integrated with the remaining modules of QSRS, the HAI module will allow completion of the first version of QSRS.

The Agency is specifically interested in obtaining feedback from both the private and public sectors on the HAI module for Common Formats for Surveillance. Only the Event Description—which defines six HAI adverse events of interest—is available. Based on public comment and NQF advice, AHRQ will finalize this module, which will be incorporated into QSRS software. Information on how to comment and provide feedback on the HAI module is available at the NQF Web site: *http://www.qualityforum.org/Project_Pages/Common_Formats_for_Patient_Safety_Data.aspx*.

AHRQ appreciates the time and effort individuals invest in providing comments. The Agency will review and consider all feedback received to help guide the development of a revised version. The process for updating and refining the formats will continue to be an iterative one.

Future versions of the Common Formats are planned to be developed for additional ambulatory settings, such as ambulatory surgery centers and physician and practitioner offices. More information on the Common Formats can be obtained through AHRQ's PSO Web site: *http://www.pso.ahrq.gov/*.

Sharon B. Arnold,

AHRQ Deputy Director.

[FR Doc. 2015–25364 Filed 10–5–15; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: National Youth in Transition Database and Youth Outcome Survey.

OMB No.: 0970–0340.

Description: The Foster Care Independence Act of 1999 (42 U.S.C. 1305 *et seq*.) as amended by Public Law 106–169 requires State child welfare agencies to collect and report to the Administration on Children and Families (ACF) data on the characteristics of youth receiving independent living services and information regarding their outcomes. The regulation implementing the National Youth in Transition Database, listed in 45 CFR 1356.80, contains standard data collection and reporting requirements for States to meet the law's requirements. ACF will use the information collected under the regulation to track independent living services, assess the collective outcomes of youth, and potentially to evaluate State performance with regard to those outcomes consistent with the law's mandate.

Respondents: State agencies that administer the John H. Chafee Foster Care Independence Program.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Youth Outcome Survey	20,667	1	0.50	10,334
Data File	52	2	1,849	192,296

Estimated Total Annual Burden Hours: 202,630

Additional Information

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov*.

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–7285, Email: *OIRA_SUBMISSION@OMB.EOP.GOV*, Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2015–25370 Filed 10–5–15; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–3378]

Acceptability of Draft Labeling To Support Abbreviated New Drug Application Approval; 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 ''Acceptability of Draft Labeling to Support ANDA Approval.''

This guidance provides recommendations and information related to the submission of proposed labeling with abbreviated new drug applications (ANDAs). It explains FDA's interpretation of the regulatory provision related to submission of copies of applicants' proposed labeling and clarifies that FDA's Office of Generic Drugs (OGD) will accept draft labeling and does not require the submission of final printed labeling (FPL) in order to approve an ANDA.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–D–3378 for ''Acceptability of Draft Labeling to Support ANDA Approval, Guidance for Industry.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION''. The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. 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: Tamara Coley, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 240–402–6903.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Acceptability of Draft Labeling to Support ANDA Approval.'' This guidance is being issued consistent with FDA's Good Guidance Practices (GGP) regulation (§ 10.115 (21 CFR 10.115)). This guidance is being implemented without prior public comment because the Agency has determined that prior public participation is not feasible or appropriate (§ 10.115(g)(2)). The Agency made this determination because the guidance presents a less burdensome policy consistent with the public health. Although this guidance document is immediately in effect, it remains subject to comment in accordance with the Agency's GGP regulation.

This guidance provides recommendations and information related to the submission of copies of proposed labeling with ANDAs under section 505(j)(2)(A)(v) (21 U.S.C. 355(j)(2)(A)(v)) of the Federal Food, Drug, and Cosmetic Act and FDA's implementing regulations (21 CFR 314.94(a)(8)). This guidance clarifies that OGD will accept and approve ANDAs based on draft labeling.

In the past, OGD generally asked applicants to submit copies of FPL as opposed to draft labeling before receiving ANDA approval. OGD generally requested FPL before approving ANDAs because this version of the labeling reflected an accurate presentation of both the content and the formatting of the labeling.

As ANDA labeling submissions have evolved over time, particularly with respect to the submission of electronic versions of labeling, OGD has found that draft versions of labeling can enable an appropriate labeling review before FPL is produced.

Given changes in submission practices and the applicable regulations over time, OGD is clarifying that it will approve ANDAs on the basis of draft

labeling, provided that OGD is able to make a determination that the draft labeling complies with applicable requirements (other than editorial or similar minor deficiencies).

The guidance represents the Agency's current thinking on the acceptability of draft labeling to support ANDA approval. 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. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: September 30, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–25351 Filed 10–5–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–3390]

Electronic Common Technical Document Technical Conformance Guide; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of an Electronic Common Technical Document (eCTD) Technical Conformance Guide, Version 1.0. The eCTD Technical Conformance Guide supplements the guidance for industry entitled ''Providing Regulatory Submissions in Electronic Format—Certain Human Pharmaceutical Product Applications and Related Submissions Using the eCTD Specification'' and provides specifications, recommendations, and general considerations on how to submit eCTD-based electronic submissions to the Center for Drug Evaluation and Research (CDER) or the Center for Biologics Evaluation and Research (CBER).

DATES: Although you can comment on this notice at any time, to ensure that the Agency considers your comments, submit either electronic or written comments by November 20, 2015.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–D–3390 for ''Electronic Common Technical Document Technical Conformance Guide.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION''. The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov*. Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm*.

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

Submit written requests for single copies of the documents to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002 or the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Avenue, Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests.

FOR FURTHER INFORMATION CONTACT: Ron Fitzmartin, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1192, Silver Spring, MD 20993–0002, *ronald.fitzmartin@fda.hhs.gov;* or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, Bldg.

71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of an eCTD Technical Conformance Guide, Version 1.0. The eCTD Technical Conformance Guide supplements the final guidance for industry ''Providing Regulatory Submissions in Electronic Format—Certain Human Pharmaceutical Product Applications and Related Submissions Using the eCTD Specification'' (eCTD Guidance) and provides specifications, recommendations, and general considerations on how to submit eCTD-based electronic submission to CDER or CBER. The eCTD guidance will implement the electronic submission requirements of section 745A(a) of the Food, Drug & Cosmetic Act with respect to electronic submissions for certain investigational new drug applications (INDs); new drug applications (NDAs); abbreviated new drug applications(ANDAs); certain biologics license applications(BLAs); and Master Files that are submitted to the CDER or CBER.

The Guide provides specifications, recommendations, and general considerations on how to submit eCTD-based electronic submissions to CDER or CBER and is intended to complement and promote interactions between sponsors and applicants and FDA's review divisions. It is not intended to replace the need for sponsors and applicants to communicate directly with review divisions regarding their eCTD-based submissions. The Guide is organized as follows:

- Section 1: Introduction—provides information on regulatory policy and guidance background, purpose, and document control.
- Section 2: General Considerations—recommends and provides general details on preparing an eCTD submission.
- Section 3: Organization of the eCTD—presents specific topics organized by their placement (by module) in the eCTD submission.
- Section 4: Issues and Solutions—presents instructions for correcting common problems seen in eCTD submissions.

II. Electronic Access

Persons with access to the Internet may obtain the Guide at either *http://www.fda.gov/forindustry/datastandards/studydatastandards/default.htm* or *http://www.regulations.gov*.

Dated: September 30, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–25353 Filed 10–5–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–1659]

Established Conditions: Reportable Chemistry, Manufacturing, and Controls Changes for Approved Drug and Biologic Products; Draft Guidance for Industry; Reopening of the Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; reopening of the comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening the comment period for the ''Established Conditions: Reportable Chemistry, Manufacturing, and Controls (CMC) Changes for Approved Drug and Biologic Products; Draft Guidance for Industry,'' published in the **Federal Register** of June 1, 2015. FDA is reopening the comment period to allow interested persons additional time to submit comments.

DATES: Submit either electronic or written comments by January 4, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked, and identified as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–D–1659 for Established Conditions: Reportable Chemistry, Manufacturing, and Controls Changes for Approved Drug and Biologic Products; Draft Guidance for Industry; Reopening of the Comment Period. Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION''. The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of

comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

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

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; or Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist the office in processing your requests. The draft guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 240–402–8010. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Ashley Boam, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 4192, Silver Spring, MD 20993, 301–796–2400; 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, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 1, 2015 (80 FR 31050), FDA announced the availability of a draft guidance for industry entitled ''Established Conditions: Reportable CMC Changes for Approved Drug and Biologic Products.'' Interested persons were originally given until July 31, 2015, to comment on the draft guidance. The Agency believes that reopening the comment period for an additional 90 days from the date of publication of this notice will allow adequate time for interested persons to submit comments without significantly delaying Agency decision-making on these important issues.

II. Electronic Access

Persons with access to the Internet may obtain the draft guidance at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm,* or *http://www.regulations.gov.*

Dated: September 30, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–25356 Filed 10–5–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–3402]

Electronic Submission of Final Approved Risk Evaluation and Mitigation Strategies and Summary Information in a Standard Structured Product Labeling Format; Pilot Project

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of pilot project, request for comments.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing a pilot project for the submission of final approved Risk Evaluation and Mitigation Strategies (REMS) and certain REMS summary information electronically in a standard Structured Product Labeling (SPL) format. Participation in the pilot is voluntary and is open to application holders of drugs with REMS. The pilot is intended to help application holders, FDA, and other interested stakeholders evaluate a potential approach to converting REMS into SPL format and evaluate the usefulness of the REMS information to be provided in SPL format. This project also will help provide FDA with feedback on these topics from pilot participants and other interested stakeholders.

DATES: Submit requests to participate in the REMS SPL pilot from October 6, 2015 to December 7, 2015. See the ''Participation'' section for instructions on how to submit a request to participate. The pilot will proceed for 4 months, from October 6, 2015 to February 3, 2016. This pilot may be extended as resources and needs allow.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–N–3402 for ''Electronic Submission of Final Approved Risk Evaluation and Mitigation Strategies and Summary Information in a Standard Structured Product Labeling Format; Pilot Project.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be

made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov*. Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm*.

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

FOR FURTHER INFORMATION CONTACT: Adam Kroetsch at *REMS_Standardization@fda.hhs.gov* or at 301–796–3842.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing a pilot project for the submission of final approved REMS and certain REMS summary information electronically in an SPL format. This pilot is being conducted as a part of the ''Pharmacy Systems Under REMS Project: Standardizing REMS Information for Inclusion Into Pharmacy Systems Using Structured Product Labeling (SPL).'' More information on this project—one of four predefined priority projects that are a part of the larger REMS Integration Initiative—can be found in the report ''Standardizing and Evaluating Risk Evaluation and Mitigation Strategies (REMS)'' (the REMS report) (*http://www.fda.gov/downloads/ForIndustry/UserFees/PrescriptionDrugUserFee/UCM415751.pdf*). FDA intends to eventually make REMS in SPL format accessible to the public via a free, publicly available Web site.

As described in the REMS report, stakeholders have expressed concern that information about REMS materials, tools, and requirements are not communicated to stakeholders in a clear and consistent manner. They also have told FDA that REMS materials and requirements may be difficult to locate, and specific activities and requirements of various stakeholders (*e.g.*, prescriber, pharmacist) are not clearly outlined. Furthermore, some stakeholders have difficulty integrating REMS materials and procedures into their existing health information systems and healthcare delivery processes. Because of these factors, stakeholders reported spending excessive time trying to locate, understand, and comply with different REMS requirements. (For more general background information on REMS, as well as a more comprehensive discussion of the issues mentioned in this paragraph, please refer to the Background Materials (*http://www.fda.gov/downloads/ForIndustry/UserFees/PrescriptionDrugUserFee/UCM362078.pdf*) for the July 2013 REMS Standardization and Evaluation Public Meeting.)

To help address the problems described in the previous paragraph of this document, FDA committed to develop a standardized REMS format that can be included in SPL. FDA believes that this project, when completed, will address many of the concerns described previously regarding REMS because SPL information can be easily shared and made available online, and is readily incorporable into health information technology. Furthermore, FDA and application holders are both familiar with SPL and possess much of the institutional knowledge needed to create and disseminate files in this format. Ultimately, SPL can serve as a conduit of structured REMS information to healthcare providers and patients, while also providing accessible information about what requirements exist and who is responsible for their completion. SPL may also promote efficiency in the development and review of REMS documents.

II. About the REMS SPL Pilot

For all REMS programs (both REMS with and without elements to assure safe use (ETASU)) included in the pilot, the REMS document will be captured using standardized section headings. More information about the REMS document is available in FDA's draft guidance for industry ''Format and Content of Proposed Risk Evaluation and Mitigation Strategies (REMS), REMS Assessments, and Proposed REMS Modifications'' (*http://www.fda.gov/downloads/Drugs/.../Guidances/UCM184128.pdf*). For REMS with ETASU, the SPL will include additional information about the requirements these ETASU impose. This information is captured in two places: A human-readable ''REMS Summary'' (described in detail in ''The REMS Summary'' section of this document) and associated machine-readable data elements. Both the REMS Summary and the data elements will capture four basic pieces of information about each requirement:

- *Who* is required to carry out the requirement: For example, a requirement may be carried out by the healthcare provider who prescribes the drug or dispenses it.
- *What* that individual is required to do: This could include a clinical activity, such as counseling a patient, or an administrative one, such as completing an enrollment form.
- *When* the activity must be carried out: For example, a REMS activity may need to be completed before a drug is prescribed or dispensed, or before a patient is able to receive the drug.
- *References* to REMS materials that may contain additional information about the requirement, such as forms and educational materials.

For REMS approved as a shared system, the REMS information submitted in SPL format should be identical for each product in the shared system.

A. The REMS Summary

For REMS with ETASU, the REMS Summary will be presented in a tabular format that facilitates coding of REMS data elements and allows stakeholders to quickly obtain a reader-friendly overview of what the REMS requires. It uses language that is similar to that found in existing REMS documents and the summaries found on FDA's REMS Web site (*http://www.fda.gov/REMS*). Detailed instructions for creating the REMS Summary are available in the Draft REMS SPL Implementation Guide Excerpt on FDA's SPL Web site (*http://www.fda.gov/ForIndustry/DataStandards/StructuredProductLabeling/default.htm)*. The REMS Summary does not replace the approved REMS document, which will continue to be the enforceable document establishing the REMS requirements.

B. REMS Data Elements

For REMS with ETASU, the REMS data elements describe REMS requirements using a standardized, machine-readable format that permits integration of REMS information into electronic health information technology, including clinical decision support, e-Prescribing systems, and electronic pharmacy systems. FDA has developed terminology to assist in the coding of REMS data elements. This terminology is available as part of the Draft REMS SPL Implementation Guide Excerpt on FDA's SPL Web site (*http://www.fda.gov/ForIndustry/DataStandards/StructuredProductLabeling/default.htm).* The REMS Data Elements do not replace the approved REMS document, which will continue to be the enforceable document establishing the REMS requirements.

III. How To Participate in the REMS SPL Pilot

A. Participation

Volunteers interested in participating in the pilot should contact pilot staff by email at *REMS_Standardization@fda.hhs.gov.* The following information should be included in the request: Contact name, contact phone number, and contact email address. FDA will contact interested applicants to discuss the pilot. FDA is seeking a limited number of participants (no more than nine) to participate in this pilot. FDA is also seeking comment from any stakeholder on its proposed approach for capturing REMS information in SPL format in this pilot, as described in section II.

B. Procedures

To create an SPL file and submit it to FDA, a participant will need the following tools: Appropriate software, knowledge of terminology and standards, and access to FDA's Electronic Submissions Gateway (ESG) (*http://www.fda.gov/ForIndustry/ElectronicSubmissionsGateway/default.htm*). The ESG is an Agency-wide means of accepting electronic regulatory submissions. The FDA ESG enables the secure submission of regulatory submissions. Instructions and information regarding the creation of an SPL file and the converting of REMS information into SPL can be found at *http://www.fda.gov/ForIndustry/DataStandards/StructuredProductLabeling/default.htm*. There should be no additional cost associated with obtaining the software. In 2010, FDA collaborated with Pragmatic Data, LLC (*http://www.fda.gov/ForIndustry/DataStandards/StructuredProductLabeling/ucm189651.htm*), to make available free SPL authoring software that SPL authors may use to create new SPL documents or edit previous versions.

After the SPL is created, the participant would upload the file through the ESG. The Internet portal can be found at *http://www.fda.gov/ForIndustry/ElectronicSubmissionsGateway/default.htm*. Prior to uploading an SPL file, one must obtain a digital certificate. Instructions regarding obtaining a digital certificate used with FDA's ESG and uploading the SPL file for submission can be found at *http://www.fda.gov/esg/default.htm*. The digital certificate binds together the owner's name and a pair of electronic keys (a public and a private key) that can be used to encrypt and sign documents. A fee of up to approximately $20 is charged for the digital certificate. Application holders should have already secured a digital certificate because they are required to do so when they register and list.

During the pilot, FDA staff will be available to answer any questions or concerns that may arise. Pilot participants will be asked to comment on and discuss their experiences converting their REMS into SPL format. Their comments are expected to assist FDA in its completion of the REMS SPL project.

IV. Duration of the REMS SPL Pilot

FDA will accept requests for participation in the REMS SPL pilot from October 6, 2015 to December 7, 2015. The pilot will proceed for 4 months, from October 6, 2015 to February 3, 2016. This pilot may be extended as resources and needs allow.

V. Paperwork Reduction Act of 1995

This notice refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001.

Dated: September 30, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–25349 Filed 10–5–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2015–M–1064, FDA–2015–M–1065, FDA–2015–M–1177, FDA–2015–M–1178, FDA–2015–M–1325, FDA–2015–M–1326, FDA–2015–M–1460, FDA–2015–M–1461, FDA–2015–M–1557, FDA–2015–M–1708, FDA–2015–M–1709, FDA–2015–M–1956, FDA–2015–M–1957, FDA–2015–M–1958, FDA–2015–M–1959, FDA–2015–M–2077, FDA–2015–M–2078, FDA–2014–M–2247]

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 April 1, 2015, through June 30, 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 APRIL 1, 2015 THROUGH JUNE 30, 2015

PMA No., Docket No.	Applicant	Trade name	Approval date
P140003, FDA–2015–M–1177	ABIOMED, Inc	Impella® 2.5 System	3/23/2015
P130014, FDA–2015–M–1065	HyperBranch Medical Technology, Inc.	Adherus® AutoSpray Dural Sealant	3/30/2015
P130021/S010, FDA–2015–M–1064.	Medtronic CoreValve, LLC	Medtronic CoreValve® System	3/30/2015
P110015, FDA–2015–M–1178	Advanced Breath Diagnostics, LLC.	Gastric Emptying Breath Test (GEBT)	4/6/2015
P040020/S050, FDA–2015–M–1325.	Alcon Research, Ltd	AcrySof IQ ReSTOR +2.5 D Multifocal Intraocular Lens	4/13/2015
P120023, FDA–2015–M–1326	AcuFocus™, Inc	KAMRA™ inlay	4/17/2015
H130007, FDA–2014–M–2247	CVRx®, Inc	Barostim neo™ Legacy System	12/12/2014
P140011, FDA–2015–M–1460	Siemens Medical Solutions USA, Inc.	MAMMOMAT Inspiration with Tomosynthesis Option	4/21/2015
P120017, FDA–2015–M–1461	Medtronic, Inc	Model 5071 Lead	4/27/2015
P130012, FDA–2015–M–1557	Greatbatch Medical	Myopore Sutureless Myocardial Pacing Lead	4/30/2015
P140023, FDA–2015–M–1708	Roche Molecular Systems, Inc	cobas® KRAS Mutation Test	5/7/2015
P130022, FDA–2015–M–1709	Nevro Corp	Nevro Senza Spinal Cord Stimulation (SCS) System	5/8/2015
P140026, FDA–2015–M–1956	Silk Road Medical, Inc	ENROUTE™ Transcarotid Stent System	5/18/2015
P140004, FDA–2015–M–1957	Vertiflex®, Inc	Superion® InterSpinous Spacer	5/20/2015
P140002, FDA–2015–M–1958	Terumo Medical Corp	Misago® Peripheral Self-expanding Stent System	5/22/2015
P120005/S031, FDA–2015–M–1959.	Dexcom, Inc	Dexcom G4®PLATINUM (Pediatric) Continuous Glucose Monitoring System.	5/22/2015
P110010/S096, FDA–2015–M–2077.	Boston Scientific Corp	PROMUS® Element™ Plus and Promus PREMIER™ Everolimus-Eluting Platinum Chromium Coronary Stent System (Monorail™ and Over-the-Wire).	6/1/2015
P050052/S049, FDA–2015–M–2078.	Merz North America	Radiesse® Injectable Implant	6/4/2015

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 30, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–25352 Filed 10–5–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0748]

Agency Information Collection Activities; Proposed Collection; Submission for Office of Management and Budget Review; Guidance for Industry on Generic Drug User Fee Cover Sheet

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 November 5, 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 0910–0727. 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.

Generic Drug User Fee Cover Sheet; Form FDA 3794 OMB Control Number 0910–0727—Extension

On July 9, 2012, the Generic Drug User Fee Act (GDUFA) (Pub. L. 112–144, Title III) was signed into law by the President. GDUFA, designed to speed the delivery of safe and effective generic drugs to the public and reduce costs to industry, requires that generic drug manufacturers pay user fees to finance critical and measurable program enhancements. The user fees required by GDUFA are as follows: (1) A one-time fee for original abbreviated new drug applications (ANDAs) pending on October 1, 2012 (also known as backlog applications); (2) fees for type II active pharmaceutical ingredient (API) and final dosage form (FDF) facilities; (3) fees for new ANDAs and prior approval supplements (PASs); and (4) a one-time fee for drug master files (DMFs).

The purpose of this notice is to solicit feedback on the collection of information in an electronic form used to calculate and pay generic drug user fees. Proposed Form FDA 3794, the Generic Drug User Fee Cover Sheet, requests the minimum necessary information to determine if a person has satisfied all relevant user fee obligations. The proposed form is modeled on other FDA user fee cover sheets, including Form FDA 3397, the Prescription Drug User Fee Act Cover Sheet. The information collected would be used by FDA to initiate the administrative screening of generic drug submissions and DMFs, support the inspection of generic drug facilities, and otherwise support the generic drug program. A copy of the proposed form will be available in the docket for this notice.

Respondents to this proposed collection of information would be potential or actual generic application holders and/or related manufacturers (manufacturers of FDF and/or APIs). Companies with multiple applications will submit a cover sheet for each application and facility. Based on FDA's database of application holders and related manufacturers, we estimate that approximately 460 companies would submit a total of 3,544 cover sheets annually to pay for application and facility user fees. FDA estimates that the 3,544 annual cover sheet responses would break down as follows: 1,439 facilities fees, 942 ANDAs, 502 PASs, and 661 Type II API DMFs. The estimated hours per response are based on FDA's past experience with other submissions and range from approximately 0.1 to 0.5 hours. The hours per response are estimated at the upper end of the range to be conservative.

In the **Federal Register** of June 2, 2015 (80 FR 31388), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

FDA Form	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
3794	460	7.7	3,544	0.5 (30 minutes)	1,772

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: September 30, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–25360 Filed 10–5–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; 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: Arthritis and Musculoskeletal and Skin Diseases Initial Review Group; Arthritis and Musculoskeletal and Skin Diseases Clinical Trials Review Committee: AMSC–1 Clinical Trials Review Meeting.

Date: October 27–28, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Charles H. Washabaugh, Ph.D., Scientific Review Officer, Scientific Review Branch, NIAMS/NIH, 6701 Democracy Boulevard, Suite 816, Bethesda, MD 20892, 301–594–4952, *washabac@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: September 30, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–25317 Filed 10–5–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; NINDS Research Resource Opportunities Review.

Date: November 2, 2015.

Time: 11:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Elizabeth A Webber, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Boulevard, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–1917, *webbere@mail.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; T32 Meeting.

Date: November 9–10, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Monaco Alexandria, 480 King Street, Alexandria, VA 22314.

Contact Person: William C. Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Boulevard, Suite 3204, MSC 9529, Bethesda, MD 20892–9529, 301–496–0660, *benzingw@mail.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Clinical Trials SEP.

Date: November 12–13, 2015.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Monaco Alexandria, 480 King Street, Alexandria, VA 22314.

Contact Person: Shanta Rajaram, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Boulevard, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–435–6033, *rajarams@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: September 30, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–25315 Filed 10–5–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; 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: Arthritis and Musculoskeletal and Skin Diseases Initial Review Group Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee.

Date: October 29–30, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington DC/Rockville Hotel Hilton Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Helen Lin, Ph.D., Scientific Review Officer, NIH/NIAMS/RB, 6701 Democracy Blvd., Suite 800, Plaza One, Bethesda, MD 20817, 301–594–4952, *linh1@mail.nih.gov*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: September 30, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–25316 Filed 10–5–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0057]

Agency Information Collection Activities: Country of Origin Marking Requirements for Containers or Holders

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Country of Origin Marking Requirements for Containers or Holders. CBP is proposing that this information collection be extended with no change to the burden hours or to the Information required. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before December 7, 2015 to be assured of consideration.

ADDRESSES: Written comments may be mailed to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Country of Origin Marking Requirements for Containers or Holders.

OMB Number: 1651–0057.

Abstract: Section 304 of the Tariff Act of 1930, as amended, 19 U.S.C. 1304, requires each imported article of foreign origin, or its container, to be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the article or container permits, with the English name of the country of origin. The marking informs the ultimate purchaser in the United States of the name country in which the article was manufactured or produced. The marking

requirements for containers are provided for by 19 CFR 134.22(b).

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 250.

Estimated Number of Responses per Respondent: 40.

Estimated Time per Response: 15 seconds.

Estimated Total Annual Burden Hours: 41.

Dated: September 30, 2015.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2015–25411 Filed 10–5–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2015–0019; OMB No. 1660–0108]

Agency Information Collection Activities: Proposed Collection; Comment Request; National Emergency Family Registry and Locator System

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on an extension of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the FEMA National Emergency Family Registry and Locator System (NEFRLS), which allows adults that have been displaced by a Presidentially declared disaster or emergency to reunify with their families.

DATES: Comments must be submitted on or before December 7, 2015.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2015–0019. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., 8NE, Washington, DC 20472–3100.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov*, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Lee, Program Specialist, Recovery Directorate, Individual Assistance Division, Mass Care/Emergency Management Section at (202) 212–5775. You may contact the Records Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Post-Katrina Emergency Management Reform Act of 2006 (PKEMRA), in Title VI of the DHS Appropriations Act of 2007, Public Law 109–295, Section 689c, 120 Stat. 1355 at 1451 is the legal basis for FEMA to provide a National Emergency Family Registry and Locator System (NEFRLS). NEFRLS allows adults (including medical patients), displaced by a Presidentially declared major disaster or emergency, to voluntarily register by submitting personal information into a database that can be used by others to help reunify them with their families. Children who are traveling with their families during a Presidentially declared major disaster or emergency can be listed in NEFRLS. NEFRLS allows a registrant to designate up to 7 individuals who are authorized to search for and access the registrant's information in the system. The ability to list children within NEFRLS is only to indicate which family members are together and safe.

Collection of Information

Title: National Emergency Family Registry and Locator System (NEFRLS).

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0108.

FEMA Forms: FEMA Form 528–1.

Abstract: NEFRLS is a Web-based database enabling FEMA to provide a nationally available and recognized database allowing adults (including medical patients) that have been displaced by a Presidentially declared major disaster or emergency to voluntarily register via the Internet or a toll-free number. This database allows designated individuals to search for displaced friends, family, and household members. Congress mandated that FEMA establish NEFRLS in the PKEMRA section 689c.

Affected Public: State, Local or Tribal Government, Federal Government, and Individuals or Households.

Number of Respondents: 56,000.

Number of Responses: 56,000; NEFRLS Tele-registration: 14,000 and NEFRLS Internet Registration: 42,000.

Estimated Total Annual Burden Hours: 10,640.

Estimated Cost: $241,634. There are no recordkeeping, capital, start-up or maintenance costs associated with this information collection.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Dated: September 30, 2015.

Richard W. Mattison,

Records Management Program Chief, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2015–25302 Filed 10–5–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2015–0022; OMB No. 1660–0054]

Agency Information Collection Activities: Proposed Collection; Comment Request; Assistance to Firefighters Grant Program and Fire Prevention and Safety Grants—Grant Application Supplemental Information

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning grant application information necessary to assess the needs and benefits of applicants for the Assistance to Firefighters Grant Program (AFG) and Fire Prevention and Safety (FP&S) grants.

DATES: Comments must be submitted on or before December 7, 2015.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2015–0022. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., 8NE, Washington, DC 20472–3100.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: William Dunham, Fire Program Specialist, FEMA, Grant Program Directorate, 202–786–9813. You may contact the Records Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: This package is a revision to the collection originally approved as the Assistance to Firefighters Grant Program—Grant Application Supplemental Information, OMB Control Number: 1660–0054. FEMA is updating the name of this collection from ''Assistance to Firefighters Grant Program—Grant Application Supplemental Information'' to ''Assistance to Firefighters Grant Program and Fire Prevention and Safety Grants—Grant Application Supplemental Information'' to reflect more accurately the grant programs covered. Information sought under this submission will comprise of applications for Assistance to Firefighters Grant Program (AFG) and Fire Prevention and Safety (FP&S) grants. The Federal Fire Protection and Control Act of 1974 (15 U.S.C. 2201 *et seq.*), as amended, authorizes FEMA to fund fire department activities. The information collected through the program's application is the minimum necessary to evaluate grant applications and is necessary for FEMA to comply with mandates delineated in the Federal Fire Prevention and Control Act of 1974, as amended.

Collection of Information

Title: Assistance to Firefighters Grant Program and Fire Prevention and Safety Grants—Grant Application Supplemental Information.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0054.

FEMA Forms: FEMA Form 080–0–2, Assistance to Firefighters Grants (AFG) Application (General Questions and Narrative); FEMA Form 080–0–2a, Activity Specific Questions for AFG Vehicle Applicants; FEMA Form 080–0–2b, Activity Specific Questions for AFG Operations and Safety Applications; FEMA Form 080–0–3, Activity Specific Questions for Fire Prevention and Safety (FP&S) Applicants; FEMA Form 080–0–3a, Fire Prevention and Safety; FEMA Form 080–0–3b, Research and Development.

Abstract: The FEMA forms for this collection are used to objectively evaluate each of the anticipated applicants to determine which applicants' submission in each of the AFG activities are close to the established program priorities. FEMA also uses the information to determine eligibility and whether the proposed use of funds meets the requirements and intent of the Federal Fire Prevention and Control Act of 1974, as amended.

Affected Public: State, Local or Tribal Government; Not-for-profit Institutions.

Number of Respondents: 22,000.

Number of Responses: 22,000.

Estimated Total Annual Burden Hours: 158,590 hours.

ESTIMATED ANNUALIZED BURDEN HOURS AND COSTS

Type of respondent	Form name/form number	Number of respondents	Number of responses per respondent	Total number of responses	Average burden per response (in hours)	Total annual burden (in hours)	Average hourly wage rate	Total annual respondent cost
State, Local or Tribal Government.	Assistance to Firefighters Grants (AFG) Application (General Questions and Narrative)/ FEMA Form 080–0–2.	10,000	1	10,000	9	90,000	$49.50	$4,455,000.00
State, Local or Tribal Government.	Activity Specific Questions for AFG Vehicle Applicants/ FEMA Form 080–0–2a.	2,600	1	2,600	11	28,600	49.50	1,415,700.00

ESTIMATED ANNUALIZED BURDEN HOURS AND COSTS—Continued

Type of respondent	Form name/form number	Number of respondents	Number of responses per respondent	Total number of responses	Average burden per response (in hours)	Total annual burden (in hours)	Average hourly wage rate	Total annual respondent cost
State, Local or Tribal Government.	Activity Specific Questions for AFG Operations and Safety Applications/FEMA Form 080–0–2b.	7,400	1	7,400	4.6	34,040	49.50	1,684,980.00
State, Local or Tribal Government.	Activity Specific Questions for Fire Prevention and Safety (FPS) Applicants/ FEMA Form 080–0–3.	820	1	820	2.5	2,050	49.50	101,475.00
Not-for-profit Institutions.	Activity Specific Questions for Fire Prevention and Safety (FPS) Applicants/ FEMA Form 080–0–3.	180	1	180	2.5	450	49.50	22,275.00
State, Local or Tribal Government.	Fire Prevention and Safety/FEMA Form 080–0–3a.	820	1	820	2.5	2,050	49.50	101,475.00
Not-for-profit Institutions.	Fire Prevention and Safety/FEMA Form 080–0–3a.	130	1	130	2.5	325	49.50	16,087.50
Not-for-profit Institutions.	Research and Development/FEMA Form 080–0–3b.	50	1	50	21.5	1,075	48.50	52,137.50
Total ..	.....	22,000	.....	22,000	.....	158,590	.....	7,849,130.00

• **Note:** The "Avg. Hourly Wage Rate" for each respondent includes a 1.4 multiplier to reflect a fully-loaded wage rate.

Estimated Cost: The estimated annual cost to respondents for the hour burden is $7,849,130.00. There are no annual costs to respondents' operations and maintenance costs for technical services. There are no annual start-up or capital costs. The cost to the Federal Government is $3,319,699.04.

Comments

Comments may be submitted as indicated in the ADDRESSES caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Dated: September 30, 2015.

Richard W. Mattison,

Records Management Program Chief, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2015–25371 Filed 10–5–15; 8:45 am]

BILLING CODE 9111–78P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–19335; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before September 12, 2015 for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by October 21, 2015.

ADDRESSES: Comments may be sent via U.S. Postal Service the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before May 23, 2015. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

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.

CALIFORNIA

Monterey County

Aeneas Sardine Packing Company Cannery, 300 Cannery Row, Monterey, 15000739

COLORADO

Routt County

Hayden Co-Operative Elevator Company, 198 E. Lincoln Ave., Hayden, 15000740

DISTRICT OF COLUMBIA

District of Columbia

Capitol Hill Historic District (Boundary Increase II), Squares 752, 753, 777, 788 bounded by 2nd, 4th & F Sts. NE., Washington, 15000741

Davis, Colonel William Robert, House, 3020 Albemarle St. NW., Washington, 15000742

Young, Browne, Phelps and Springarn Educational Campus Historic District, (Public School Buildings of Washington, DC MPS) 2500 Benning Rd. NE., 704, 820, & 850 26th St. NE., Washington, 15000743

GEORGIA

Stephens County

Toccoa Downtown Historic District (Boundary Increase), 118 W. Doyle St., Toccoa, 15000744

IOWA

Carroll County

Manning Commercial Historic District, (Iowa's Main Street Commercial Architecture MPS) 217–411, 413–507, 302–326 Main, 717–723 3rd, 303 Center & 825 5th Sts., Manning, 15000745

Henry County

Benjamin Chapel and Richwoods Cemetery, 1936 Franklin Ave., Trenton, 15000746

Boyle, Hugh and Matilda, House and Cemetery Historic District, 3225 Lexington Ave., Lowell, 15000747

Edwards, Joseph A. and Lydia A., House, 1735 Salem Rd., Salem, 15000748

Garretson, Owen A. and Emma J., House, 1878 335th St., Salem, 15000750

Linn County

Cedar Rapids 2nd Avenue SE. Automobile Row Historic District, Roughly 2nd to 3rd Aves., SE., from 6th to 8th Sts., SE., Cedar Rapids, 15000749

Monroe Elementary School Historic District, 3200 Pioneer Ave., SE., Cedar Rapids, 15000751

Montgomery County

Ellis, William and Amanda J., Farmstead Historic District, 1134 I Ave., Elliott, 15000752

NEW YORK

Essex County

Helen Hill Historic District, Prescott Place, Helen & Front Sts., Sheppard, Franklin & Clinton Aves., Saranac Lake, 15000754

OHIO

Hamilton County

William Howard Taft National Historic Site (Boundary Increase and Additional Documentation, 2038 Auburn Ave., Cincinnati, 15000753

A request to move has been made for the following resource:

INDIANA

Clay County

Indiana State Highway Bridge 46–11–1316, IN 46 over Eel R., Bowling Green, 00000211

In the interest of preservation a three day comment period has been requested for the following resource:

WISCONSIN

Ozaukee County

SENATOR (steam screw) Shipwreck, (Great Lakes Shipwreck Sites of Wisconsin MPS) Address Restricted, Port Washington, 15000738

Authority: 60.13 of 36 CFR part 60

Dated: September 16, 2015.

Roger Reed,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2015–25375 Filed 10–5–15; 8:45 am]

BILLING CODE 4312–51–P

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Meeting of the Advisory Committee; Meeting

AGENCY: Joint Board for the Enrollment of Actuaries

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Executive Director of the Joint Board for the Enrollment of Actuaries gives notice of a closed teleconference meeting of the Advisory Committee on Actuarial Examinations.

DATES: The meeting will be held on October 30, 2015, from 8:30 a.m. to 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Patrick W. McDonough, Executive Director of the Joint Board for the Enrollment of Actuaries, 703–414–2173.

SUPPLEMENTARY INFORMATION:

Notice is hereby given that the Advisory Committee on Actuarial Examinations will hold a teleconference meeting on October 30, 2015, from 8:30 a.m. to 5:00 p.m. The meeting will be closed to the public.

The purpose of the meeting is to discuss topics and questions that may be recommended for inclusion on future Joint Board examinations in actuarial mathematics, pension law and methodology referred to in 29 U.S.C. 1242(a)(1)(B).

A determination has been made as required by section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App., that the subject of the meeting falls within the exception to the open meeting requirement set forth in Title 5 U.S.C. 552b(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Dated: September 21, 2015.

Patrick W. McDonough,

Executive Director, Joint Board for the Enrollment of Actuaries.

[FR Doc. 2015–25342 Filed 10–5–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–420F]

Established Aggregate Production Quotas for Schedule I and II Controlled Substances and Assessment of Annual Needs for the List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine for 2016

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final order.

SUMMARY: This final order establishes the initial 2016 aggregate production quotas for controlled substances in schedules I and II of the Controlled Substances Act (CSA) and the assessment of annual needs for the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine.

DATES: Effective October 6, 2015.

FOR FURTHER INFORMATION CONTACT: John R. Scherbenske, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152, Telephone: (202) 598–6812.

SUPPLEMENTARY INFORMATION:

Legal Authority

The Drug Enforcement Administration (DEA) implements and enforces titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended. Titles II and III are referred to as the ''Controlled Substances Act'' and the ''Controlled Substances Import and Export Act,'' respectively, and are collectively referred to as the ''Controlled Substances Act'' or the ''CSA'' for the purpose of this action. 21

U.S.C. 801–971. The DEA publishes the implementing regulations for these statutes in title 21 of the Code of Federal Regulations (CFR), chapter II. The CSA and its implementing regulations are designed to prevent, detect, and eliminate the diversion of controlled substances and listed chemicals into the illicit market while ensuring an adequate supply is available for the legitimate medical, scientific, research, and industrial needs of the United States. Controlled substances have the potential for abuse and dependence and are controlled to protect the public health and safety.

Section 306 of the Controlled Substances Act (CSA), 21 U.S.C. 826, requires the Attorney General to determine the total quantity and establish production quotas for each basic class of controlled substance in schedules I and II and for ephedrine, pseudoephedrine, and phenylpropanolamine to be manufactured each calendar year to provide for the estimated medical, scientific, research, and industrial needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks. This responsibility has been delegated to the Administrator of the DEA through 28 CFR 0.100(b).

Background

The 2016 aggregate production quotas and assessment of annual needs represent those quantities of schedule I and II controlled substances and the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine that may be manufactured in the United States in 2016 to provide for the estimated medical, scientific, research, and industrial needs of the United States, lawful export requirements, and the establishment and maintenance of reserve stocks. These quotas include imports of ephedrine, pseudoephedrine, and phenylpropanolamine but do not include imports of controlled substances for use in industrial processes.

On July 17, 2015, a notice titled, ''Proposed Aggregate Production Quotas for Schedule I and II Controlled Substances and Proposed Assessment of Annual Needs for the List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine for 2016'' was published in the **Federal Register**. 80 FR 42540. This notice proposed the 2016 aggregate production quotas for each basic class of controlled substance listed in schedules I and II and the 2016 assessment of annual needs for the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine. All interested persons were invited to comment on or object to the proposed aggregate production quotas and the proposed assessment of annual needs on or before August 17, 2015.

Comments Received

Twenty comments were received from four DEA-registered manufacturers within the published comment period regarding 17 different schedule I and II controlled substances. The DEA did not receive any comments regarding the proposed assessment of annual needs for the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine. Commenters stated that the proposed aggregate production quotas for [1-(5-fluoropentyl)-1*H*-indazol-3-yl](naphthalen-1-yl)methanone (THJ–2201), amphetamine (for sale), codeine (for sale), gamma hydroxybutric acid, levorphanol, marihuana, methylphenidate, *N*-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1*H*-indazole-3-carboxamide (ADB–PINACA), *N*-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide (AB–FUBINACA), *N*-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1*H*-indazole-3-carboxamide (AB–CHMINACA), *N*-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1*H*-indazole-3-carboxamide (AB–PINACA), *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylacetamide (acetyl fentanyl), nabilone, oxymorphone (for conversion), oxymorphone (for sale), Quinolin-8-yl 1-(5-fluoropentyl)-1*H*-indole-3-carboxylate (5-Flouro-PB–22), and Quinolin-8-yl 1-pentyl-1*H*-indole-3-carboxylate (PB–22) were insufficient to provide for the estimated medical, scientific, research, and industrial needs of the United States, export requirements, and the establishment and maintenance of reserve stocks.

Determination of 2016 Aggregate Production Quotas and Assessment of Annual Needs

In determining the 2016 aggregate production quotas and assessment of annual needs, the DEA has taken into consideration the above comments along with the factors set forth at 21 CFR 1303.11 and 21 CFR 1315.11, in accordance with 21 U.S.C. 826(a), and other relevant factors, including the 2015 manufacturing quotas, current 2015 sales and inventories, anticipated 2016 export requirements, industrial use, additional applications for 2016 quotas, as well as information on research and product development requirements. Based on this information, the DEA has determined that adjustments to the proposed aggregate production quotas for codeine (for sale), hydromorphone, marihuana, methylphenidate, and *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylacetamide (acetyl fentanyl) are warranted. This final order reflects those adjustments.

Regarding [1-(5-fluoropentyl)-1*H*-indazol-3-yl](naphthalen-1-yl)methanone (THJ–2201), amphetamine (for sale), gamma hydroxybutric acid, levorphanol, *N*-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1*H*-indazole-3-carboxamide (ADB–PINACA), *N*-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide (AB–FUBINACA), *N*-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1*H*-indazole-3-carboxamide (AB–CHMINACA), *N*-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1*H*-indazole-3-carboxamide (AB–PINACA), nabilone, oxymorphone (for conversion), oxymorphone (for sale), Quinolin-8-yl 1-(5-fluoropentyl)-1*H*-indole-3-carboxylate (5-Flouro-PB–22), and Quinolin-8-yl 1-pentyl-1*H*-indole-3-carboxylate (PB–22), the DEA has determined that the proposed aggregate production quotas are sufficient to provide for the 2016 estimated medical, scientific, research, and industrial needs of the United States, export requirements, and the establishment and maintenance of reserve stocks. This final order establishes these aggregate production quotas at the same amounts as proposed.

As described in the previously published notice proposing the 2016 aggregate production quotas and assessment of annual needs, the DEA has specifically considered that inventory allowances granted to individual manufacturers may not always result in the availability of sufficient quantities to maintain an adequate reserve stock pursuant to 21 U.S.C. 826(a), as intended. *See* 21 CFR 1303.24. This would be concerning if a natural disaster or other unforeseen event resulted in substantial disruption to the amount of controlled substances available to provide for legitimate public need. As such, the DEA has included in all established schedule II aggregate production quotas, and certain schedule I aggregate production quotas, an additional 25% of the estimated medical, scientific, and research needs as part of the amount necessary to ensure the establishment and maintenance of reserve stocks. The established aggregate production quotas will reflect these included amounts. This action will not affect the ability of

manufacturers to maintain inventory allowances as specified by regulation. The DEA expects that maintaining this reserve in certain established aggregate production quotas will mitigate adverse public effects if an unforeseen event results in the substantial disruption to the amount of controlled substances available to provide for legitimate public need, as determined by the DEA. The DEA does not anticipate utilizing the reserve in the absence of these circumstances.

In accordance with 21 U.S.C. 826, 21 CFR 1303.11, and 21 CFR 1315.11, the Administrator hereby establishes the 2016 aggregate production quotas for the following schedule I and II controlled substances and the 2016 assessment of annual needs for the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine, expressed in grams of anhydrous acid or base, as follows:

Basic class	Established 2016 quotas (g)
Schedule I	
(1-Pentyl-1*H*-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (UR–144)	25
[1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone (THJ–2201)	15
[1-(5-Fluoro-pentyl)-1*H*-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone (XLR11)	25
1-(1,3-Benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone)	25
1-(1,3-Benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone)	25
1-(1-Phenylcyclohexyl)pyrrolidine	10
1-(5-Fluoropentyl)-3-(1-naphthoyl)indole (AM2201)	45
1-(5-Fluoropentyl)-3-(2-iodobenzoyl)indole (AM694)	45
1-[1-(2-Thienyl)cyclohexyl]piperidine	15
1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH–200)	45
1-Butyl-3-(1-naphthoyl)indole (JWH–073)	45
1-Cyclohexylethyl-3-(2-methoxyphenylacetyl)indole (SR–18 and RCS–8)	45
1-Hexyl-3-(1-naphthoyl)indole (JWH–019)	45
1-Methyl-4-phenyl-4-propionoxypiperidine	2
1-Pentyl-3-(1-naphthoyl)indole (JWH–018 and AM678)	45
1-Pentyl-3-(2-chlorophenylacetyl)indole (JWH–203)	45
1-Pentyl-3-(2-methoxyphenylacetyl)indole (JWH–250)	45
1-Pentyl-3-(4-chloro-1-naphthoyl)indole (JWH–398)	45
1-Pentyl-3-(4-methyl-1-naphthoyl)indole (JWH–122)	45
1-Pentyl-3-[(4-methoxy)-benzoyl]indole (SR–19, RCS–4)	45
1-Pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH–081)	45
2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C–E)	30
2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C–D)	30
2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C–N)	30
2-(2,5-Dimethoxy-4-*n*-propylphenyl)ethanamine (2C–P)	30
2-(2,5-Dimethoxyphenyl)ethanamine (2C–H)	30
2-(4-Bromo-2,5-dimethoxyphenyl)-*N*-(2-methoxybenzyl)ethanamine (25B–NBOMe; 2C–B–NBOMe; 25B; Cimbi-36)	25
2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C–C)	30
2-(4-Chloro-2,5-dimethoxyphenyl)-*N*-(2-methoxybenzyl)ethanamine (25C–NBOMe; 2C–C–NBOMe; 25C; Cimbi-82)	25
2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C–I)	30
2-(4-Iodo-2,5-dimethoxyphenyl)-*N*-(2-methoxybenzyl)ethanamine (25I–NBOMe; 2C–I–NBOMe; 25I; Cimbi-5)	15
2-(Methylamino)-1-phenylpentan-1-one (pentedrone)	25
2,5-Dimethoxy-4-ethylamphetamine (DOET)	25
2,5-Dimethoxy-4-*n*-propylthiophenethylamine	25
2,5-Dimethoxyamphetamine	25
2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C–T–2)	30
2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C–T–4)	30
3,4,5-Trimethoxyamphetamine	25
3,4-Methylenedioxyamphetamine (MDA)	55
3,4-Methylenedioxymethamphetamine (MDMA)	50
3,4-Methylenedioxy-*N*-ethylamphetamine (MDEA)	40
3,4-Methylenedioxy-*N*-methylcathinone (methylone)	50
3,4-Methylenedioxypyrovalerone (MDPV)	35
3-Fluoro-*N*-methylcathinone (3–FMC)	25
3-Methylfentanyl	2
3-Methylthiofentanyl	2
4-Bromo-2,5-dimethoxyamphetamine (DOB)	25
4-Bromo-2,5-dimethoxyphenethylamine (2–CB)	25
4-Fluoro-*N*-methylcathinone (4–FMC)	25
4-Methoxyamphetamine	150
4-Methyl-2,5-dimethoxyamphetamine (DOM)	25
4-Methylaminorex	25
4-Methyl-*N*-ethylcathinone (4–MEC)	25
4-Methyl-*N*-methylcathinone (mephedrone)	45
4-Methyl-α-pyrrolidinopropiophenone (4-MePPP)	25
5-(1,1-Dimethylheptyl)-2-[(1*R*,3*S*)-3-hydroxycyclohexyl]-phenol	68
5-(1,1-Dimethyloctyl)-2-[(1*R*,3*S*)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol or CP–47,497 C8-homolog)	53
5-Methoxy-3,4-methylenedioxyamphetamine	25
5-Methoxy-*N,N*-diisopropyltryptamine	25
5-Methoxy-*N,N*-dimethyltryptamine	25
Acetyl-*alpha*-methylfentanyl	2

Basic class	Established 2016 quotas (g)
Acetyldihydrocodeine	2
Acetylmethadol	2
Allylprodine	2
Alphacetylmethadol	2
alpha-Ethyltryptamine	25
Alphameprodine	2
Alphamethadol	2
alpha-Methylfentanyl	2
alpha-Methylthiofentanyl	2
alpha-Methyltryptamine (AMT)	25
alpha-Pyrrolidinobutiophenone (α-PBP)	25
alpha-Pyrrolidinopentiophenone (α-PVP)	25
Aminorex	25
Benzylmorphine	2
Betacetylmethadol	2
beta-Hydroxy-3-methylfentanyl	2
beta-Hydroxyfentanyl	2
Betameprodine	2
Betamethadol	4
Betaprodine	2
Bufotenine	3
Cathinone	70
Codeine methylbromide	5
Codeine-*N*-oxide	305
Desomorphine	25
Diethyltryptamine	25
Difenoxin	11,000
Dihydromorphine	3,000,000
Dimethyltryptamine	35
Dipipanone	5
Fenethylline	5
gamma-Hydroxybutyric acid	70,250,000
Heroin	50
Hydromorphinol	2
Hydroxypethidine	2
Ibogaine	5
Lysergic acid diethylamide (LSD)	40
Marihuana	658,000
Mescaline	25
Methaqualone	10
Methcathinone	25
Methyldesorphine	5
Methyldihydromorphine	2
Morphine methylbromide	5
Morphine methylsulfonate	5
Morphine-*N*-oxide	350
N-(1-Adamantyl)-1-pentyl-1*H*-indazole-3-carboxamide (AKB48)	25
N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1*H*-indazole-3-carboxamide (ADB–PINACA)	50
N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide (AB–FUBINACA)	50
N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1*H*-indazole-3-carboxamide (AB–CHMINACA)	15
N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1*H*-indazole-3-carboxamide (AB–PINACA)	15
N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (acetyl fentanyl)	100
N,N-Dimethylamphetamine	25
Naphthylpyrovalerone (naphyrone)	25
N-Benzylpiperazine	25
N-Ethyl-1-phenylcyclohexylamine	5
N-Ethylamphetamine	24
N-Hydroxy-3,4-methylenedioxyamphetamine	24
Noracymethadol	2
Norlevorphanol	52
Normethadone	2
Normorphine	40
Para-fluorofentanyl	5
Parahexyl	5
Phenomorphan	2
Pholcodine	5
Psilocybin	30
Psilocyn	50
Quinolin-8-yl 1-(5-fluoropentyl)-1*H*-indole-3-carboxylate (5-fluoro-PB-22; 5F-PB-22)	50
Quinolin-8-yl 1-pentyl-1*H*-indole-3-carboxylate (PB–22; QUPIC)	50
Tetrahydrocannabinols	511,250
Thiofentanyl	2
Tilidine	25

Basic class	Established 2016 quotas (g)
Trimeperidine	2
Schedule II	
1-Phenylcyclohexylamine	5
1-Piperidinocyclohexanecarbonitrile	5
4-Anilino-*N*-phenethyl-4-piperidine (ANPP)	2,950,000
Alfentanil	17,750
Alphaprodine	3
Amobarbital	25,125
Amphetamine (for conversion)	15,000,000
Amphetamine (for sale)	39,705,000
Carfentanil	19
Cocaine	200,000
Codeine (for conversion)	50,000,000
Codeine (for sale)	63,900,000
Dextropropoxyphene	45
Dihydrocodeine	226,375
Dihydroetorphine	3
Diphenoxylate (for conversion)	31,250
Diphenoxylate (for sale)	1,337,500
Ecgonine	125,000
Ethylmorphine	3
Etorphine hydrochloride	3
Fentanyl	2,300,000
Glutethimide	3
Hydrocodone (for conversion)	235,000
Hydrocodone (for sale)	88,500,000
Hydromorphone	8,250,000
Isomethadone	5
Levo-alphacetylmethadol (LAAM)	4
Levomethorphan	30
Levorphanol	7,125
Lisdexamfetamine	29,750,000
Meperidine	5,450,000
Meperidine Intermediate-A	6
Meperidine Intermediate-B	11
Meperidine Intermediate-C	6
Metazocine	19
Methadone (for sale)	31,875,000
Methadone Intermediate	34,375,000
Methamphetamine	2,061,375
[1,250,000 grams of *levo*-desoxyephedrine for use in a non-controlled, non-prescription product; 750,000 grams for methamphetamine mostly for conversion to a schedule III product; and 61,375 grams for methamphetamine (for sale)]	
Methylphenidate	96,750,000
Morphine (for conversion)	91,250,000
Morphine (for sale)	62,500,000
Nabilone	18,750
Noroxymorphone (for conversion)	17,500,000
Noroxymorphone (for sale)	1,475,000
Opium (powder)	112,500
Opium (tincture)	687,500
Oripavine	30,000,000
Oxycodone (for conversion)	6,250,000
Oxycodone (for sale)	139,150,000
Oxymorphone (for conversion)	29,000,000
Oxymorphone (for sale)	7,750,000
Pentobarbital	38,125,000
Phenazocine	6
Phencyclidine	50
Phenmetrazine	3
Phenylacetone	50
Racemethorphan	3
Racemorphan	3
Remifentanil	3,750
Secobarbital	215,003
Sufentanil	6,255
Tapentadol	25,500,000
Thebaine	125,000,000

Basic class	Established 2016 quotas (g)
List I Chemicals	
Ephedrine (for conversion)	100,000
Ephedrine (for sale)	4,000,000
Phenylpropanolamine (for conversion)	22,400,000
Phenylpropanolamine (for sale)	8,500,000
Pseudoephedrine (for conversion)	7,000
Pseudoephedrine (for sale)	224,500,000

The Administrator also establishes aggregate production quotas for all other schedule I and II controlled substances included in 21 CFR 1308.11 and 1308.12 at zero. In accordance with 21 CFR 1303.13 and 21 CFR 1315.13, upon consideration of the relevant factors, the Administrator may adjust the 2016 aggregate production quotas and assessment of annual needs as needed.

Dated: September 30, 2015.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2015–25373 Filed 10–5–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

[F.C.S.C. Meeting and Hearing Notice No. 09–15]

Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR 503.25) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings as follows:

Thursday, October 15, 2015: 10 a.m.—Issuance of Proposed Decisions in claims against Libya.

Status: Open

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Patricia M. Hall, Foreign Claims Settlement Commission, 600 E Street NW., Suite 6002, Washington, DC 20579. Telephone: (202) 616–6975.

Brian M. Simkin,

Chief Counsel.

[FR Doc. 2015–25500 Filed 10–2–15; 4:15 pm]

BILLING CODE 4410–BA–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On September 29, 2015, the Department of Justice lodged a proposed consent decree with the United States District Court for the Eastern District of Michigan in the lawsuit entitled *United States* v. *Guardian Industries Corp.,* Civil Action No. 2:15-cv-13426.

The United States filed this lawsuit under the Clean Air Act. The complaint seeks injunctive relief and civil penalties for violations of the Clean Air Act's Prevention of Significant Deterioration requirements at eight float glass manufacturing furnaces owned and operated by the defendant, Guardian Industries Corp., in Kingsburg, California; DeWitt, Iowa; Carleton, Michigan; Geneva, New York; Floreffe, Pennsylvania; Richburg, South Carolina; and Corsicana, Texas. The consent decree requires the defendant to perform injunctive relief, which includes complying with emission limitations that are comprised of numerical or work practice standards that together apply continuously at all times. The defendant will also pay a $312,000 civil penalty and perform a $150,000 wood burning appliance replacement mitigation project in the San Joaquin Valley area in California.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Guardian Industries Corp.,* D.J. Ref. No. 90–5–2–1–11128. 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, D.C. 20044–7611.

During the public comment period, the proposed consent decree 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 proposed consent decree 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 $24.25 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $19.50.

Maureen M. Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2015–25339 Filed 10–5–15; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

179th Meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 179th open meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans (also known as the ERISA Advisory Council) will be held on November 3–4, 2015.

The meeting will take place in C5320 Room 6, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210 on November 3, from 1 p.m. to approximately 5:00 p.m. On

November 4, the meeting will start at 8:30 a.m. and conclude at approximately 4:00 p.m., with a break for lunch. The morning session on November 4 will be in C5320 Room 6. The afternoon session on November 4 will take place in Room S–2508 at the same address. The purpose of the open meeting on November 3 and the morning of November 4 is for the Advisory Council members to finalize the recommendations they will present to the Secretary. At the November 4 afternoon session, the Council members will receive an update from the Assistant Secretary of Labor for the Employee Benefits Security Administration (EBSA) and present their recommendations.

The Council recommendations will be on the following issues: (1) Model Notices and Plan Sponsor Education on Lifetime Plan Participation and (2) Model Notices and Disclosures for Pension Risk Transfers. Descriptions of these topics are available on the Advisory Council page of the EBSA Web site at *http://www.dol.gov/ebsa/aboutebsa/erisa_advisory_council.html.*

Organizations or members of the public wishing to submit a written statement may do so by submitting 30 copies on or before October 27, 2015 to Larry Good, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5623, 200 Constitution Avenue NW., Washington, DC 20210. Statements also may be submitted as email attachments in rich text, Word, or pdf format transmitted to *good.larry@dol.gov.* It is requested that statements not be included in the body of an email. Statements deemed relevant by the Advisory Council and received on or before October 27 will be included in the record of the meeting and will be available by contacting the EBSA Public Disclosure Room. Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed.

Individuals or representatives of organizations wishing to address the Advisory Council should forward their requests to the Executive Secretary or telephone (202) 693–8668. Oral presentations will be limited to ten minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact the Executive Secretary by October 27, 2015 at the address indicated.

Signed at Washington, DC, this 30th day of September, 2015.

Judy Mares,

Deputy Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 2015–25428 Filed 10–5–15; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Surplus Area Classification Under Executive Orders 12073 and 10582

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice

SUMMARY: The purpose of this notice is to announce the annual list of labor surplus areas for Fiscal Year (FY) 2016.

DATES: *Effective Date:* The annual list of labor surplus areas is effective October 1, 2015, for all states, the District of Columbia, and Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Samuel Wright, Office of Workforce Investment, Employment and Training Administration, 200 Constitution Avenue NW., Room C–4514, Washington, DC 20210. Telephone: (202) 693–2870 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department of Labor's regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR part 654, subpart A. These regulations require the Employment and Training Administration (ETA) to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations, and to publish annually a list of labor surplus areas. Pursuant to those regulations, ETA is hereby publishing the annual list of labor surplus areas. In addition, the regulations provide exceptional circumstance criteria for classifying labor surplus areas when catastrophic events, such as natural disasters, plant closings, and contract cancellations are expected to have a long-term impact on labor market area conditions, discounting temporary or seasonal factors.

Eligible Labor Surplus Areas

A Labor Surplus Area (LSA) is a civil jurisdiction that has a civilian average annual unemployment rate during the previous two calendar years of 20 percent or more above the average annual civilian unemployment rate for all states during the same 24-month reference period. ETA uses only official unemployment estimates provided by the Bureau of Labor Statistics in making these classifications. The average unemployment rate for all states includes data for the Commonwealth of Puerto Rico. LSA classification criteria stipulate a civil jurisdiction must have a ''floor unemployment rate'' of 6.0% or higher to be classified a LSA. Any civil jurisdiction that has a ''ceiling unemployment rate'' of 10% or higher is classified a LSA.

Civil jurisdictions are defined as follows:

1. A city of at least 25,000 population on the basis of the most recently available estimates from the Bureau of the Census; or

2. A town or township in the States of Michigan, New Jersey, New York, or Pennsylvania of 25,000 or more population and which possess powers and functions similar to those of cities.

3. All counties, except for the following:

(a) those counties which contain any type of civil jurisdictions defined in ''1'' or ''2'' above,

(b) a county in the States of Connecticut, Massachusetts, and Rhode Island.

4. A ''balance of county'' consisting of a county less any component cities and townships identified in ''1'' or ''2'' above; or

5. A county equivalent which is a town in the States of Connecticut, Massachusetts, and Rhode Island, or a municipio in the Commonwealth of Puerto Rico.

Procedures for Classifying Labor Surplus Areas

The Department of Labor (DOL) issues the LSA list on a fiscal year basis. The list becomes effective each October 1, and remains in effect through the following September 30. The reference period used in preparing the current list was January 2013 through December 2014. The national average unemployment rate (including Puerto Rico) during this period was rounded to 6.82 percent. Twenty percent higher than the national unemployment rate is 8.18 percent. Therefore, areas included on the FY 2016 LSA list had a rounded unemployment rate for the reference period of 8.18 percent or higher. To ensure that all areas classified as labor surplus meet the requirements, when a city is part of a county and meets the unemployment qualifier as a LSA, that city is identified in the LSA list, the balance of county, not the entire county, will be identified as LSAs if the balance of county also meets the LSA unemployment criteria. The FY 2016

LSA list, statistical data on the current and some previous year's LSAs, and the list of LSAs in Puerto Rico are available at ETA's LSA Web site *http://www.doleta.gov/programs/lsa.cfm.*

Petition for Exceptional Circumstance Consideration

The classification procedures also provide criteria for the designation of LSAs under exceptional circumstances criteria. These procedures permit the regular classification criteria to be waived when an area experiences a significant increase in unemployment which is not temporary or seasonal and which was not reflected in the data for the 2-year reference period. Under the program's exceptional circumstance procedures, LSA classifications can be made for civil jurisdictions, Metropolitan Statistical Areas or Combined Statistical Areas, as defined by the U.S. Office of Management and Budget. In order for an area to be classified as a LSA under the exceptional circumstance criteria, the state workforce agency must submit a petition requesting such classification to the Department of Labor's ETA. The current criteria for an exceptional circumstance classification are,

(1) an area's unemployment rate is at least 8.18 percent for each of the three most recent months;

(2) a projected unemployment rate of at least 8.18 percent for each of the next 12 months; and

(3) documentation that the exceptional circumstance event has occurred. The state workforce agency may file petitions on behalf of civil jurisdictions, Metropolitan Statistical Areas, or Micropolitan Statistical Areas.

The addresses of state workforce agencies are available on the ETA Web site at: *http://www.doleta.gov/programs/lsa.cfm* and *https://winwin.workforce3one.org/view/Labor_Surplus_Area_List_Issued/info.* State Workforce Agencies may submit petitions in electronic format to *wright.samuel.e@dol.gov*, or in hard copy to the U.S. Department of Labor, Employment and Training Administration, Office of Workforce Investment, 200 Constitution Avenue NW., Room C–4514, Washington, DC 20210, Attention Samuel Wright. Data collection for the petition is approved under OMB 1205–0207, expiration date March 31, 2016.

Portia Wu,

Assistant Secretary for Employment and Training Administration.

[FR Doc. 2015–25311 Filed 10–5–15; 8:45 am]

BILLING CODE 4510–FT–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Demonstration and Evaluation of Community College Interventions for Youth and Young Adults With Disabilities

AGENCY: Office of the Assistant Secretary for Policy, Chief Evaluation Office, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that required data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

A copy of the proposed Information Collection Request can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before December 7, 2015.

ADDRESSES: You may submit comments by either one of the following methods: *Email: ChiefEvaluationOffice@dol.gov*; *Mail or Courier:* Celeste Richie, Chief Evaluation Office, U.S. Department of Labor, Room S–2218, 200 Constitution Avenue NW., Washington, DC 20210. *Instructions:* Please submit one copy of your comments by only one method. All submissions received must include the agency name and OMB Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via email or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for OMB approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Contact Celeste Richie by email at *ChiefEvaluationOffice@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background: In June 2014, ODEP announced the availability of funds for two cooperative agreements to conduct pilot projects to research, develop, test and, in coordination with DOL, evaluate innovative systems models for providing inclusive integrated education and career development services to youth and young adults with disabilities. In September of 2014, ODEP competitively selected Onondaga Community College and Pellissippi State Community College for the Pathways to Careers Grant Program. The program models are designed to (1) increase credential and job attainment of students with disabilities, (2) increase their job placement, and (3) decrease the wage earning differential between students with and without disabilities, and between students with different types of disabilities.

The grantees are expected to design approaches that work to shift practice and policy across the institution. This involves transforming the entire college's approach for providing services, as opposed to a single division, and enlisting support from and engagement of administrators, deans, department chairs, faculty, student services, and other divisions that have a role in ensuring students' success. It is expected that grantees will leverage their partnerships and relationships with national affiliates, association members or business organizations, and a variety of other entities including the public workforce system. Grantees are also required to capture and use data to assess and manage their program performance, and to participate in an independent evaluation.

ODEP has oversight responsibility for the Pathways to Careers Grant Program. The Chief Evaluation Office of DOL is conducting the evaluation of the Pathways to Careers Grant Program. The evaluation consists of an implementation study and a descriptive outcomes study. The implementation study will document the institutional change at the two colleges; assess the fidelity of the implemented programs to the intended program model; assess the models for replicability and scalability; and determine the extent to which the grantees used Universal Design for Learning (UDL) principles and the Guideposts for Success in the development and operation of their programs. The outcomes study will document PTC participant outcomes, examine the extent to which the

grantees meet target goals, and conduct predictive analyses to identify participant characteristics associated with particular outcomes.

The evaluation will involve the collection of data through in-depth interviews of community college administrators, faculty and staff and partner organizations; focus groups of faculty and students with disabilities who participate in the Pathways to Careers Grant Program; and web-based surveys with telephone follow-up for student participants. The interviews with college administrators, faculty and staff will provide information on how the program interventions were implemented, challenges to implementation, and promising practices. Interviews will focus on program design, strengths and weaknesses of infrastructure and logistics, clarity of communication, effectiveness of enrollment, intake, and orientation, impressions of program delivery, and access to support services.

Focus groups with Pathways to Careers participants will collect information about career planning activity engagement, perceptions of the availability of career planning supports, satisfaction with and perceived importance of career planning, and the extent to which personal challenges influence this process and career choices. Focus groups with faculty who teach the career tracks of the Pathways to Careers program will focus on initial experience and perspectives, and availability of and involvement in professional development.

The survey will collect information from Pathways to Careers participants about their college experience, self-advocacy and self-determination, and employment and earnings during and after college. The survey will provide data to assess short-term and longer-term outcomes associated with student participation in the Pathways to Careers program.

II. Desired Focus of Comments: Currently, the Department of Labor is soliciting comments concerning the above data collection as part of the evaluation of the Pathways to Careers Grant Program. Comments are requested to:

* 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 information collection on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Actions: At this time, the Department of Labor is requesting clearance for data collection for the evaluation of the Pathways to Careers Grant Program via in-depth interviews with community college administrators, faculty, staff, and partner organizations of the program; focus groups with faculty and students with disabilities who participate in the Pathways to Careers Grant Program; and an online survey with telephone follow-up for student participants.

Type of review: New information collection request.

OMB Control Number: XXXX—0NEW

Affected Public: Community colleges (participating in the Pathways to Careers Grant Program); private sector-businesses or other for profits and not for profit institutions (partners organizations involved with the Pathways to Careers Grant Program); students with disabilities (participating in the Pathways to Careers Grant Program at the two colleges).

ESTIMATED BURDEN HOURS

Form/activity	Estimated total respondents	Frequency	Total responses	Average time per response (hours)	Estimated total burden hours
Participant survey	150 (enrolled in 2015–2016 school year).	Three times	450	0.5	225
	200 (enrolled in 2016–2017 school year).	Two times	400	0.5	200
In-depth interviews	28	Three times	84	1.0	84
Faculty focus groups	16	Two times	32	1.0	32
Student focus groups	32	Two times	64	1.0	64
Totals	426		1,030		605

Comments submitted in response to this request will be summarized and/or included in the request for Office of Management and Budget approval; they will also become a matter of public record.

Signed: at Washington, DC, this 17th day of September 2015.

Mary Beth Maxwell,

Principal Deputy Assistant Secretary for Policy, U.S. Department of Labor.

[FR Doc. 2015–25429 Filed 10–5–15; 8:45 am]

BILLING CODE 4510–HX–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0042]

Canadian Standards Association: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of Canadian Standards Association for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the Agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before October 21, 2015.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov,* which is

the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit comments, requests, and any attachments to the OSHA Docket Office, Docket No. OSHA–2006–0042, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m.–4:45 p.m., e.t.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2006–0042). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov*. Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.*, copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period on or before October 21, 2015 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *Meilinger.francis2@dol.gov*.

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; phone: (202) 693–2110 or email: *robinson.kevin@dol.gov*.

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

The Occupational Safety and Health Administration is providing notice that Canadian Standards Association (CSA) is applying for expansion of its current recognition as an NRTL. CSA requests the addition of two test standards to its NRTL scope of recognition.

OSHA recognition of an NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by its applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The Agency processes applications by an NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding. In the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL, including CSA, which details the NRTL's scope of recognition. These pages are available from the OSHA Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

CSA currently has six facilities (sites) recognized by OSHA for product testing and certification, with its headquarters located at: 178 Rexdale Boulevard, Etobicoke, Ontario, M9W 1R3, Canada. A complete list of CSA's scope of recognition is available at *https://www.osha.gov/dts/otpca/nrtl/csa.html.*

II. General Background on the Application

CSA submitted an application, dated January 29, 2015 (Exhibit 15–1 Application for Expansion of Recognition, OSHA–2006–0042), to expand its recognition to include two additional test standards. OSHA staff performed detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1 below lists the appropriate test standards found in CSA's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST APPROPRIATE TEST STANDARDS FOR INCLUSION IN CSA'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 1004–1	Standard for Rotating Electrical Machines—General Requirements.
AAMI ES 60601–1: 2005/(R) 2012	Medical Electrical Equipment, Part 1: General Requirements for Basic Safety and Essential Performance.

III. Preliminary Findings on the Application

CSA submitted an acceptable application for expansion of its scope of recognition. OSHA's review of the application file and pertinent documentation indicate that CSA can meet the requirements prescribed by 29 CFR 1910.7 for expanding its recognition to include the addition of these two test standards for NRTL testing and certification listed above. This preliminary finding does not constitute an interim or temporary approval of CSA's application.

OSHA welcomes public comment as to whether CSA meets the requirements of 29 CFR 1910.7 for expansion of its recognition as an NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Room N–2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2006–0042.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will recommend to the Assistant Secretary for Occupational Safety and Health whether to grant CSA's application for expansion of its scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of its final decision in the **Federal Register**.

IV. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on October 1, 2015.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2015–25401 Filed 10–5–15; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (15–068)]

Privacy Act of 1974; Privacy Act System of Records

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of proposed revisions to existing Privacy Act systems of records Appendix.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the National Aeronautics and Space Administration is issuing public notice of its proposal to update its standard Appendix A applicable to all NASA Systems of Records, as set forth below under the caption **SUPPLEMENTARY INFORMATION**.

DATES: Submit comments within 30 calendar days from the date of this publication. The changes will take effect at the end of that period, if no adverse comments are received.

ADDRESSES: Patti F. Stockman, Privacy Act Officer, Office of the Chief Information Officer, National Aeronautics and Space Administration Headquarters, Washington, DC 20546–0001, (202) 358–4787, *NASA-PAOfficer@nasa.gov.*

FOR FURTHER INFORMATION CONTACT: NASA Privacy Act Officer, Patti F. Stockman, (202) 358–4787, *NASA-PAOfficer@nasa.gov.*

SUPPLEMENTARY INFORMATION: This system notice changes the name of Location 3 of Appendix A used with NASA systems of records.

Renee P. Wynn,

NASA Chief Information Officer.

Appendix A

Location Numbers and Mailing Addresses of NASA Installations at Which Records Are Located

Location 1. NASA Headquarters, National Aeronautics and Space Administration Washington, DC 20546–0001

Location 2. Ames Research Center, National Aeronautics and Space Administration, Moffett Field, CA 94035–1000

Location 3. Armstrong Flight Research Center, National Aeronautics and Space Administration, PO Box 273, Edwards, CA 93523–0273

Location 4. Goddard Space Flight Center, National Aeronautics and Space Administration, Greenbelt, MD 20771–0001

Location 5. Lyndon B. Johnson Space Center, National Aeronautics and Space Administration, Houston, TX 77058–3696

Location 6. John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, FL 32899–0001

Location 7. Langley Research Center, National Aeronautics and Space Administration, Hampton, VA 23681–2199

Location 8. John H. Glenn Research Center at Lewis Field, National Aeronautics and Space Administration, 21000 Brookpark Road, Cleveland, OH 44135–3191

Location 9. George C. Marshall Space Flight Center, National Aeronautics and Space Administration, Marshall Space Flight Center, AL 35812–0001

Location 10. HQ NASA Management Office-JPL, National Aeronautics and Space Administration, 4800 Oak Grove Drive, Pasadena, CA 91109–8099

Location 11. John C. Stennis Space Center, National Aeronautics and Space Administration, Stennis Space Center, MS 39529–6000

Location 12. JSC White Sands Test Facility, National Aeronautics and Space Administration, PO Drawer MM, Las Cruces, NM 88004–0020

Location 13. GRC Plum Brook Station, National Aeronautics and Space Administration, Sandusky, OH 44870

Location 14. MSFC Michoud Assembly Facility, National Aeronautics and Space Administration, PO Box 29300, New Orleans, LA 70189

Location 15. NASA Independent Verification and Validation Facility (NASA IV&V), 100 University Drive, Fairmont, WV 26554

Location 16. New Jersey Post of Duty, 402 East State Street, Trenton, NJ 08608

Location 17. Western Field Office, Glenn Anderson Federal Building, 501 West Ocean Blvd., Long Beach, CA 90802–4222

Location 18. NASA Shared Services Center (NSSC), Building 5100, Stennis Space Center, MS 39529–6000

Location 19. NASA Wallops Flight Facility, Wallops Island, VA 23337

[FR Doc. 2015–25358 Filed 10–5–15; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (15–087)]

Privacy Act of 1974; Privacy Act System of Records

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of the retirement of Privacy Act systems of records notice.

SUMMARY: In accordance with the Privacy Act of 1974, NASA is giving

notice that it proposes to cancel the following Privacy Act systems of records, NASA Aeronautics Scholarship Program (October 17, 2011, 76 FR 64115) and Government Motor Vehicle Operators Permit Records. (September 30, 2009, 74 FR 50250).

DATES: Submit comments within 30 calendar days from the date of this publication. The changes will take effect at the end of that period, if no adverse comments are received.

FOR FURTHER INFORMATION CONTACT: Patti F. Stockman, Privacy Act Officer, Office of the Chief Information Officer, National Aeronautics and Space Administration Headquarters, Washington, DC 20546–0001, (202) 358–4787, *NASA-PAOfficer@nasa.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, and as part of its biennial System of Records review efforts, NASA is cancelling two of its systems of records:

NASA Aeronautics Scholarship Program (October 17, 2011, 76 FR 64115) because all information contained in these records is now covered under NASA's recently revised system of records NASA 10EDUA, NASA Education Records (March 17, 2015, 80 FR 13899).

Government Motor Vehicle Operators Permit Records. (09–085, September 30, 2009, 74 FR 50250) is cancelled because the Agency no longer maintains record described therein.

Renee P. Wynn,

NASA Chief Information Officer.

[FR Doc. 2015–25357 Filed 10–5–15; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2015–065]

National Industrial Security Program Policy Advisory Committee (NISPPAC); Meeting

AGENCY: Information Security Oversight Office (ISOO), National Archives and Records Administration (NARA).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (5 U.S.C. app 2) and implementing regulation 41 CFR 101–6, NARA announces an upcoming committee meeting.

DATES: The meeting will be on November 18, 2015, from 10:00 a.m. to 12:00 p.m. EDT.

ADDRESSES: National Archives and Records Administration, 700 Pennsylvania Avenue NW., Archivist's Reception Room (Room 105), Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Robert Tringali, Program Analyst, by mail at ISOO, National Archives Building, 700 Pennsylvania Avenue NW., Washington, DC 20408, by telephone at 202–357–5335, or by email at *robert.tringali@nara.gov,* or you may contact the NISPPAC at *NISPPAC@nara.gov.* Submit names of attendees to ISOO at *ISOO@nara.gov.*

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to discuss National Industrial Security Program policy matters. The meeting will be open to the public. However, due to space limitations and access procedures, you must submit the name and telephone number of individuals planning to attend to the Information Security Oversight Office (ISOO) no later than Friday, November 13, 2015. ISOO will provide additional instructions for accessing the meeting's location.

Dated: September 30, 2015.

Patrice Little Murray,

Committee Management Officer.

[FR Doc. 2015–25379 Filed 10–5–15; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Cyberinfrastructure; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Cyberinfrastructure (25150).

Date and Time:

November 5, 2015–9:00 a.m.–5:00 p.m.

November 6, 2015–8:30 a.m.–1:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 1235, Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Amy Friedlander, CISE, Division of Advanced Cyberinfrastructure, National Science Foundation, 4201 Wilson Blvd., Suite 1145, Arlington, VA 22230, Telephone: 703–292–8970.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To advise NSF on the impact of its policies, programs and activities in the ACI community. To provide advice to the Director/NSF on issues related to long-range planning.

Agenda: Updates on NSF wide ACI activities.

Dated: October 1, 2015.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2015–25361 Filed 10–5–15; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Site visit review of the Cornell High Energy Synchrotron Source (CHESS) at Cornell University, Ithaca, NY by the Division of Materials Research (DMR) #1203.

Dates & Times:

October 25, 2015; 7:00 p.m.–9:00 p.m.

October 26, 2015; 8:00 a.m.–9:00 p.m.

October 27, 2015; 8:00 a.m.–4:00 p.m.

Place: Cornell University, Ithaca, NY.

Type of Meeting: Part open.

Contact Person: Dr. Guebre X. Tessema, Program Director, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4935.

Purpose of Meeting: Site visit to provide advice and recommendations concerning further support of the CHESS.

Agenda

Sunday, October 25, 2015

7:00 p.m.–9:00 p.m. Closed—Briefing of panel

Monday, October 26, 2015

8:00 a.m.–4:15 p.m. Open—Review of the CHESS

4:15 p.m.–5:00 p.m. Closed—Executive Session

5:00 p.m.–6:00 p.m. Open Review of CHESS

7:00 p.m.–8:00 p.m. Open—Dinner

8:00 p.m.–9:00 p.m. Closed Executive Session

Tuesday, October 27, 2015

8:00 a.m.–9:00 a.m. Open—Review of the CHESS

9:00 a.m.–4:00 p.m. Closed—Executive Session, Draft and Review Report

Reason for Closing: The work being reviewed may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the CHESS. These matters are exempt under 5 U.S.C. 552 b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 30, 2015.

Crystal Robinson,

[FR Doc. 2015–25362 Filed 10–5–15; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Modification Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Modification Request.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated under the Antarctic Conservation Act of 1978. This is the required notice of a requested permit modification.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by November 5, 2015. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Division of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Li Ling Hamady, ACA Permit Officer, at the above address or *ACApermits@nsf.gov* or (703) 292–7149.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Public Law 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Description of Permit Modification Requested: The Foundation issued a permit (ACA 2015–011) to Dr. Ari Friedlaender on December 3, 2014. The issued permit allows the applicant to collect skin and blubber biopsy samples of humpback, Antarctic minke, killer, and Arnoux's beaked whales as well as photo ID takes of the aforementioned species, and satellite tag deployment on humpback whales.

Now the applicant proposes a modification to the permit to increase the number of satellite tag deployments on humpbacks from 10 to 20 tags, and requests to add 10 dart tag takes and 20 suction cup tag takes for both humpbacks and Antarctic minke whales. These takes would be covered by NMFS permits 14809 and NMFS 14856–01.

Location: Antarctic Peninsula between Marguerite Bay and the Gerlache Strait, inshore waters.

Dates: January 1, 2016 to December 31, 2018.

Nadene G. Kennedy,

Polar Coordination Specialist, Division of Polar Programs.

[FR Doc. 2015–25309 Filed 10–5–15; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0118]

Information Collection: Packaging and Transportation of Radioactive Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Packaging and Transportation of Radioactive Material.''

DATES: Submit comments by December 7, 2015. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0118. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* Tremaine Donnell, Office of Information Services, Mail Stop: T–5 F53, 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: Tremaine Donnell, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6258; email: *INFOCOLLECTS.Resource@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2015–0118 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–2015–0118.

• *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 supporting statement and burden spreadsheet are available in ADAMS under Package No. ML15201A486.

• *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.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, Tremaine Donnell, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6258; email: *INFOCOLLECTS.Resource@nrc.gov*.

B. Submitting Comments

Please include Docket ID NRC–2015–0118 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for

submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* 10 CFR part 71, Packaging and Transportation of Radioactive Material.
2. *OMB approval number:* 3150–0008.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* Not applicable.
5. *How often the collection is required or requested:* On occasion. Application for package certification may be made at any time. Required reports are collected and evaluated on a continuous basis as events occur.
6. *Who will be required or asked to respond:* All NRC specific licensees who place byproduct, source, or special nuclear material into transportation, and all persons who wish to apply for NRC approval of package designs for use in such transportation.
7. *The estimated number of annual responses:* 660.1 responses.
8. *The estimated number of annual respondents:* 250 respondents.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 25,593.9 hours.
10. *Abstract:* NRC regulations in 10 CFR part 71 establish requirements for packaging, preparation for shipment, and transportation of licensed material, and prescribe procedures, standards, and requirements for approval by NRC of packaging and shipping procedures for fissile material and for quantities of licensed material in excess of Type A quantities. The NRC collects information pertinent to 10 CFR part 71 for three reasons: To issue a package approval; to ensure that any incidents or package degradation or defect are appropriately captured, evaluated and if necessary, corrected to minimize future potential occurrences; and to ensure that all activities are completed using an NRC-approved quality assurance program.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the estimate of the burden of the information collection accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 29th day of September 2015.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2015–25341 Filed 10–5–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0147]

Information Collection: Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.''

DATES: Submit comments by November 5, 2015.

ADDRESSES: Submit comments directly to the OMB reviewer at: Vlad Dorjets, Desk Officer, Office of Information and Regulatory Affairs (3150–0021), NEOB–10202, Office of Management and Budget, Washington, DC 20503; telephone: 202–395–7315, email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Tremaine Donnell, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6258; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2015–0147 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–2015–0147.
- *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 supporting statement is available in ADAMS under Accession ML15236A231.
- *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.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, Tremaine Donnell, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6258; email: *INFOCOLLECTS.Resource@nrc.gov.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *http://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, 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 comment submissions are not routinely edited to remove such

information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, 10 CFR part 51 ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on June 23, 2015 (80 FR 35991).

1. *The title of the information collection:* 10 CFR part 51 ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.''

2. *OMB approval number:* 3150–0021.

3. *Type of submission:* Extension.

4. *The form number if applicable:* Not applicable.

5. *How often the collection is required or requested:* Upon submittal of an application for a combined license, construction permit, operating license, operating license renewal, early site permit, design certification, decommissioning or license termination review, or manufacturing license, or upon submittal of a petition for rulemaking.

6. *Who will be required or asked to respond:* Licensees and applicants requesting approvals for actions proposed in accordance with the provisions of 10 CFR parts 30, 32, 33, 34, 35, 36, 39, 40, 50, 52, 54, 60, 61, 70, and 72.

7. *The estimated number of annual responses:* 48.7.

8. *The estimated number of annual respondents:* 48.7.

9. An estimate of the total number of hours needed annually to comply with the information collection requirement or request: 48,104.

10. *Abstract:* The NRC's regulations at 10 CFR part 51 specifies information to be provided by applicants and licensees so that the NRC can make determinations necessary to adhere to the policies, regulations, and public laws of the United States, which are interpreted and administered in accordance with the provisions set forth in the National Environmental Policy Act of 1969, as amended.

Dated at Rockville, Maryland, this 29th day of September 2015.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2015–25340 Filed 10–5–15; 8:45 am]

BILLING CODE 7590–01–P

SCIENCE AND TECHNOLOGY POLICY OFFICE

Clarifying Current Roles and Responsibilities Described in the Coordinated Framework for the Regulation of Biotechnology and Developing a Long-Term Strategy for the Regulation of the Products of Biotechnology

AGENCY: National Science and Technology Council, Science and Technology Policy Office.

ACTION: Notice of request for information.

SUMMARY: On July 2, 2015, the Executive Office of the President (EOP) issued a memorandum (Ref. 1) directing the primary agencies that regulate the products of biotechnology—the U.S. Environmental Protection Agency (EPA), the Food and Drug Administration (FDA), and the U.S. Department of Agriculture (USDA)—to update the Coordinated Framework for the Regulation of Biotechnology (51 FR 23302; June 26, 1986) (Ref. 2), develop a long-term strategy to ensure that the Federal biotechnology regulatory system is prepared for the future products of biotechnology, and commission an expert analysis of the future landscape of biotechnology products to support this effort. The memorandum's objectives are to ensure public confidence in the regulatory system and to prevent unnecessary barriers to future innovation and competitiveness by improving the transparency, coordination, predictability, and efficiency of the regulation of biotechnology products while continuing to protect health and the environment.

The purpose of this Request for Information (RFI) is to solicit relevant data and information, including case studies, that can assist in the development of the proposed update to the Coordinated Framework for the Regulation of Biotechnology (CF) to clarify the current roles and responsibilities of the EPA, FDA, and USDA and the development of a long-term strategy consistent with the objectives described in the July 2, 2015 EOP memorandum. In addition to this RFI, the update to the CF will undergo public comment before it is finalized.

DATES: Responses must be received by November 13, 2015 at 5:00 p.m. EST to be considered.

ADDRESSES: You may submit information by either of the following methods (electronic is strongly preferred):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Docket No. FDA–2015–N–3403. Follow the instructions for submitting information. Information submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged.
- *Mail:* National Science and Technology Council: Emerging Technologies Interagency Policy Coordination Committee, Office of Science and Technology Policy, 1650 Pennsylvania Avenue NW., Washington, DC 20504. If submitting a response by mail, please allow sufficient time for mail processing. Written/paper information, including attachments, will be posted to the docket unchanged.

Instructions: All submissions received must include Docket No. FDA–2015–N–3403 for Clarifying Current Roles and Responsibilities Described in the Coordinated Framework for the Regulation of Biotechnology and Developing a Long-Term Strategy for the Regulation of the Products of Biotechnology; Request for Information.

Disclaimer: All information received will be placed in the docket and will be publicly viewable at *http://www.regulations.gov.* Responses must be unclassified and should not contain any information that might be considered proprietary, confidential, or personally identifying (such as home address or social security number).

Responses to this RFI will not be returned. The National Science and Technology Council is under no obligation to acknowledge receipt of the information received, or provide feedback to respondents with respect to any information submitted under this RFI. No requests for a bid package or solicitation will be accepted; no bid package or solicitation exists. This RFI is issued solely for information and planning purposes and does not constitute a solicitation.

FOR FURTHER INFORMATION CONTACT: National Science and Technology Council: Emerging Technologies Interagency Policy Coordination Committee, Office of Science and Technology Policy, Executive Office of the President, Eisenhower Executive Office Building, 1650 Pennsylvania Ave., Washington DC 20504, Phone:

202–456–4444, Online: *https://www.whitehouse.gov/webform/contact-emerging-technologies-interagency-policy-coordinating-committee-national-science-and*

SUPPLEMENTARY INFORMATION:

Background Information

In 1986, the Office of Science and Technology Policy (OSTP) issued the Coordinated Framework for the Regulation of Biotechnology (CF), which outlined a comprehensive Federal regulatory policy for ensuring the safety of biotechnology products. The CF sought to achieve a balance between regulation adequate to ensure the protection of health and the environment while maintaining sufficient regulatory flexibility to avoid impeding innovation.

In 1992, OSTP issued an update to the CF that sets forth a risk-based, scientifically sound basis for the oversight of activities that introduce biotechnology products into the environment (57 FR 6753; February 27, 1992) (Ref. 3). The update affirmed that Federal oversight should focus on the characteristics of the product, the environment into which it is being introduced, and the intended use of the product, rather than the process by which the product is created.

On July 2, 2015 the Executive Office of the President (EOP) issued a memorandum directing the primary Federal agencies that have oversight responsibilities for the products of biotechnology—the U.S. Environmental Protection Agency (EPA), the Food and Drug Administration (FDA), and the U.S. Department of Agriculture (USDA)—to update the CF to clarify the current roles and responsibilities of the agencies that regulate the products of biotechnology, develop a long-term strategy to ensure that the Federal biotechnology regulatory system is prepared for the future products of biotechnology, and commission an independent, expert analysis of the future landscape of biotechnology products. These efforts will build on the regulatory principles described in the CF and the 1992 update to the CF. The memorandum's objectives are to ensure public confidence in the regulatory system and to prevent unnecessary barriers to future innovation and competitiveness by improving the transparency, coordination, predictability, and efficiency of the regulation of biotechnology products while continuing to protect health and the environment.

The July 2, 2015 EOP memorandum stated that the update to the CF should clarify the current roles and responsibilities of the agencies that regulate the products of biotechnology by accomplishing the following four objectives:

(i) Clarifying which biotechnology product areas are within the authority and responsibility of each agency;

(ii) clarifying the roles that each agency plays for different product areas, particularly for those product areas that fall within the responsibility of multiple agencies, and how those roles relate to each other in the course of a regulatory assessment;

(iii) clarifying a standard mechanism for communication and, as appropriate, coordination among agencies, while they perform their respective regulatory functions, and for identifying agency designees responsible for this coordination function; and

(iv) clarifying the mechanism and timeline for regularly reviewing, and updating as appropriate, the CF to minimize delays, support innovation, protect health and the environment and promote the public trust in the regulatory systems for biotechnology products.

As noted in the July 2, 2015 EOP memorandum, ''biotechnology products'' refers to products developed through genetic engineering or the targeted or in vitro manipulation of genetic information of organisms, including plants, animals, and microbes. It also covers some of the products produced by such plants, animals, and microbes or their derived products as determined by existing statutes and regulations. Products such as human drugs and medical devices are not the focus of the activities described in the memorandum.

The purpose of this RFI is to solicit relevant data and information, including case studies, that can inform the development of the proposed update to the CF and the development of a long-term strategy consistent with the objectives described in the July 2, 2015 EOP memorandum. In addition to this RFI, the update to the CF will undergo public comment before it is finalized.

Information Requested

The National Science and Technology Council requests relevant data and information, including case studies, that can inform the update to the CF by clarifying the current roles and responsibilities of the EPA, FDA, and USDA and the development of the long-term strategy consistent with the objectives described in the July 2, 2015 EOP memorandum. For details on the current roles and responsibilities of these agencies, refer to their Web sites.

Relevant FDA Web sites

- *http://www.fda.gov/Food/FoodScienceResearch/Biotechnology/*
- *http://www.fda.gov/AnimalVeterinary/DevelopmentApprovalProcess/GeneticEngineering/GeneticallyEngineeredAnimals/ucm113605.htm*

Relevant EPA Web sites

- *http://www.epa.gov/pesticides/biopesticides/regtools/biotech-reg-prod.htm*
- *http://www.epa.gov/biotech_rule/*

Relevant USDA Web sites

- *https://www.aphis.usda.gov/wps/portal/aphis/ourfocus/biotechnology*

A brief summary of these agencies' current roles follows.

The FDA regulates products of genetically engineered (GE) organisms that fall within FDA's authority under the Federal Food, Drug, and Cosmetic (FD&C) Act and other statutes. The FDA is responsible for ensuring the safety of all plant-derived human and animal foods, including those that are from genetically engineered sources. FDA also regulates GE animals under the new animal drug provisions of the FD&C Act, and FDA's regulations for new animal drugs. (The actual regulated article is the recombinant DNA construct inserted into a specific site in the genome of an animal; as a shorthand, the FDA refers to the regulation of GE animals.)

Within USDA, the Animal and Plant Health Inspection Service (APHIS) is responsible for protecting agriculture from pests and diseases. Under the Plant Protection Act (PPA) and the Animal Health Protection Act (AHPA), USDA–APHIS has regulatory oversight over products of modern biotechnology that could pose a risk to plant and animal health. The AHPA provides authority to prohibit or restrict imports or entry into the United States or dissemination of any pest or disease of livestock. GE animals and insects would be subject to import or transport restrictions if there is a risk to animal health. The PPA, as amended, provides authority to regulate the introduction (*i.e.,* importation, interstate movement, or release into the environment) of certain GE organisms and products. A GE organism is considered a regulated article if the donor organism, recipient organism, vector, or vector agent used in engineering the organism belongs to one of the taxa listed in the regulation and is also considered a plant pest. A GE organism is also regulated when APHIS has reason to believe that the GE organism may be a plant pest. A GE organism is no longer subject to the

plant pest provisions of the PPA or to regulatory requirements when APHIS determines that it is unlikely to pose a plant pest risk.

The EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the FD&C Act regulates the sale and distribution of all pesticides, including those produced through genetic engineering. This includes microorganisms, biochemicals isolated from organisms, and plant-incorporated protectants (PIPs), a type of pesticide intended to be produced and used in living plants. Under the Toxic Substances Control Act (TSCA), EPA has oversight responsibilities for a wide range of commercial, industrial, and consumer applications of microbial biotechnology. New chemicals produced through those microbial biotechnology applications are subject to premanufacturing review under TSCA.

Questions

Keeping in mind the principles of the regulation of the products of biotechnology as articulated in the CF and the 1992 update to the CF, as well as the objectives of the July 2, 2015 EOP memorandum, respondents are welcome to address one or more of the following questions in regards to the proposed update to the CF and the development of the long-term strategy. Respondents are asked to indicate to which question responses are targeted.

1. What additional clarification could be provided regarding which biotechnology product areas are within the statutory authority and responsibility of each agency?

2. What additional clarification could be provided regarding the roles that each agency plays for different biotechnology product areas, particularly for those product areas that fall within the responsibility of multiple agencies, and how those roles relate to each other in the course of a regulatory assessment?

3. How can Federal agencies improve their communication to consumers, industry, and other stakeholders regarding the authorities, practices, and bases for decision-making used to ensure the safety of the products of biotechnology?

4. Are there relevant data and information, including case studies, that can inform the update to the CF or the development of the long-term strategy regarding how to improve the transparency, coordination, predictability, and efficiency of the regulatory system for the products of biotechnology?

5. Are there specific issues that should be addressed in the update of the CF or in the long-term strategy in order to increase the transparency, coordination, predictability, and efficiency of the regulatory system for the products of biotechnology?

References

These references are available electronically at *http://www.regulations.gov*. We have verified the Web site addresses, but we are not responsible for any subsequent changes to Web sites after this document publishes in the **Federal Register**.

1. Executive Office of the President. Office of Science and Technology Policy, Office of Management and Budget, United States Trade Representative, and Council on Environmental Quality. Modernizing the Regulatory System for Biotechnology Products, July 2, 2015. Available online at: *https://www.whitehouse.gov/sites/default/files/microsites/ostp/modernizing_the_reg_system_for_biotech_products_memo_final.pdf.*
2. Executive Office of the President. Office of Science and Technology Policy. Coordinated Framework for Regulation of Biotechnology. 51 FR 23302, June 26, 1986. Available online at: *http://www.aphis.usda.gov/brs/fedregister/coordinated_framework.pdf*
3. Executive Office of the President. Office of Science and Technology Policy. Exercise of Federal Oversight Within Scope of Statutory Authority: Planned Introductions of Biotechnology Products Into the Environment. 57 FR 6753, February 27, 1992. Available online at: *https://www.whitehouse.gov/sites/default/files/microsites/ostp/57_fed_reg_6753__1992.pdf*

Ted Wackler,

Deputy Chief of Staff and Assistant Director.

[FR Doc. 2015–25325 Filed 10–5–15; 8:45 am]

BILLING CODE 3270–F5–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 8, 2015 at 2:00 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 Stein, 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;

Adjudicatory matters; 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: October 1, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–25451 Filed 10–2–15; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76059; File No. SR–FINRA–2015–033]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Amend FINRA Rule 0150 to Apply FINRA Rule 2121 and its Supplementary Material .01 and .02 to Transactions in Exempted Securities That Are Government Securities

September 30, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 17, 2015, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 0150, Application of Rules to Exempted Securities Except Municipal Securities, so that FINRA Rule 2121 and its Supplementary Material .01 and .02, which govern mark-ups and commissions, will apply to transactions in exempted securities that are government securities.

Below is the text of the proposed rule change. Proposed new language is in italics.

* * * * *

0100. GENERAL STANDARDS

* * * * *

0150. Application of Rules to Exempted Securities Except Municipal Securities

(a) through (c) No Change.

(d) FINRA Rule 2121 is applicable to transactions in, and business activities relating to, exempted securities that are government securities.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 0150(c) enumerates the FINRA rules and the rules of the National Association of Securities Dealers (''NASD'') that apply to transactions in, and business activities relating to, exempted securities, except municipal securities, conducted by members and associated persons.[3] Currently, this rule does not include Rule 2121, Supplementary Material .01, or Supplementary Material .02, which govern mark-ups and commissions (''mark-up rule'').[4]

The basis for not applying certain FINRA and NASD rules, including the mark-up rules, to exempted securities (except municipal securities) is largely historical. Prior to 1993, there were statutory limitations on NASD's ability to apply sales practice rules, including the mark-up rules, to transactions in exempted securities. Specifically, Section 15A(f) of the Act imposed limitations on the authority of registered securities associations over transactions by a registered broker or dealer in an exempted security.[5] This provision was eliminated as part of the Government Securities Act Amendments of 1993 (''GSAA'').[6] Following the GSAA, the NASD proposed to apply certain NASD rules to exempted securities other than to municipal securities, although it did not propose to apply the mark-up rule then in effect (NASD Rule 2440 and IM–2440–1) to such securities.[7] Rather, the NASD stated that it intended to review the specific application of these rules to the government securities market and that it was developing an interpretation of the mark-up rule with respect to exempted securities and other debt securities.[8] The NASD further stated that actions for conduct generally encompassed by the NASD mark-up rule in the government securities market could be brought under NASD Rule 2110 (Standards of Commercial Honor and Principles of Trade).[9] In 2001, NASD adopted Rule 0116 (now FINRA Rule 0150), which set forth the NASD rules that would apply to transactions in exempted securities, except municipal securities.[10] In 2007, the SEC approved IM–2440–2, which set forth a mark-up policy for transactions in debt securities, except municipal securities.[11]

FINRA is now proposing to amend Rule 0150 so that Rule 2121, along with Supplementary Material .01 and .02, would apply to transactions in, and business activities relating to, exempted securities that are government securities, as defined in Section 3(a)(42) of the Exchange Act.[12] FINRA believes that amending Rule 0150 to apply the mark-up rule to transactions in government securities is consistent with the GSAA. FINRA also believes that amending Rule 0150 in this manner is consistent with NASD's application of certain of its rules, following the GSAA, to exempted securities except for municipal securities.[13]

FINRA also notes the regulatory benefits of applying the mark-up rule to

[3] The terms exempted securities, government securities, and municipal securities are defined in Sections 3(a)(12), 3(a)(42), and 3(a)(29) of the Act, respectively. The current FINRA rulebook consists of: (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE (''Incorporated NYSE Rules'') (together, the NASD Rules and Incorporated NYSE Rules are referred to as the ''Transitional Rulebook''). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (''Dual Members''). The FINRA Rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, *see Information Notice,* March 12, 2008 (Rulebook Consolidation Process).

[4] NASD Rule 2440, IM–2440–1, and IM–2440–2 were recently moved to the FINRA rules without any substantive changes, becoming Rule 2121, Supplementary Material .01, and Supplementary Material .02, respectively. *See* Securities Exchange Act Release No. 72208 (May 21, 2014), 79 FR 30675 (May 28, 2014) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2014–023).

[5] Prior to 1986, Section 15A(f) provided that ''[n]othing in this section shall be construed to apply with respect to any transaction by a broker or dealer in any exempted security.'' *See* 15 U.S.C. 78*o*–3 (historical notes).

In 1986, the Government Securities Act of 1986 (''GSA'') was enacted, which established a federal system for the regulation of brokers and dealers who transact business in government securities and certain other exempted securities. *See* Government Securities Act of 1986, Pub. L. 99–571, 100 Stat. 3208 (1986). The GSA, among other things, amended Section 15A(f) to provide that, ''[e]xcept as provided in paragraph (2) of this subsection, nothing in this section shall be construed to apply with respect to any transaction by a registered broker or dealer in any exempted security.'' *See* Government Securities Act of 1986, Pub. L. 99–571, § 102(g)(1), 100 Stat. 3208 (1986). Paragraph (f)(2), which was added by the GSA, provided that a registered securities association could adopt and implement rules with respect to exempted securities to (1) enforce members' compliance with the relevant provisions of the Act and rules and regulations thereunder, (2) adequately discipline its members, (3) inspect members' books and records, and (4) prohibit fraudulent, misleading, deceptive and false advertising. *Id.*

[6] *See* Government Securities Act Amendments of 1993, Pub. L. 103–202, § 106(b)(1), 107 Stat. 2344 (1993).

[7] *See* Securities Exchange Act Release No. 37588 (August 20, 1996), 61 FR 44100 (August 27, 1996) (Order Approving File No. SR–NASD–95–39).

[8] *See id.* at 44104–44105 nn.3–4.

[9] *See id.* at 44113 (noting that Amendment No. 5 to the proposal ''clarifies and reminds members that [NASD] rules requiring members to adhere to just and equitable principles of trade apply to conduct that may violate the Fair Prices and Commissions provision and the Mark-Up Policy.'')

NASD Rule 2110 has since been adopted as FINRA Rule 2010. *See* Securities Exchange Release No. 58643 (September 25, 2008), 73 FR 57174 (October 1, 2008) (Order Approving File No. SR–FINRA–2008–028).

[10] *See* Securities Exchange Act Release No. 44631 (July 31, 2001), 66 FR 41283 (August 7, 2001) (Order Approving File No. SR–NASD–00–38).

[11] *See* Securities Exchange Act Release No. 55638 (April 16, 2007), 72 FR 20150 (April 23, 2007) (Order Approving File No. SR–NASD–2003–141). As noted above, NASD Rule 2440, IM–2440–1, and IM–2440–2 were recently moved to the FINRA rulebook without any substantive changes, becoming FINRA Rule 2121, Supplementary Material .01, and Supplementary Material .02, respectively. *See supra* note 4.

[12] This includes U.S. Treasury securities, as defined in FINRA Rule 6710(p). As defined in Rule 6710(p), a U.S. Treasury Security means a ''security issued by the U.S. Department of the Treasury to fund the operations of the federal government or to retire such outstanding securities.''

[13] *See* Securities Exchange Act Release No. 37588 (August 20, 1996), 61 FR 44100 (August 27, 1996) (Order Approving File No. SR–NASD–95–39).

government securities. Under current rules, if FINRA staff wishes to bring a case alleging excessive mark-ups, mark-downs or commissions in transactions in exempted securities other than municipal securities, such as agency debt securities or U.S. Treasury securities, FINRA must bring the case under Rule 2010. Amending Rule 0150 to apply the mark-up rule to transactions and business activities relating to government securities would provide a specific cause of action under which conduct involving such securities could be regulated, in addition to the more general provisions of Rule 2010. As such, this proposed rule change would clearly signal to members that conduct relating to mark-ups and commissions in the market for government securities directly implicates the mark-up rule, in addition to Rule 2010. FINRA also notes that the mark-up rule provides specific criteria by which members should assess debt mark-ups and mark-downs.[14] Amending Rule 0150 to apply these standards to transactions in government securities would provide both members and FINRA staff with clearer standards by which to measure the propriety of mark-ups, mark-downs and commissions in such transactions.

As a practical matter, FINRA believes that amending Rule 0150 to apply to government securities would have little impact upon members. Rule 2010 already governs transactions in government securities, which would include instances of improper or excessive mark-ups, mark-downs or commissions. Although this proposal would apply the more specific provisions of the mark-up rule to transactions involving government securities, these provisions are already applicable to corporate debt securities. Member firms that currently engage in transactions in corporate debt will therefore already be familiar with the application of the mark-up rule, and FINRA believes that most firms apply substantially similar standards to transactions in all fixed income securities.

FINRA also does not believe that this proposal will impact the reporting or surveillance of transactions in government securities. FINRA currently requires members to report transactions in many government securities (*i.e.,* agency debentures and agency asset-backed securities) to its Trade Reporting and Compliance Engine (''TRACE''), and actively surveils the markets in such securities. For those government securities that are not TRACE-eligible, such as U.S. Treasury securities, any review of transactions in such securities pursuant to the mark-up rule would occur as it does today, *e.g.,* through a manual process that is part of FINRA's regular examination cycle.

FINRA notes that, following the end of the comment period for this proposal, it will consult with the U.S. Department of the Treasury with respect to the application of the mark-up rule to transactions in government securities that are U.S. Treasury securities.[15]

If the Commission approves the proposed rule change, the proposed rule change will be effective upon Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[16] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(b)(9) of the Act,[17] which requires that FINRA rules not impose any burden on competition that is not necessary or appropriate. FINRA believes that amending Rule 0150 so that the mark-up rule will apply to government securities is consistent with the Act, because government securities can be subject to instances of excessive mark-ups, and investors in government securities will therefore benefit from the specific application of the mark-up rule to that market. FINRA also believes that this proposal is consistent with both the GSAA and with NASD's subsequent application of certain of its rules to exempted securities except for municipal securities. FINRA also believes that the proposed rule change is consistent with the Act as it will provide FINRA with specific authority over instances of excessive mark-ups, mark-downs or commissions relating to government securities that may be pursued, in addition to the more general provisions of Rule 2010.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. FINRA notes that the proposed rule change is designed to assist FINRA in meeting its regulatory obligations by extending the rule governing mark-ups and commissions to government securities. FINRA believes that the proposed rule change will have minimal impact on members, as FINRA currently requires members to report transactions in many government securities, and members that charge an excessive mark-up, markdown or commission in transactions in exempted securities are already subject to the provisions of Rule 2010.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were solicited in *Regulatory Notice* 13–07 but none were received.[18]

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

[14] *See* Rule 2121, Supplementary Material .02 (Additional Mark-Up Policy For Transactions in Debt Securities, Except Municipal Securities).

[15] FINRA also notes that, pursuant to Section 19(b)(5) of the Act, the SEC ''shall consult with and consider the views of the Secretary of the Treasury prior to approving a proposed rule filed by a registered securities association that primarily concerns conduct related to transactions in government securities, except where the Commission determines that an emergency exists requiring expeditious or summary action and publishes its reasons therefor.'' *See* 15 U.S.C. 78s(b)(5).

[16] 15 U.S.C. 78*o*–3(b)(6).

[17] 15 U.S.C. 78*o*–3(b)(9).

[18] In 2013, FINRA published *Regulatory Notice* 13–07, which sought comment on a proposed rule change that would have amended several aspects of the mark-up rule, including amending Rule 0150 to apply the mark-up rule to certain government securities. Although FINRA received eight comment letters in connection with this *Regulatory Notice,* none of those comment letters addressed the proposed rule change that is the subject of this rule filing. A copy of the *Regulatory Notice* is included as Exhibit 2.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2015–033 on the subject line.

Paper Comments

- Send paper comments in triplicate to Robert W. Errett, Deputy Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2015–033. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2015–033 and should be submitted on or before October 27, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–25329 Filed 10–5–15; 8:45 am]

BILLING CODE 8011–01–P

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76054; File No. SR–BATS–2015–78]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delete Rule 2.13, Fidelity Bonds

September 30, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], and Rule 19b–4 thereunder,[2] notice is hereby given that on September 24, 2015, BATS Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to delete Rule 2.13, Fidelity Bonds, in order to conform to the rules of EDGA Exchange, Inc. (''EDGA'') and EDGX Exchange, Inc. (''EDGX'').

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A., B., and C. below, of the most significant aspects of such statements.

[1] *See* 15 U.S.C. 78s(b)(1).

[2] *See* 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In early 2014, the Exchange and its affiliate, BATS Y-Exchange, Inc. (''BYX''), received approval to effect a merger (the ''Merger'') of the Exchange's parent company, BATS Global Markets, Inc., with Direct Edge Holdings LLC, the indirect parent of EDGX and EDGA (together with BZX, BYX and EDGX, the ''BGM Affiliated Exchanges'').[5] In the context of the Merger, the BGM Affiliated Exchanges are working to align its [sic] rules, retaining only intended differences between the BGM Affiliated Exchanges. Thus, the proposal set forth below is intended to delete Rule 2.13, Fidelity Bonds, in order to conform to the rules of EDGA and EDGX in order to provide a consistent rule set across each of the BGM Affiliated Exchanges.[6]

In sum, Exchange Rule 2.13(a) states that each Member [7] required to join the Securities Investor Protection Corporation (''SIPC'') who has employees and who is a member in good standing of another self-regulatory organization shall follow the applicable fidelity bond rule of the self-regulatory organization to which it is designated by the Commission for financial responsibility pursuant to Section 17 of the Act and SEC Rule 17d-1 thereunder (*i.e.,* its Designated Examining Authority or ''DEA''). Subparagraph (b) to Rule 2.13 simply incorporates by reference NASD Rule 3020 (now FINRA Rule 4360) in to Exchange Rule 2.13. Subparagraph (c) of Rule 2.13 states that references to: (i) An ''Association member'' shall be construed as references to a ''Member''; and (ii) Article I, paragraph (q) of the By-Laws shall be construed as references to Exchange Rule 1.5(q). Lastly, subparagraph (d) to Rule 2.13 states that pursuant to Exchange Rule 1.6, any Member subject to paragraph (c) of NASD Rule 3020 (now FINRA Rule 4360), through the application of paragraph (b) of Rule 2.13, may apply to the Exchange for an exemption from such requirements. The exemption may be granted upon a showing of good cause, including a substantial change in

[5] *See* Securities Exchange Act Release No. 71375 (January 23, 2014), 79 FR 4771 (January 29, 2014) (SR–BATS–2013–059; SR–BYX–2013–039).

[6] The Exchange notes that BYX intends to file a proposal to delete its identical Rule 2.13, Fidelity Bonds.

[7] A Member is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

the circumstances or nature of the Member's business that results in a lower net capital requirement. The Exchange may issue an exemption subject to any condition or limitation upon a Member's bonding coverage that is deemed necessary to protect the public and serve the purposes of Rule 2.13.

The Exchange does not, nor does it currently intend to, act in the capacity of a DEA. Therefore, Rule 2.13 is obsolete as it does not apply to any of the Exchange's Members.[8] The Exchange believes that eliminating Rule 2.13 would avoid unnecessary confusion with respect to the Exchange's rules because it does not have a direct nexus to the trading on the Exchange or the relationship between the Exchange and its Members. Deleting Rule 2.13 would not ease any of the requirements on its Members that are required to join SIPC as the Financial Industry Regulatory Authority (''FINRA'') and the New York Stock Exchange, Inc. (''NYSE'') serve as a DEA for those Members and include rules with similar requirements as current Exchange Rule 2.13.[9] In addition, the Exchange notes that EDGA and EDGX do not contain a similar rule. As a result, eliminating Rule 2.13 would also provide for a consistent rule set across each of the BGM Affiliated Exchanges.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[10] Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,[11] because it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change is designed to provide a consistent rule set across each of the BGM Affiliated Exchanges. As mentioned above, the proposed rule changes, combined with the planned filing for BYX, would provide for a consistent set of rules across each of the BGM Affiliated Exchanges. Consistent rules, in turn, will simplify the regulatory requirements for Members of the Exchange that are also participants on EDGA, EDGX and/or BYX as well as result in greater uniformity, less burdensome and more efficient regulatory compliance and understanding of Exchange Rules. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

In addition, the proposed rule change would eliminate unnecessary confusion with respect to the Exchange's rules by removing a rule that has never had a direct nexus to the trading on the Exchange or the relationship between the Exchange and its Members. The Exchange believes that Rule 2.13 is obsolete as the Exchange does not, nor does it currently intend to, act in the capacity of a DEA. Deleting Rule 2.13 would not ease any of the requirements on its Members that are required to join SIPC as FINRA and the NYSE serve as a DEA for those Members and include rules containing similar requirements as current Exchange Rule 2.13.[12] The Exchange believes that eliminating these rules will reduce any investor confusion regarding a rule the Exchange has never applied, nor intends to apply. Further, eliminating unnecessary and obsolete rules removes impediments to the perfection of the mechanisms for a free and open market system consistent with the requirements of Section 6(b)(5) of the Act.[13]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that deleting Rule 2.13 will align Exchange rules with those of the BGM Affiliated Exchanges. The Exchange has never utilized this rule, nor does the Exchange intend to utilize it in the future. Therefore, the Exchange does not believe that eliminating Rule 2.13 will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act[14] and paragraph (f)(6) of Rule 19b–4 thereunder.[15] The proposed rule change effects a change that (A) does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily temporarily suspend such rule change if it appears to the Commission that such action is: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BATS–2015–78 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2015–78. This file number should be included on the

[8] The Exchange will submit a rule filing to the Commission to adopt requirements similar or identical to current Rule 2.13 should it become a DEA for any of its Members in the future.

[9] *See* FINRA Rule 4360 and NYSE Rule 4360.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] *See* FINRA Rule 4360 and NYSE Rule 4360.

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4.

subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–BATS–2015–78 and should be submitted on or before October 27, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–25327 Filed 10–5–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76061; File No. SR–FINRA–2015–035]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Submission of ''Clearing-Only, Non-Regulatory Reports'' to the FINRA Equity Trade Reporting Facilities

September 30, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 22, 2015, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA rules governing the reporting of over-the-counter (''OTC'') transactions in equity securities to the FINRA Facilities[4] to allow the submission of ''clearing-only, non-regulatory reports,'' as defined herein, relating to previously executed and reported transactions and exempt such reports from certain reporting requirements under FINRA rules.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org*, at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

With limited exceptions, FINRA trade reporting rules require that members report OTC transactions in equity securities by submitting a ''tape'' report (the transaction is reported for public dissemination purposes) to FINRA.[5] In some instances, members may be required (or may choose) to also submit one or more ''non-tape'' reports (the transaction is not reported for publication) in connection with the transaction. For example, members executing OTC transactions as riskless principal[6] or agent on behalf of other members are required to submit non-tape report(s) to identify other FINRA members that are parties to the trade.[7] Non-tape reports can be (1) ''non-tape, non-clearing'' (the transaction is not reported to the tape and is submitted to FINRA solely for regulatory purposes) or (2) ''clearing-only'' (the transaction is not reported to the tape and is submitted to FINRA for clearing (and perhaps also regulatory) purposes). FINRA notes that members can elect, but are not required, to have the FINRA Facility submit their trades to the National Securities Clearing Corporation (''NSCC'') for clearance and settlement, and in such instance, they would designate the submission for clearing.[8]

Effective February 2, 2015, any member operating an alternative trading system (''ATS'') must obtain for each such ATS a single, unique market participant identifier (''MPID'') that is designated for exclusive use for

[16] *See* 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] For purposes of this filing, the FINRA Facilities are the Alternative Display Facility (''ADF'') and the Trade Reporting Facilities (''TRF''), to which members report OTC transactions in NMS stocks, as defined in SEC Rule 600(b) of Regulation NMS; and the OTC Reporting Facility (''ORF''), to which members report transactions in ''OTC Equity Securities,'' as defined in Rule 6420 (*i.e.,* non-NMS stocks such as OTC Bulletin Board and OTC Market securities), as well as transactions in Restricted Equity Securities, as defined in Rule 6420, effected pursuant to Securities Act Rule 144A.

[5] FINRA trade reporting rules require that for transactions between members, the ''executing party'' report the trade to FINRA. For transactions between a member and a non-member or customer, the member must report the trade. ''Executing party'' is defined under FINRA rules as the member that receives an order for handling or execution or is presented an order against its quote, does not subsequently re-route the order, and executes the transaction. *See* Rules 6282(b), 6380A(b), 6380B(b) and 6622(b).

[6] For purposes of OTC trade reporting requirements applicable to equity securities, a ''riskless principal'' transaction is a transaction in which a member, after having received an order to buy (sell) a security, purchases (sells) the security as principal (the initial leg) and satisfies the original order by selling (buying) as principal at the same price.

[7] *See* Rules 6282(d)(4), 6380A(d)(4), 6380B(d)(4) and 6622(d)(4).

[8] As noted, FINRA rules do not mandate that members submit OTC transactions for clearing through a FINRA Facility, and for example, members may elect to clear via direct submission to the NSCC by a Qualified Special Representative (''QSR'').

reporting the ATS's transactions.[9] The member must use such separate MPID to report all transactions executed within the ATS to FINRA. Members that operate multiple ATSs or engage in other lines of business requiring the use of MPIDs must obtain and use multiple MPIDs.

Following implementation of the ATS MPID requirement, some firms that operate an ATS and use a FINRA Facility to submit trades to NSCC submit separate clearing-only reports to FINRA using their main broker-dealer MPID. In other words, the firm submits a tape report and any required non-tape, non-clearing (*i.e.,* regulatory) reports using the ATS MPID, and also submits one or more separate clearing-only reports using the firm's main broker-dealer MPID. FINRA understands that firms report in this manner to facilitate externally facing back office clearing processes, such as client reporting and step-out trade processing, that are built using the firm's main broker-dealer MPID. Firms have indicated that it would be a significant burden to change these established clearing processes and use the ATS MPID for purposes of clearing-only submissions.

Currently, these additional clearing reports with the firm's main broker-dealer MPID duplicate the trade information previously reported to FINRA. Because they are not identified with the same MPID and are not linked to the related tape and non-tape, non-clearing reports, FINRA is unable to distinguish duplicative clearing-only reports from other reports that are submitted to satisfy a firm's regulatory reporting obligations. This creates confusion in the audit trail which in turn can result in the generation of false alerts in FINRA's automated surveillance programs.

Clearing-Only, Non-Regulatory Reports

After reviewing the system capabilities and consulting with industry representatives, FINRA is proposing to adopt new subparagraph (4) under Rules 7130(g), 7230A(i), 7230B(h) and 7330(h) to create a uniquely identified category of submissions to FINRA that are ''clearing-only, non-regulatory reports,'' *i.e.,* the transaction is submitted solely to facilitate clearing and not for dissemination or regulatory purposes. As described in more detail below, ATSs would be permitted to use their main broker-dealer MPID on this limited subset of reports.

Pursuant to the proposed rule change, a member may submit a clearing-only, non-regulatory report to a FINRA Facility for a previously executed trade for which a tape report has been submitted to the Facility, or for the offsetting portion of a riskless principal or agency transaction for which a non-tape, non-clearing report already has been submitted to the Facility satisfying FINRA regulatory requirements.[10] In other words, the information contained in a clearing-only, non-regulatory report must be duplicative of information reported to the FINRA Facility in other submissions.

Pursuant to the proposed rule change, a clearing-only, non-regulatory report cannot be used to satisfy any regulatory reporting requirement under FINRA rules that may apply to the transaction, *e.g.,* the identification of other members for agency or riskless principal transactions.[11] Thus, members will only be permitted to use such reports where the member's regulatory reporting obligations have been satisfied through other reports (tape or non-tape, as applicable) submitted to the FINRA Facility. Submission of a clearing-only, non-regulatory report constitutes certification by the member that it has satisfied all regulatory reporting requirements that may apply to the transaction through its other submissions.

Members that opt to submit such reports would be required to use a unique indicator to denote that the report is submitted solely for purposes of clearing the transaction and not for purposes of satisfying any regulatory reporting requirements. If a clearing submission does not comply with the provisions of the Rule, *e.g.,* if it is being used to satisfy any regulatory reporting requirements, then the member must not use the unique indicator. FINRA is proposing a conforming change to Rules 7130(d), 7230A(d), 7230B(d) and 7330(d), which identify the information that must be included in trade reports submitted to FINRA, to require members to append the unique indicator to denote a clearing-only, non-regulatory report, if applicable.

Although clearing-only, non-regulatory reports will not be used by members to satisfy their regulatory reporting obligations, the information contained in such reports must nonetheless be consistent with previously submitted information for the same transaction, unless otherwise expressly provided under FINRA rules. Thus, FINRA is also proposing to amend Rules 6160, 6170 and 6480 to expressly allow members that operate an ATS to use an MPID other than their ATS MPID on clearing-only, non-regulatory reports.[12] FINRA notes, however, that this relief relates solely to the MPID requirement, and the member firm with the trade reporting obligation under FINRA rules (or the ''executing party'') must continue to be identified as such in all clearing-only, non-regulatory reports.

In addition, FINRA is proposing to amend Rules 7130(d), 7230A(d), 7230B(d) and 7330(d) to provide that members are not required to use the short sale (or short sale exempt) indicator, if applicable, on clearing-only, non-regulatory reports. The short sale indictor must be included on the required tape report and if submitted, non-tape non-clearing report that identifies the FINRA member that is selling short (or short exempt). The member is not required to duplicate this information on the optional clearing-only, non-regulatory report.

FINRA reiterates that use of the clearing-only, non-regulatory report is not mandatory, and members will have the option of continuing to use clearing submissions to satisfy their regulatory reporting obligations. However, where a member opts to submit a clearing-only, non-regulatory report that duplicates trade information reported to FINRA in other tape and non-tape, non-clearing reports, then the member would be required to comply with the requirements set forth in this proposed rule change.

To further illustrate the application of the proposed rule change, FINRA is providing the following detailed example: Member Firm 1 operates an ATS that uses the MPID ''MATS,'' and Firm 1's main broker-dealer MPID is ''MOTH.'' Firm 1 executes an agency cross transaction in its ATS between member Firm 2, as the buyer, and member Firm 3, as the seller. Under FINRA rules, using its ATS MPID ''MATS,'' Firm 1 must report the transaction to FINRA for public dissemination (for purposes of this example, ''MATS'' reports a cross transaction) and must submit non-tape report(s) to identify Firms 2 and 3 as parties to the trade, because they are

[9] *See* Rules 6160, 6170 and 6480.

[10] *See, e.g.,* current Rules 7130(g)(1), 7230A(i)(1), 7230B(h)(1) and 7330(h)(1), which prohibit members from submitting to a FINRA Facility any non-tape report associated with a previously executed trade that was not reported to that FINRA Facility, except where submitting the offsetting portion of a riskless principal or agency transaction. *See also Regulatory Notice* 07–38 (August 2007).

[11] *See* Rules 6282(d)(4), 6380A(d)(4), 6380B(d)(4) and 6622(d)(4).

[12] If a member is using its clearing submission to satisfy any of its regulatory reporting obligations, then it must use its ATS MPID (and may not use its main broker-dealer MPID) in the clearing submission.

FINRA members (''MATS'' sells to Firm 2 and ''MATS'' buys from Firm 3). Firm 1 has the option, but is not required, to also report the transaction to FINRA for submission to clearing. Under the proposed rule change, Firm 1 could opt to submit two additional reports, *i.e.,* two clearing-only, non-regulatory reports, with the unique indicator specified by FINRA, using an MPID other than its ATS MPID (''MOTH'' sells to Firm 2 and ''MOTH'' buys from Firm 3). In making such submissions, per the terms of the proposed rule change, Firm 1 is certifying that it has satisfied all regulatory reporting requirements through the submission of the tape and non-tape, non-clearing reports. Alternatively, Firm 1 would have the option of designating the non-tape reports showing ''MATS'' sells to Firm 2 and ''MATS'' buys from Firm 3 for clearing. In that instance, Firm 1 would not use the special indicator because the reports are also satisfying Firm 1's reporting obligation under FINRA rules to identify Firms 2 and 3 as parties to the trade.

Finally, FINRA notes that while the proposed rule change has been prompted by issues involving ATS trade reporting, any FINRA member (*e.g.,* a member that does not operate an ATS but nonetheless uses multiple MPIDs) could elect to use clearing-only, non-regulatory reports in accordance with the proposed rule change.

FINRA believes that the proposed rule change will ensure the accuracy and efficiency of FINRA's audit trail and automated surveillance programs while accommodating firms' business models and reporting and clearing processes that rely on clearing against their main broker-dealer MPID. The proposed rule change will ensure a more accurate audit trail by distinguishing voluntary trade reports that are submitted only to facilitate clearing from reports that are required under FINRA's trade reporting rules to satisfy a member's regulatory reporting obligations. Further, by distinguishing clearing-only, non-regulatory reports from other trade submissions, the proposed rule change will improve the efficiency of FINRA's automated surveillance programs by potentially preventing false alerts that require both FINRA and member firms to unnecessarily expend resources to address such alerts.

FINRA has filed the proposed rule change for immediate effectiveness and proposes that the operative date will be in February 2016. FINRA will announce the operative date in a *Regulatory Notice.* To provide members sufficient time to make the required systems changes, FINRA expects to publish updated technical specifications for the FINRA Facilities at least four months prior to the operative date.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[13] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed change is consistent with the Act because it will ensure a more accurate audit trail and enhance FINRA's ability to surveil on an automated basis for compliance with FINRA trade reporting rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Economic Impact Analysis

As described above, implementation of FINRA's reporting rules for ATSs creates an obligation for firms to report transactions to FINRA using an ATS-specific MPID. FINRA understands that requiring the submission of clearing reports with a firm's ATS-specific MPID would impose significant costs for firms with clearing processes that use their main broker-dealer MPID, and such a requirement would provide no material additional regulatory or market information beyond what is already provided through tape and non-tape regulatory reporting. Consequently, the proposed rule change is intended to remove a burden on firms that would provide no significant regulatory benefit if maintained.

While the proposed rule change would require some firms to implement systems changes to identify clearing-only, non-regulatory reports with a unique indicator, FINRA does not believe that these changes would impose significant or differential costs on similarly situated firms.[14] Firms will not be required to submit clearing-only, non-regulatory reports and may continue to combine their regulatory reporting and clearing in the same report. Thus, firms will be free to select the method of reporting that best suits their business model. FINRA notes that firms would not be required to report consistently for all trades, *i.e.,* a firm could submit clearing-only, non-regulatory reports for some trades, but not all.[15] FINRA is proposing to provide members a sufficient implementation period to accommodate any such changes.

As noted above, the information in clearing-only, non-regulatory reports will be duplicative of information provided to FINRA in other reports. Accordingly, there will be no impact on the regulatory information that FINRA receives, and FINRA will be able to identify firms' use of clearing-only, non-regulatory reports in its audit trail. Therefore, the proposed rule change is not anticipated to create significant economic or informational impacts on the public, member firms or FINRA.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[16] and subparagraph (f)(6) of Rule 19b–4 thereunder.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

[13] 15 U.S.C. 78*o*–3(b)(6).

[14] FINRA notes that today, on average, approximately 350 members regularly report trades to the FINRA Facilities. Many firms, including smaller firms, route their order flow to another firm, *e.g.,* their clearing firm, for execution, and as the routing firm, they do not have the trade reporting obligation. Thus, the proposed rule change will have no impact on many members.

[15] FINRA further notes that firms would not be required to provide prior notice to FINRA of their intention to use clearing-only, non-regulatory reports.

[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2015–035 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2015–035. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2015–035, and should be submitted on or before October 27, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–25330 Filed 10–5–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76053; File No. SR–BYX–2015–42]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delete Rule 2.13, Fidelity Bonds

September 30, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 24, 2015, BATS Y-Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to delete Rule 2.13, Fidelity Bonds, in order to conform to the rules of EDGA Exchange, Inc. (''EDGA'') and EDGX Exchange, Inc. (''EDGX'').

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A., B., and C. below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In early 2014, the Exchange and its affiliate, BATS Exchange, Inc. (''BZX''), received approval to effect a merger (the ''Merger'') of the Exchange's parent company, BATS Global Markets, Inc., with Direct Edge Holdings LLC, the indirect parent of EDGX, and EDGA (together with BZX, BYX and EDGX, the ''BGM Affiliated Exchanges'').[5] In the context of the Merger, the BGM Affiliated Exchanges are working to align its [sic] rules, retaining only intended differences between the BGM Affiliated Exchanges. Thus, the proposal set forth below is intended to delete Rule 2.13, Fidelity Bonds, in order to conform to the rules of EDGA and EDGX in order to provide a consistent rule set across each of the BGM Affiliated Exchanges.[6]

In sum, Exchange Rule 2.13(a) states that each Member[7] required to join the Securities Investor Protection Corporation (''SIPC'') who has employees and who is a member in good standing of another self-regulatory organization shall follow the applicable fidelity bond rule of the self-regulatory organization to which it is designated by the Commission for financial responsibility pursuant to Section 17 of the Act and SEC Rule 17d–1 thereunder (*i.e.,* its Designated Examining Authority or ''DEA''). Subparagraph (b) to Rule 2.13 simply incorporates by reference NASD Rule 3020 (now FINRA Rule 4360) in to Exchange Rule 2.13. Subparagraph (c) of Rule 2.13 states that references to: (i) An ''Association member'' shall be construed as references to a ''Member''; and (ii) Article I, paragraph (q) of the By-Laws shall be construed as references to Exchange Rule 1.5(q). Lastly,

[18] 17 CFR 200.30–3(a)(12).

[1] *See* 15 U.S.C. 78s(b)(1).

[2] *See* 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] *See* Securities Exchange Act Release No. 71375 (January 23, 2014), 79 FR 4771 (January 29, 2014) (SR–BATS–2013–059; SR–BYX–2013–039).

[6] The Exchange notes that BZX intends to file a proposal to delete its identical Rule 2.13, Fidelity Bonds.

[7] A Member is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

subparagraph (d) to Rule 2.13 states that pursuant to Exchange Rule 1.6, any Member subject to paragraph (c) of NASD Rule 3020 (now FINRA Rule 4360), through the application of paragraph (b) of Rule 2.13, may apply to the Exchange for an exemption from such requirements. The exemption may be granted upon a showing of good cause, including a substantial change in the circumstances or nature of the Member's business that results in a lower net capital requirement. The Exchange may issue an exemption subject to any condition or limitation upon a Member's bonding coverage that is deemed necessary to protect the public and serve the purposes of Rule 2.13.

The Exchange does not, nor does it currently intend to, act in the capacity of a DEA. Therefore, Rule 2.13 is obsolete as it does not apply to any of the Exchange's Members.[8] The Exchange believes that eliminating Rule 2.13 would avoid unnecessary confusion with respect to the Exchange's rules because it does not have a direct nexus to the trading on the Exchange or the relationship between the Exchange and its Members. Deleting Rule 2.13 would not ease any of the requirements on its Members that are required to join SIPC as the Financial Industry Regulatory Authority (''FINRA'') and the New York Stock Exchange, Inc. (''NYSE'') serve as a DEA for those Members and include rules with similar requirements as current Exchange Rule 2.13.[9] In addition, the Exchange notes that EDGA and EDGX do not contain a similar rule. As a result, eliminating Rule 2.13 would also provide for a consistent rule set across each of the BGM Affiliated Exchanges.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[10] Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,[11] because it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change is designed to provide a consistent rule set across each of the BGM Affiliated Exchanges. As mentioned above, the proposed rule changes, combined with the planned filing for BZX, would provide for a consistent set of rules across each of the BGM Affiliated Exchanges. Consistent rules, in turn, will simplify the regulatory requirements for Members of the Exchange that are also participants on EDGA, EDGX and/or BZX as well as result in greater uniformity, less burdensome and more efficient regulatory compliance and understanding of Exchange Rules. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

In addition, the proposed rule change would eliminate unnecessary confusion with respect to the Exchange's rules by removing a rule that has never had a direct nexus to the trading on the Exchange or the relationship between the Exchange and its Members. The Exchange believes that Rule 2.13 is obsolete as the Exchange does not, nor does it currently intend to, act in the capacity of a DEA. Deleting Rule 2.13 would not ease any of the requirements on its Members that are required to join SIPC as FINRA and the NYSE serve as a DEA for those Members and include rules containing similar requirements as current Exchange Rule 2.13.[12] The Exchange believes that eliminating these rules will reduce any investor confusion regarding a rule the Exchange has never applied, nor intends to apply. Further, eliminating unnecessary and obsolete rules removes impediments to the perfection of the mechanisms for a free and open market system consistent with the requirements of Section 6(b)(5) of the Act.[13]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that deleting Rule 2.13 will align Exchange rules with those of the BGM Affiliated Exchanges. The Exchange has never utilized this rule, nor does the Exchange intend to utilize it in the future. Therefore, the Exchange does not believe that eliminating Rule 2.13 will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) of the Act[14] and paragraph (f)(6) of Rule 19b–4 thereunder.[15] The proposed rule change effects a change that (A) does not significantly affect the protection of investors or the public interest; (B) does not impose any significant burden on competition; and (C) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily temporarily suspend such rule change if it appears to the Commission that such action is: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

[8] The Exchange will submit a rule filing to the Commission to adopt requirements similar or identical to current Rule 2.13 should it become a DEA for any of its Members in the future.

[9] *See* FINRA Rule 4360 and NYSE Rule 4360.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] *See* FINRA Rule 4360 and NYSE Rule 4360.

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4.

• Send an email to *rule-comments@sec.gov*. Please include File Number SR–BYX–2015–42 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BYX–2015–42. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–BYX–2015–42 and should be submitted on or before October 27, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–25326 Filed 10–5–15; 8:45 am]

BILLING CODE 8011–01–P

[16] *See* 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76056; File No. 4–618]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Notice of Filing of Proposed Amended Plan for the Allocation of Regulatory Responsibilities Between BATS Exchange, Inc., BATS Y-Exchange, Inc., BOX Options Exchange LLC, Chicago Board Options Exchange, Incorporated, C2 Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, ISE Gemini, LLC, Miami International Securities Exchange, LLC, The NASDAQ Stock Market LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX, Inc., National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc.

September 30, 2015.

Pursuant to Section 17(d) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 17d–2 thereunder,[2] notice is hereby given that on September 2, 2015, BATS Exchange, Inc. (''BATS''), BATS Y-Exchange, Inc. (''BATS Y''), BOX Options Exchange LLC (''BOX''), Chicago Board Options Exchange, Incorporated (''CBOE''), C2 Options Exchange, Incorporated (''C2''), Chicago Stock Exchange, Inc. (''CHX''), EDGA Exchange, Inc. (''EDGA''), EDGX Exchange, Inc. (''EDGX''), Financial Industry Regulatory Authority, Inc. (''FINRA''), International Securities Exchange, LLC (''ISE''), ISE Gemini, LLC (''ISE Gemini''), Miami International Securities Exchange, LLC (''MIAX''), The NASDAQ Stock Market LLC (''NASDAQ''), NASDAQ OMX BX, Inc. (''BX''), NASDAQ OMX PHLX, Inc. (''Phlx''), National Stock Exchange, Inc. (''NSX''), New York Stock Exchange LLC (''NYSE''), NYSE MKT LLC (''NYSE MKT''), and NYSE Arca, Inc. (''NYSE Arca'') (each, a ''Participating Organization,'' and, together, the ''Participating Organizations'' or the ''Parties''), filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') an amended plan for the allocation of regulatory responsibilities with respect to certain Regulation NMS Rules listed in Exhibit A to the Plan (''17d–2 Plan'' or the ''Plan''). As further discussed in Section II, below, this Agreement amends and restates the agreement by and among the Participating Organizations approved by the SEC on December 3, 2010.[3] The Commission is publishing this notice to solicit comments on the 17d–2 Plan from interested persons.

I. Introduction

Section 19(g)(1) of the Act,[4] among other things, requires every self-regulatory organization (''SRO'') registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d) or Section 19(g)(2) of the Act.[5] Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act[6] was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[7] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[8] Rule 17d–1 authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.[9] When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility

[1] 15 U.S.C. 78q(d).

[2] 17 CFR 240.17d–2.

[3] *See* Securities Exchange Act Release No. 63230 (November 2, 2010), 75 FR 68632 (November 8, 1976).

[4] 15 U.S.C. 78s(g)(1).

[5] 15 U.S.C. 78q(d) and 15 U.S.C. 78s(g)(2), respectively.

[6] 15 U.S.C. 78q(d)(1).

[7] *See* Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session 32 (1975).

[8] 17 CFR 240.17d–1 and 17 CFR 240.17d–2, respectively.

[9] *See* Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d–1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d–2 under the Act.[10] Rule 17d–2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for appropriate notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors; to foster cooperation and coordination among the SROs; to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system; and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. Proposed Amended Plan

On September 2, 2015, the parties submitted a proposed amendment to the Plan. The primary purpose of the amendment is to add Regulation NMS Rules 606, 607, and 611(c) and (d). In addition, because Regulation NMS Rule 606 applies to ''NMS Securites,'' and thus includes responsibility for options, the Amended Plan adds additional Participating Organizations that are options markets.

The proposed 17d–2 Plan is intended to reduce regulatory duplication for firms that are members of more than one Participating Organization.[11] The proposed amendments to the Plan provide for the allocation of regulatory responsibility according to whether the covered rule pertains to NMS stocks or NMS securities. For covered rules that pertain to NMS stocks (*i.e.,* Rules 607, 611, and 612), FINRA would serve as the ''Designated Regulation NMS Examining Authority'' (''DREA'') for common members that are members of FINRA, and therein would assume certain examination and enforcement responsibilities for those members with respect to specified Regulation NMS rules. For common members that are not members of FINRA, the amended Plan provides that the member's DEA would serve as the DREA, provided that the DEA exchange operates a national securities exchange or facility that trades NMS stocks and the common member is a member of such exchange or facility. Section 1(c) of the amended Plan contains a list of proposed principles that would be applicable to the allocation of common members in cases not specifically addressed in the Plan. An exchange that does not trade NMS stocks would have no regulatory authority for covered Regulation NMS rules pertaining to NMS stocks. For covered rules that pertain to NMS securities, and thus include options (*i.e.,* Rule 606), the proposed amended Plan provides that the DREA will be the same as the DREA for the rules pertaining to NMS stocks. For common members that are not members of an exchange that trades NMS stocks, the common member would be allocated according to the principles set forth in Section 1(c) of the Plan.

The text of the Plan delineates the proposed regulatory responsibilities with respect to the Parties. Included in the proposed Plan is an exhibit (the ''Covered Regulation NMS Rules'') that lists the federal securities laws, rules, and regulations, for which the applicable DREA would bear examination and enforcement responsibility under the proposed amended Plan for Common Members of the Participating Organization and their associated persons.

Specifically, under the 17d–2 Plan, the applicable DREA would assume examination and enforcement responsibility relating to compliance by Common Members with the Covered Regulation NMS Rules. Covered Regulation NMS Rules would not include the application of any rule of a Participating Organization, or any rule or regulation under the Act, to the extent that it pertains to violations of insider trading activities, because such matters are covered by a separate multiparty agreement under Rule 17d–2.[12] Under the Plan, Participating Organizations would retain full responsibility for surveillance and enforcement with respect to trading activities or practices involving their own marketplace.[13]

The text of the proposed amended 17d–2 Plan is as follows (additions are in italics; deletions are in brackets):

Agreement for the Allocation of Regulatory Responsibility for the Covered Regulation NMS Rules Pursuant to § 17(d) of the Securities Exchange Act of 1934, 15 U.S.C. 78q(d), and Rule 17d–2 Thereunder

This agreement (the ''Agreement'') by and among BATS Exchange, Inc. (''BATS''), BATS Y-Exchange, Inc. (''BATS Y''), *BOX Options Exchange LLC (''BOX''),* Chicago Board Options Exchange, Inc*orporated*[.] (''CBOE'')[1], *C2 Options Exchange, Incorporated (''C2''),* Chicago Stock Exchange, Inc. (''CHX''), EDGA Exchange, Inc. (''EDGA''), EDGX Exchange, Inc. (''EDGX''), Financial Industry Regulatory Authority, Inc. (''FINRA''), *International Securities Exchange, LLC (''ISE''), ISE Gemini, LLC (''ISE Gemini''), Miami International Securities Exchange, LLC (''MIAX''),* The NASDAQ Stock Market LLC (''NASDAQ''), NASDAQ OMX BX, Inc., NASDAQ OMX PHLX, Inc., National Stock Exchange, Inc. (''NSX''), New York Stock Exchange LLC (''NYSE''), NYSE [Amex]*MKT* LLC (''NYSE [Amex]*MKT*''), and NYSE Arca, Inc. (''NYSE Arca'') (*each, a ''Participating Organization,'' and,* together, the ''Participating Organizations''), is made pursuant to § 17(d) of the Securities Exchange Act of 1934 (the ''Act'' or ''SEA''), 15 U.S.C. 78q(d), and Rule 17d–2 thereunder, which allow for plans to allocate regulatory responsibility among self-regulatory organizations (''SROs''). *Upon approval by the Securities and Exchange Commission (''Commission'' or ''SEC''), this Agreement shall amend and restate the agreement by and among the Participating Organizations approved by the SEC on December 3, 2010.*

WHEREAS, the Participating Organizations desire to: (a) Foster cooperation and coordination among the SROs; (b) remove impediments to, and foster the development of, a national market system; (c) strive to protect the interest of investors; and (d) eliminate duplication in their examination and enforcement of SEA Rules *606, 607,* 611[(a) and (b)] and 612 (the ''Covered Regulation NMS Rules'');

WHEREAS, the Participating Organizations are interested in allocating regulatory responsibilities

[10] *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

[11] The proposed 17d–2 Plan refers to these members as ''Common Members.''

[12] *See* Securities Exchange Act Release No. 58350 (August 13, 2008), 73 FR 48247 (August 18, 2008) (File No. 4–566) (notice of filing of proposed plan). *See also* Securities Exchange Act Release No. 58536 (September 12, 2008) (File No. 4–566) (order approving and declaring effective the plan).

[13] *See* paragraph 1 of the proposed 17d–2 Plan.

with respect to broker-dealers that are members of more than one Participating Organization (the ''Common Members'') relating to the examination and enforcement of the Covered Regulation NMS Rules; and

WHEREAS, the Participating Organizations will request regulatory allocation of these regulatory responsibilities by executing and filing with the [Securities and Exchange Commission (''Commission'' or '']SEC['') a] *this* plan for the above stated purposes [(this Agreement)] pursuant to the provisions of § 17(d) of the Act, and Rule 17d–2 thereunder, as described below.

NOW, THEREFORE, in consideration of the mutual covenants contained hereafter, and other valuable consideration to be mutually exchanged, the Participating Organizations hereby agree as follows:

1. *Assumption of Regulatory Responsibility.* The Designated Regulation NMS Examining Authority (the ''DREA'') shall assume examination and enforcement responsibilities relating to compliance by Common Members with the Covered Regulation NMS Rules *to which the DREA is allocated responsibility* (''Regulatory Responsibility''). A list of the Covered Regulation NMS Rules is attached hereto as Exhibit A.

a. For Covered Regulation NMS Rules Pertaining to ''NMS stocks'' (as defined in Regulation NMS) (i.e., Rules 607, 611 and 612): FINRA shall serve as DREA for Common Members that are members of FINRA. The Designated Examining Authority (''DEA'') pursuant to SEA Rule 17d–1 shall serve as DREA for Common Members that are not members of FINRA*, provided that the DEA operates a national securities exchange or facility that trades NMS stocks and the Common Member is a member of such exchange or facility. For all other Common Members, the Participating Organizations shall allocate Common Members among the Participating Organizations (other than FINRA) that operate a national securities exchange that trades NMS stocks based on the principles outlined below and the Participating Organization to which such a Common Member is allocated shall serve as the DREA for that Common Member. (A Participating Organization that operates a national securities exchange that does not trade NMS stocks has no regulatory responsibilities related to Covered Regulation NMS Rules pertainining to NMS stocks and will not serve as DREA for such Covered Regulation NMS Rules.)*

b. For Covered Regulation NMS Rules Pertaining to ''NMS securities'' (as defined in Regulation NMS) (i.e., Rule 606), the DREA shall be same as the DREA for Covered Regulation NMS Rules pertaining to NMS stocks. For Common Members that are not members of a national securities exchange that trades NMS stocks and thus have not been appointed a DREA under paragraph a., the Participating Organizations shall allocate the Common Members among the Participating Organizations (other than FINRA) that operate a national securities exchange that trades NMS securities based on the principles outlined below and the Participating Organization to which such a Common Member is allocated shall serve as the DREA for that Common Member with respect to Covered Regulation NMS Rules pertaining to NMS securities. The allocation of Common Members to DREAs (including FINRA) for all Covered Regulation NMS Rules is provided in Exhibit B.

c. For purposes of this paragraph 1, any allocation of a Common Member to a Participating Organization other than as specified in paragraphs a. and b. above shall be based on the following principles, except to the extent all affected Participating Organizations consent to one or more different principles and any such agreement to different principles would be deemed an amendment to this Agreement as provided in paragraph 22:

i. The Participating Organizations shall not allocate a Common Member to a Participating Organization unless the Common Member is a member of that Participating Organization.

ii. To the extent practicable, Common Members shall be allocated among the Participating Organizations of which they are members in such a manner as to equalize, as nearly as possible, the allocation among such Participating Organizations.

iii. To the extent practicable, the allocation will take into account the amount of NMS stock activity (or NMS security activity, as applicable) conducted by each Common Member in order to most evenly divide the Common Members with the largest amount of activity among the Participating Organizations of which they are a members. The allocation will also take into account similar allocations pursuant to other plans or agreements to which the Participating Organizations are party to maintain consistency in oversight of the Common Members.[1]

iv. The Participating Organizations may reallocate Common Members from time-to-time and in such manner as they deem appropriate consistent with the terms of this Agreement.

v. Whenever a Common Member ceases to be a member of its DREA (including FINRA), the DREA shall promptly inform the Participating Organizations, who shall review the matter and reallocate the Common Member to another Participating Organization.

vi. The DEA or DREA (including FINRA) may request that a Common Member be reallocated to another Participating Organization (including the DEA or DREA (including FINRA)) by giving 30 days written notice to the Participating Organizations. The Participating Organizations shall promptly consider such request and, in their discretion, may approve or disapprove such request and if approved, reallocate the Common Member to such Participating Organization.

vii. All determinations by the Participating Organizations with respect to allocations shall be by the affirmative vote of a majority of the Participating Organizations that, at the time of such determination, share the applicable Common Member being allocated; a Participating Organization shall not be entitled to vote on any allocation related to a Common Member unless the Common Member is a member of such Participating Organization.

d. The Participating Organizations agree that they shall conduct meetings among them as needed for the purposes of ensuring proper allocation of Common Members and identifying issues or concerns with respect to the regulation of Common Members.

Notwithstanding anything herein to the contrary, it is explicitly understood that the term ''Regulatory Responsibility'' does not include, and each of the Participating Organizations shall retain full responsibility for, examination, surveillance and enforcement with respect to trading activities or practices involving its own marketplace unless otherwise allocated pursuant to a separate Rule 17d–2 Agreement. [Whenever a Common Member ceases to be a member of its DREA, the DREA shall promptly inform

[1 CBOE's allocation of certain regulatory responsibilities under this Agreement is limited to the activities of the CBOE Stock Exchange, LLC, a facility of CBOE.]

[1] *For example, if one Participating Organization was allocated responsibility for a particular Common Member pursuant to a separate Rule 17d–2 Agreement, that Participant Organization would be assigned to be the DREA of that Common Member, unless there is good cause not to make that assignment.*

the Common Member's DEA, which will become such Common Member's new DREA.]

2. *No Retention of Regulatory Responsibility.* The Participating Organizations do not contemplate the retention of any responsibilities with respect to the regulatory activities being assumed by the DREA under the terms of this Agreement. Nothing in this Agreement will be interpreted to prevent a DREA from entering into Regulatory Services Agreement(s) to perform its Regulatory Responsibility.

3. *No Charge.* A DREA shall not charge Participating Organizations for performing the Regulatory Responsibility under this Agreement.

4. *Applicability of Certain Laws, Rules, Regulations or Orders.* Notwithstanding any provision hereof, this Agreement shall be subject to any statute, or any rule or order of the SEC. To the extent such statute, rule, or order is inconsistent with one or more provisions of this Agreement, the statute, rule, or order shall supersede the provision(s) hereof to the extent necessary to be properly effectuated and the provision(s) hereof in that respect shall be null and void.

5. *Customer Complaints.* If a Participating Organization receives a copy of a customer complaint relating to a DREA's Regulatory Responsibility as set forth in this Agreement, the Participating Organization shall promptly forward to such DREA a copy of such customer complaint. It shall be such DREA's responsibility to review and take appropriate action in respect to such complaint.

6. *Parties to Make Personnel Available as Witnesses.* Each Participating Organization shall make its personnel available to the DREA to serve as testimonial or non-testimonial witnesses as necessary to assist the DREA in fulfilling the Regulatory Responsibility allocated under this Agreement. The DREA shall provide reasonable advance notice when practicable and shall work with a Participating Organization to accommodate reasonable scheduling conflicts within the context and demands as the entity with ultimate regulatory responsibility. The Participating Organization shall pay all reasonable travel and other expenses incurred by its employees to the extent that the DREA requires such employees to serve as witnesses, and provide information or other assistance pursuant to this Agreement.

7. *Sharing of Work-Papers, Data and Related Information.*

a. Sharing. A Participating Organization shall make available to the DREA information necessary to assist the DREA in fulfilling the Regulatory Responsibility assumed under the terms of this Agreement. Such information shall include *any* information collected by a Participating Organization in the course of performing its regulatory obligations under the Act, including information relating to an on-going disciplinary investigation or action against a member, the amount of a fine imposed on a member, financial information, or information regarding proprietary trading systems gained in the course of examining a member (''Regulatory Information''). This Regulatory Information shall be used by the DREA solely for the purposes of fulfilling the DREA's Regulatory Responsibility.

b. No Waiver of Privilege. The sharing of documents or information between the parties pursuant to this Agreement shall not be deemed a waiver as against third parties of regulatory or other privileges relating to the discovery of documents or information.

8. *Special or Cause Examinations and Enforcement Proceedings.* Nothing in this Agreement shall restrict or in any way encumber the right of a Participating Organization to conduct special or cause examinations of a Common Member, or take enforcement proceedings against a Common Member as a Participating Organization, in its sole discretion, shall deem appropriate or necessary.

9. *Dispute Resolution Under this Agreement.*

a. Negotiation. The Participating Organizations will attempt to resolve any disputes through good faith negotiation and discussion, escalating such discussion up through the appropriate management levels until reaching the executive management level. In the event a dispute cannot be settled through these means, the Participating Organizations shall refer the dispute to binding arbitration.

b. Binding Arbitration. All claims, disputes, controversies, and other matters in question between the Participating Organizations to this Agreement arising out of or relating to this Agreement or the breach thereof that cannot be resolved by the Participating Organizations will be resolved through binding arbitration. Unless otherwise agreed by the Participating Organizations, a dispute submitted to binding arbitration pursuant to this paragraph shall be resolved using the following procedures:

(i) The arbitration shall be conducted in a city selected by the DREA in which it maintains a principal office or where otherwise agreed to by the Participating Organizations in accordance with the Commercial Arbitration Rules of the American Arbitration Association and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof; and

(ii) There shall be three arbitrators, and the chairperson of the arbitration panel shall be an attorney. *The arbitrators shall be appointed in accordance with the Commercial Arbitration Rules of the American Arbitration Association.*

10. *Limitation of Liability.* As between the Participating Organizations, no Participating Organization, including its respective directors, governors, officers, employees and agents, will be liable to any other Participating Organization, or its directors, governors, officers, employees and agents, for any liability, loss or damage resulting from any delays, inaccuracies, errors or omissions with respect to its performing or failing to perform regulatory responsibilities, obligations, or functions, except: (a) As otherwise provided for under the Act[,]; (b) in instances of a Participating Organization's gross negligence, willful misconduct or reckless disregard with respect to another Participating Organization[,]; or (c) in instances of a breach of confidentiality obligations owed to another Participating Organization. The Participating Organizations understand and agree that the regulatory responsibilities are being performed on a good faith and best effort basis and no warranties, express or implied, are made by any Participating Organization to any other Participating Organization with respect to any of the responsibilities to be performed hereunder. This paragraph is not intended to create liability of any Participating Organization to any third party.

11. *SEC Approval.*

a. The Participating Organizations agree to file promptly this Agreement with the SEC for its review and approval. FINRA shall file this Agreement on behalf, and with the explicit consent, of all Participating Organizations.

b. If approved by the SEC, the Participating Organizations will notify their members of the general terms of the Agreement and of its impact on their members.

12. *Subsequent Parties; Limited Relationship.* This Agreement shall inure to the benefit of and shall be binding upon the Participating Organizations hereto and their respective legal representatives, successors, and assigns. Nothing in this Agreement, expressed or implied, is intended or shall: (a) Confer on any

person other than the Participating Organizations hereto, or their respective legal representatives, successors, and assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement, (b) constitute the Participating Organizations hereto partners or participants in a joint venture, or (c) appoint one Participating Organization the agent of the other.

13. *Assignment.* No Participating Organization may assign this Agreement without the prior written consent of the DREAs performing Regulatory Responsibility on behalf of such Participating Organization, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that any Participating Organization may assign the Agreement to a corporation controlling, controlled by or under common control with the Participating Organization without the prior written consent of such Participating Organization's DREAs. No assignment shall be effective without Commission approval.

14. *Severability.* Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction.

15. *Termination.* Any Participating Organization may cancel its participation in the Agreement at any time upon the approval of the Commission after 180 days written notice to the other Participating Organizations (or in the case of a change of control in ownership of a Participating Organization, such other notice time period as that Participating Organization may choose). The cancellation of its participation in this Agreement by any Participating Organization shall not terminate this Agreement as to the remaining Participating Organizations.

16. *General.* The Participating Organizations agree to perform all acts and execute all supplementary instruments or documents that may be reasonably necessary or desirable to carry out the provisions of this Agreement.

17. *Written Notice.* Any written notice required or permitted to be given under this Agreement shall be deemed given if sent by certified mail, return receipt requested, or by a comparable means of electronic communication to each Participating Organization entitled to receipt thereof, to the attention of the Participating Organization's representative at the Participating Organization's then principal office or by email.

18. *Confidentiality.* The Participating Organizations agree that documents or information shared shall be held in confidence, and used only for the purposes of carrying out their respective regulatory obligations under this Agreement, provided, however, that each Participating Organization may disclose such documents or information as may be required to comply with applicable requlatory requirements or requests for information from the SEC. Any Participating Organization disclosing confidential documents or information in compliance with applicable regulatory or oversight requirements will request confidential treatment of such information. No Participating Organization shall assert regulatory or other privileges as against the other with respect to Regulatory Information that is required to be shared pursuant to this Agreement.

19. *Regulatory Responsibility.* Pursuant to Section 17(d)(1)(A) of the Act, and Rule 17d–2 thereunder, the Participating Organizations request the SEC, upon its approval of this Agreement, to relieve the Participating Organizations which are participants in this Agreement that are not the DREA as to a Common Member of any and all responsibilities with respect to the matters allocated to the DREA pursuant to this Agreement for purposes of §§ 17(d) and 19(g) of the Act.

20. *Governing Law.* This Agreement shall be deemed to have been made in the State of New York, and shall be construed and enforced in accordance with the law of the State of New York, without reference to principles of conflicts of laws thereof. Each of the Participating Organizations hereby consents to submit to the jurisdiction of the courts of the State of New York in connection with any action or proceeding relating to this Agreement.

21. *Survival of Provisions.* Provisions intended by their terms or context to survive and continue notwithstanding delivery of the regulatory services by the DREA and any expiration of this Agreement shall survive and continue.

22. *Amendment.*

a. This Agreement may be amended to add a new Participating Organization, provided that such Participating Organization does not assume regulatory responsibility, [solely] by an amendment executed by all applicable DREAs and such new Participating Organization. All other Participating Organizations expressly consent to allow such DREAs to jointly add new Participating Organizations to the Agreement as provided above. Such DREAs will promptly notify all Participating Organizations of any such amendments to add a new Participating Organization.

b. All other amendments must be [made] approved by each Participating Organization. All amendments, including adding a new Participating Organization *but excluding changes to Exhibit B,* must be filed with and approved by the Commission before they become effective.

23. *Effective Date.* The Effective Date of this Agreement will be the date the SEC declares this Agreement to be effective pursuant to authority conferred by § 17(d) of the Act, and Rule 17d–2 thereunder.

24. *Counterparts.* This Agreement may be executed in any number of counterparts, including facsimile, each of which will be deemed an original, but all of which taken together shall constitute one single agreement among the Participating Organizations.

* * * * *

EXHIBIT A

COVERED REGULATION NMS RULES

*SEA Rule 606—Disclosure of Order Routing Information.**

SEA Rule 607—Customer Account Statements.

SEA Rule 611[(a)]—Order Protection Rule. [— Reasonable Policies and Procedures.]

[SEA Rule 611(b)—Order Protection Rule.—Exceptions.]

SEA Rule 612—Minimum Pricing Increment.

**Covered Regulation NMS Rules with asterisks (*) pertain to NMS securities. Covered Regulation NMS Rules without asterisks pertain to NMS stocks.*

* * * * *

III. Date of Effectiveness of the Proposed Plan and Timing for Commission Action

Pursuant to Section 17(d)(1) of the Act[14] and Rule 17d–2 thereunder,[15] October 27, 2015, the Commission may, by written notice, declare the amended plan submitted by the Parties, File No. 4–618, to be effective if the Commission finds that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among self-regulatory organizations, or to remove impediments to and foster the

[14] 15 U.S.C. 78q(d)(1).

[15] 17 CFR 240.17d–2.

development of the national market system and a national system for the clearance and settlement of securities transactions and in conformity with the factors set forth in Section 17(d) of the Act.

IV. Solicitation of Comments

In order to assist the Commission in determining whether to approve the proposed 17d–2 Plan and to relieve the Parties of the responsibilities which would be assigned to the applicable DREA, interested persons are invited to submit written data, views, and arguments concerning the foregoing. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/other.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number 4–618 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, Station Place, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number *4–618.* This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/other.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan that are filed with the Commission, and all written communications relating to the proposed plan between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the plan also will be available for inspection and copying at the principal offices of the Parties. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number 4–618 and should be submitted on or before October 27, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–25328 Filed 10–5–15; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2015–0049]

Consent Based Social Security Number Verification (CBSV) Service

AGENCY: Social Security Administration.

ACTION: Notice of revised transaction fee for consent based Social Security Number Verification service.

SUMMARY: We provide fee-based Social Security number (SSN) verification services to enrolled private businesses and government agencies who obtain a valid, signed consent form from the Social Security number holder. We originally published a notice announcing the CBSV service in the **Federal Register** on August 10, 2007.

Based on the signed consent forms, we verify the number holders' SSNs for the requesting party. The Privacy Act of 1974 (5 U.S.C. 552a(b)), section 1106 of the Social Security Act (42 U.S.C. 1306) and our regulation at 20 CFR 401.100, establish the legal authority for us to provide SSN verifications to third party requesters based on consent.

The CBSV process provides the business community and other government entities with consent-based SSN verifications in high volume. We developed CBSV as a user-friendly, internet-based application with safeguards that will protect the public's information. In addition to the benefit of providing high volume, centralized SSN verification services to the business community in a secure manner, CBSV provides us with cost and workload management benefits.

New Information: To use CBSV, interested parties must pay a one-time non-refundable enrollment fee of $5,000. Currently, users also pay a fee of $3.10 per SSN verification transaction in advance of services. We agreed to calculate our costs periodically for providing CBSV services and adjust the fees as needed. We also agreed to notify our customers who currently use the service and allow them to cancel or continue using the service at the new transaction fee.

Based on the most recent cost analysis, we will adjust the fiscal year 2016 fee to $1.40 per SSN verification transaction. New customers will still be responsible for the one-time $5,000 enrollment fee.

DATES: The changes described above are effective October 1, 2015.

FOR FURTHER INFORMATION CONTACT: Lori Vandeventer, Office of Public Service and Operations Support, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, [410–965–6514], for more information about the CBSV service, visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov/cbsv.*

Dated: September 29, 2015.

Lori Vandeventer,

Division Director, Office of Public Service and Operations Support.

[FR Doc. 2015–25300 Filed 10–5–15; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 9311]

In the Matter of the Designation of ISIL Khorasan, Also Known as Islamic State's Khorasan Province, Also Known as ISIS Wilayat Khorasan, Also Known as ISIL's South Asia Branch, Also Known as South Asian Chapter of ISIL as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the organization known as ISIL Khorasan also known as Islamic State's Khorasan Province also known as ISIS Wilayat Khorasan also known as ISIL's South Asia Branch also known as South Asian chapter of ISIL, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

[16] 17 CFR 200.30–3(a)(34).

This notice shall be published in the **Federal Register**.

Dated: September 28, 2015.

John F. Kerry,

Secretary of State.

[FR Doc. 2015–25423 Filed 10–5–15; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF STATE

[PUBLIC NOTICE: 9312]

Culturally Significant Objects Imported for Exhibition Determinations: ''Keir Collection of Art of the Islamic World'' Exhibitions

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that objects to be included in multiple exhibitions of the Keir Collection of Art of the Islamic World, imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the Dallas Museum of Art, Dallas, Texas, and at possible additional exhibitions or venues yet to be determined, from on about December 17, 2016, until on or about October 13, 2020, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the objects covered under this notice, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: September 30, 2015.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2015–25421 Filed 10–5–15; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Ninety-Fourth Meeting: Special Committee (159) Global Positioning System (GPS)

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

ACTION: Notice of ninety-fourth Special Committee 159 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of the ninety-fourth Special Committee 159 meeting.

DATES: The meeting will be held October 19th–23rd from 9:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1150 18th Street NW., Suite 910, Washington, DC 20036, Tel: (202) 330–0654.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Harold Moses, Program Director, RTCA, Inc., *hmoses@rtca.org,* (202) 330–0654.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Special Committee 159. The agenda will include the following:

Monday, October 19, 2015

1. All Day, Working Group 2, GPS/WAAS, MacIntosh-NBAA Room and Colson Board Rooms

Tuesday, October 20, 2015

1. All Day, Working Group 4, GPS/Precision Landing, MacIntosh-NBAA Room
2. All Day, Working Group 2C, GPS/Inertial, A4A & ARINC Room
3. Morning—9:00–12:00/Noon p.m., Working Group 2A, GPS/GLONASS, Colson Board Room

Wednesday, October 21, 2015

1. All Day, Working Group 4, GPS/Precision Landing, MacIntosh-NBAA and Colson Board Room
2. All Day, Working Group 2C, GPS/Inertial, A4A & ARINC Rooms

Thursday, October 22, 2015

1. All Day, Working Group 4, GPS/GPS/Precision Landing Guidance MacIntosh-NBAA Room
2. Morning—9:00–12:00/Noon p.m., Working Group 2C, GPS/Inertial, A4A and ARINC Rooms
3. Morning—9:00–12:00/Noon p.m., Working Group 7, GPS/Antennas, Colson Board Room
4. Afternoon—1:00–5:00 p.m. Working Group 6, GPS/Interference, A4A and ARINC Rooms

Friday, October 23, 2015

5. PLENARY SESSION
   a. Chairman's Introductory Remarks.
   b. Approval of Summary of the Ninety-Third Meeting held March 20, 2015, RTCA Paper No. 076–15/SC159–1037.
   c. Review Working Group (WG) Progress and Identify Issues for Resolution.
   i. GPS/3nd Civil Frequency (WG–1)
   ii. GPS/WAAS (WG–2)
   iii. GPS/GLONASS (WG–2A)
   iv. GPS/Inertial (WG–2C)
   v. GPS/Precision Landing Guidance (WG–4)
   vi. GPS/Airport Surface Surveillance (WG–5)
   vii. GPS/Interference (WG–6)
   viii. GPS/Antennas (WG–7)
   d. Review of EUROCAE Activities.
   e. Response to EASA—Deviation Request ETSO–C145c—Review
   f. SC–159 Terms of Reference—PMC approved June 18, 2015—Review
   g. Briefing—FAA GNSS Intentional Interference and Spoofing Study Team (GIISST)
   h. Assignment/Review of Future Work.
   i. Other Business.
   j. Date and Place of Next Meeting.
   k. Adjourn.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 30, 2015.

Latasha Robinson,

Management & Program Analyst, Next Generation, Enterprise Support Services Division, Federal Aviation Administration.

[FR Doc. 2015–25404 Filed 10–5–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Thirtieth Meeting: Special Committee (213) Enhanced Flight Visions Systems/Synthetic Vision Systems (EFVS/SVS)

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

ACTION: Notice of thirtieth Special Committee 213 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of the thirtieth Special Committee 213 meeting.

DATES: The meeting will be held October 20th–22nd from 8:30 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at National Institute of Aerospace Headquarters, 100 Exploration Way, Hampton, VA 23666, Tel: (202) 330–0662.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Jennifer Iversen, Program Director, RTCA, Inc., *jiversen@rtca.org,* (202) 330–0662.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Special Committee 213. The agenda will include the following:

Tuesday, October 20, 2015

1. Plenary discussion (sign-in at 08:00 a.m.)
   a. Introductions and administrative items
   b. Review and approve minutes from last full plenary meeting
   c. Review of terms of reference and update work product dates
   d. WG1, WG2 and WG3 status updates
   e. Industry updates
   f. EFVS Workshop update
   g. WG2 Draft Document

Wednesday, October 21, 2015

1. Plenary discussion
   a. Demonstrations at NASA Langley
   b. WG3 Draft Document
   c. WG1 Discussion

Thursday, October 22, 2015

1. Plenary discussion
   a. WG1 Draft Document
   b. Administrative items (new meeting location/dates, action items etc.)

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 30, 2015.

Latasha Robinson,

Management & Program Analyst, Next Generation, Enterprise Support Services Division, Federal Aviation Administration.

[FR Doc. 2015–25403 Filed 10–5–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Sixteenth Meeting: Special Committee (227) Standards of Navigation Performance

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

ACTION: Notice of sixteenth Special Committee 227 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of the sixteenth Special Committee 227 meeting.

DATES: The meeting will be held December 2nd–4th from 9:00 a.m.–4:30 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1150 18th Street NW., Suite 910, Washington, DC 20036, Tel: (202) 330–0663.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Sophie Bousquet, Program Director, RTCA, Inc., *khofmann@rtca.org,* (202) 330–0663.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Special Committee 227. The agenda will include the following:

Wednesday–Friday, December 2–4, 2015

1. Welcome and Administrative Remarks
2. Introductions
3. Agenda Overview
4. RTCA Overview Presentation
5. Background on RTCA, MOPS, and Process
6. NextGen PBN Roadmap and SC–227
7. Performance Based Navigation: ICAO PBN Manual, DO–236 and DO–283.
8. SC–227 Scope and Terms of Reference review
9. Overview of DO–257A
10. SC–227 Structure and Organization of Work
11. Proposed Schedule
    a. Face to Face
    b. Teleconference
12. RTCA workspace presentation
13. Other Business
14. Date of Next Meeting
15. Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 30, 2015.

Latasha Robinson,

Management & Program Analyst, Next Generation, Enterprise Support Services Division, Federal Aviation Administration.

[FR Doc. 2015–25400 Filed 10–5–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2015–46]

Petition for Exemption; Summary of Petition Received; Astraeus Aerial

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 26, 2015.

ADDRESSES: Send comments identified by docket number FAA–2014–0352 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: Jake Troutman (202) 267–9521, 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 July 17, 2015.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2014–0352.

Petitioner: Astraeus Aerial.

Section(s) of 14 CFR Affected: Part 21, 45.23(b), 61.113(a) and (b), 91.7(a), 91.9(b)(2), 91.103, 91.109, 91.119, 91.121, 91.151(a), 91.203(a) and (b), 91.405(a), 407(a)(1), 409(a)(2), and 417(a) and (b).

Description of Relief Sought: Astraeus Aerial seeks to amend its original exemption by adding a dual operator system to its operation. In a dual operator system, the pilot in command (PIC) operates the aircraft from an outdoor location and maintains constant visual line of sight with the aircraft throughout the flight, while a second operator, with permission from the PIC, operates the aircraft using an array of video displays during certain phases of the flight. During these phases, the PIC can resume immediate command and control of the aircraft if necessary.

[FR Doc. 2015–25363 Filed 10–5–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Stark, Billings, and McKenzie Counties, North Dakota

AGENCY: Federal Highway Administration (FHWA), North Dakota Department of Transportation (NDDOT), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public of its intent to prepare an environmental impact statement, in cooperation with the NDDOT, for a proposed highway project in Stark, Billings, and McKenzie Counties, North Dakota.

FOR FURTHER INFORMATION CONTACT: Sheri G. Lares, Environment Program Manager and Planning Specialist, Federal Highway Administration, North Dakota Division Office, 4503 Coleman Street, Suite 205, Bismarck, North Dakota 58503, Telephone: (701) 221–9464. Matt Linneman, Program Manager, Environmental and Transportation Services, North Dakota Department of Transportation, 608 E. Boulevard Avenue, Bismarck, North Dakota 58505–0700, Telephone: (701) 328–2640.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North Dakota Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to expand U.S. Highway 85, approximately 62 miles, from I–94 Interchange to the Watford City Bypass (McKenzie County Road 30), North Dakota, and rehabilitate or replace the historic Long X Bridge over the Little Missouri River.

Preliminary alternatives currently under consideration are the no build and the build alternatives, which are divided between roadway and bridge alternatives. The preliminary roadway alternative is to expand U.S. Highway 85 to a four lane highway with flexible design options to avoid or minimize impacts.

Preliminary bridge alternatives currently under consideration include the following: (1) Rehabilitate the Long X Bridge (2) rehabilitate the Long X Bridge and construct a new two-lane structure adjacent to the existing Long X Bridge (3) retain the Long X Bridge for an alternative use, and construct a new four-lane structure adjacent to the existing Long X Bridge (4) construct a new four-lane structure and remove the Long X Bridge. All rehabilitation or retention alternatives would consider preserving the historic integrity of the Long X Bridge.

A Coordination Plan is being prepared to define the agencies and public participation plan for the environmental review process. The plan will outline how agencies and the public will provide input during the scoping process, the development of the purpose and need, and alternatives development.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, regional and local agencies, and to private organizations and citizens who previously have expressed, or are known to have, an interest in this project. Two public scoping meetings will be held in Belfield and Watford City, North Dakota. The public scoping meetings for the proposed project will be advertised in local newspapers and other media and will be hosted by the North Dakota Department of Transportation in the fall of 2015.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: September 30, 2015.

Sheri G. Lares,

Environmental Program Manager and Planning Specialist, Federal Highway Administration, North Dakota Division Office.

[FR Doc. 2015–25405 Filed 10–5–15; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2015–0097]

Asleep at the Wheel: A Nation of Drowsy Drivers

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT).

ACTION: Notice

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) is announcing a meeting that will be held in Washington, DC on November 4–5, 2015 to kick off a new national drowsy driving initiative. The NHTSA Drowsy Driving Forum will include presentations and discussions on a number of topics, including problem identification and measurement of drowsy driving, public awareness and education, public and corporate policy, vehicle technology, and balancing the needs for research and action. Attendance at the meeting is limited to invited participants because of space limitations of the DOT Conference Center. However, the meeting will be available for live public viewing on the NHTSA Web site (*www.nhtsa.gov*). Remote viewers will be able to submit questions online to the forum moderators.

DATES: The meeting will be held on November 4th, 2015 from 8:00 a.m. to 5:30 p.m. and on November 5th, 2015 from 8:00 a.m. to 12:00 p.m.

ADDRESSES: The meeting will be held in the Conference Center of the U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dr. J. Stephen Higgins, Telephone: 202–366–3976; email address: *james.higgins@dot.gov.*

SUPPLEMENTARY INFORMATION: During National Drowsy Driving Prevention Week NHTSA will host a forum to launch a new national drowsy driving initiative. The NHTSA Drowsy Driving Forum will begin with an introduction by NHTSA Administrator Mark Rosekind, followed by a presentation of the new NHTSA Drowsy Driving Plan addressing priorities for research, safety programs, and vehicle technology. The forum will also include panels focusing on problem identification and measurement of drowsy driving, public awareness and education, public and corporate policy, vehicle technology, and balancing the needs for research and action.

Invited participants will include representatives with expertise a number of topic areas including the sleep sciences, traffic safety, and public health, as well as from diverse organizations including advocacy groups, industry, state government, and other Federal Agencies.

NHTSA will use this forum to discuss research and program objectives, consider priority public policy needs, stimulate connections between diverse stakeholders, and identify core public education needs to address the risks, consequences and countermeasures related to drowsy driving. Addressing the risks of drowsy driving is a top priority for this Administration.

Workshop Procedures. NHTSA will conduct the meeting informally. Thus, technical rules of evidence will not apply. The workshop will consist of presentations and panels. Each panel will have two short presentations, a roundtable discussion among the panel members, and questions from the other participants and from remote web viewers to be discussed by the meeting participants.

Authority: 49 U.S.C. 30182; 23 U.S.C. 403.

Issued on: September 30, 2015.

Jeff Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2015–25376 Filed 10–5–15; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

[Docket DOT–OST–2015–0064; Order 2015–9–15]

Application of Altius Aviation, LLC, for Commuter Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Altius Aviation, LLC fit, willing, and able, and awarding it a Commuter Air Carrier Authorization.

DATES: Persons wishing to file objections should do so no later than October 5, 2015.

ADDRESSES: Objections and answers to objections should be filed in Docket DOT–OST–2015–0064 and addressed to U.S. Department of Transportation, Docket Operations, (M–30, Room W12–140), 1200 New Jersey Avenue SE., West Building Ground Floor, Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Lauralyn Remo, Air Carrier Fitness Division (X–56), U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 366–9721.

Dated: September 21, 2015.

Susan L. Kurland,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 2015–25308 Filed 10–5–15; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

Senior Executive Service; Combined Performance Review Board (CPRB)

AGENCY: Treasury Department, Alcohol and Tobacco Tax and Trade Bureau.

ACTION: Notice of members of Treasury Department Combined Performance Review Board.

SUMMARY: Pursuant to 5 U.S.C. 4314(c)(4), this notice announces the appointment of members of the Combined Performance Review Board (CPRB) for the Alcohol and Tobacco Tax and Trade Bureau (TTB), the United States Mint (USM), the Bureau of the Fiscal Service (FS), the Financial Crimes Enforcement Network (FinCEN), and the Bureau of Engraving and Printing (BEP). The CPRB reviews the performance appraisals of career senior executives below the level of the bureau head and principal deputy in each bureau represented by the CPRB. The CPRB makes recommendations regarding proposed performance appraisals, ratings, bonuses, pay adjustments, and other appropriate personnel actions. Membership is effective on October 6, 2015.

Composition of the Treasury Department CPRB, including names and titles, is as follows:

Primary Members

Mary G. Ryan, Deputy Administrator, TTB;

Richard Peterson, Deputy Director for Manufacturing and Quality, USM;

Kimberly A. McCoy, Deputy Commissioner, Fiscal Accounting and Shared Services, FS;

Jamal El-Hindi, Deputy Director, FinCEN; and

Will P. Levy III, Associate Director, Management, BEP.

Alternate Members

Theresa McCarthy, Assistant Administrator, Headquarters Operations, TTB;
Jon Cameron, Associate Director, Office of Coin Studies, USM;
Patricia (Marty) Greiner, Assistant Commissioner, Management/CFO, FS;
Diane Wade, Associate Director, Management Division, FinCEN; and
Debra H. Richardson, Associate Director, CFO, BEP.

FOR FURTHER INFORMATION CONTACT: Paula Bailey, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202–453–2036.

Dated: September 29, 2015.

John J. Manfreda,

Administrator.

[FR Doc. 2015–25430 Filed 10–5–15; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of six individuals and 11 entities whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act (Kingpin Act) (21 U.S.C. 1901–1908, 8 U.S.C. 1182) and five vessels in which one individual and two entities have an interest.

DATES: OFAC's actions described in this notice are effective on October 1, 2015, as further specified below.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Office of Foreign Assets Control, U.S. Department of the Treasury, Washington, DC 20220, Tel: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site at *http://www.treasury.gov/ofac* or via facsimile through a 24-hour fax-on-demand service at (202) 622–0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the imposition of sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury, in consultation with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security, may designate and block the property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On October 1, 2015, the Acting Director of OFAC designated the following six individuals and 11 entities whose property and interests in property are blocked pursuant to section 805(b) of the Kingpin Act.

Individuals

1. MERHI, Merhi Ali Abou (a.k.a. ABOU MERHI, Merhi; a.k.a. MERHI, Merhi Abou); DOB 05 Jul 1964; POB Hilalie, Lebanon; citizen Lebanon; Passport RL0575682 (Lebanon) (individual) [SDNTK] (Linked To: ABOU MERHI GROUP; Linked To: ABOU-MERHI LINES SAL; Linked To: ABOU-MERHI CRUISES (AMC) SAL; Linked To: LE MALL-SAIDA; Linked To: QUEEN STATIONS; Linked To: ORIENT QUEEN HOMES; Linked To: ABOU MERHI COTONOU; Linked To: ABOU MERHI NIGERIA; Linked To: ABOU MERHI HAMBURG; Linked To: LEBANON CENTER; Linked To: ABOU MERHI CHARITY INSTITUTION). Designated for materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of the JOUMAA Money Laundering Organization/Drug Trafficking Organization and/or Hassan AYASH, and/or being owned, controlled, or directed by, or acting for or on behalf of, the JOUMAA Money Laundering Organization/Drug Trafficking Organization and/or Hassan AYASH.

2. EL BEZRI, Ahmad (a.k.a. EL BIZRI, Ahmad); DOB 09 Feb 1989; POB Saida, Lebanon; citizen Lebanon; Passport RL2452947 (Lebanon) (individual) [SDNTK] (Linked To: ABOU MERHI COTONOU; Linked To: ABOU MERHI NIGERIA). Designated for acting for or on behalf of Merhi Ali Abou MERHI.

3. MERHI, Atef Merhi Abou (a.k.a. ABOU-MERHI, Atef Merhi; a.k.a. MERHI, Atef Abou; a.k.a. MERHI, Atif Merhi Abou); DOB 06 Aug 1989; POB Saida, Lebanon; citizen Germany; Passport C1TRT3WNJ (Germany) (individual) [SDNTK] (Linked To: ABOU-MERHI LINES SAL; Linked To: ABOU MERHI CHARITY INSTITUTION; Linked To: ORIENT QUEEN HOMES). Designated for acting for or on behalf of Merhi Ali Abou MERHI.

4. MERHI, Hana Merhi Abou (a.k.a. MERHI, Hana Abou); DOB 31 Mar 1987; POB Germany; citizen Germany; Passport 332501999 (Germany) (individual) [SDNTK] (Linked To: ABOU-MERHI CRUISES (AMC) SAL; Linked To: ABOU-MERHI LINES SAL; Linked To: ABOU MERHI CHARITY INSTITUTION; Linked To: ORIENT QUEEN HOMES). Designated for acting for or on behalf of Merhi Ali Abou MERHI.

5. NASR, Wajdi Youssef; DOB 25 Sep 1974; POB Lebanon; citizen Lebanon; Passport 2243913 (Lebanon) (individual) [SDNTK] (Linked To: ABOU MERHI HAMBURG). Designated for acting for or on behalf of Merhi Ali Abou MERHI.

6. NASREDDINE, Houeda Ahmad (a.k.a. ABOU MERHI, Houeida; a.k.a. ABOU MERHI, Huweid; a.k.a. ABOU MERHI, Huweida; a.k.a. NASREDDINE, Houeida Ahmad); DOB 14 Aug 1965; POB Kfarhatta, Lebanon; citizen Lebanon; Passport RL0022792 (Lebanon) (individual) [SDNTK] (Linked To: ABOU-MERHI CRUISES (AMC) SAL; Linked To: ABOU-MERHI LINES SAL; Linked To: ABOU MERHI CHARITY INSTITUTION; Linked To: ORIENT QUEEN HOMES). Designated for acting for or on behalf of Merhi Ali Abou MERHI.

Entities

1. ABOU MERHI GROUP, Weygand Street, Atrium Building, Central District, Beirut, Lebanon [SDNTK] (Linked To: MERHI, Merhi Ali Abou). Designated for being owned, controlled, or directed by, or acting for or on behalf of, Merhi Ali Abou MERHI.

2. ABOU MERHI CHARITY INSTITUTION, Merhi Abou Merhi Street, Hilaliye, Saida, Lebanon; Abou Merhi Street, Hilaliyah Area, Saida 175016, Lebanon [SDNTK] (Linked To: MERHI, Merhi Ali Abou; Linked To: ABOU MERHI GROUP). Designated for being owned, controlled, or directed by, or acting for or on behalf of, Merhi Ali Abou MERHI.

3. ABOU MERHI COTONOU, Commune De Semepkodji Quartier Djeffa 01B7885, Cotonou, Benin [SDNTK] (Linked To: MERHI, Merhi Ali Abou; Linked To: ABOU MERHI GROUP). Designated for being owned, controlled, or directed by, or acting for or on behalf of, Merhi Ali Abou MERHI and/or ABOU MERHI GROUP.

4. ABOU MERHI HAMBURG (a.k.a. ABOU MERHI LINIENAGENTUR GMBH), Borstelmannsweg 145 D, Hamburg 20537, Germany; Hermann-Blohm-Strasse 3, Hamburg 20457, Germany [SDNTK] (Linked To: MERHI, Merhi Ali Abou; Linked To: ABOU MERHI GROUP). Designated for being owned, controlled, or directed by, or acting for or on behalf of, Merhi Ali Abou MERHI, ABOU MERHI GROUP, and/or Atef Merhi Abou MERHI.

5. ABOU MERHI NIGERIA (a.k.a. ABOU MERHI NIGERIA LIMITED), Grimaldi Port Complex Tin Can Island Port, Lagos, Nigeria [SDNTK] (Linked To: MERHI, Merhi Ali Abou; Linked To: ABOU MERHI GROUP). Designated for being owned, controlled, or directed by, or acting for or on behalf of, Merhi Ali Abou MERHI and/or ABOU MERHI GROUP.

6. ABOU-MERHI CRUISES SAL, The Atrium Building, Property Number 1455/26, Weygand Street, Beirut Central District Area, Nejmeh Sector, Beirut, Lebanon [SDNTK] (Linked To: MERHI, Merhi Ali Abou; Linked To: ABOU MERHI GROUP). Designated for being owned, controlled, or directed by, or acting for or on behalf of, Merhi Ali Abou MERHI and/or ABOU MERHI GROUP.

7. ABOU-MERHI LINES SAL (a.k.a. ABOU MERHI LINES; a.k.a. ABOU MERHI LINES SAL; a.k.a. ABOU MERHI LINES SAL OFF-SHORE), Atrium Building, Mosquee Al-Omari Street, Nejmeh Area, Marfaa Sector, Beirut, Lebanon; Atrium Building, Weygand Street, Central District, Nejmeh Sector, Beirut, Lebanon [SDNTK] (Linked To: MERHI, Merhi Ali Abou; Linked To: ABOU MERHI GROUP). Designated for being owned, controlled, or directed by, or acting for or on behalf of, Merhi Ali Abou MERHI and/or ABOU MERHI GROUP.

8. LE MALL-SAIDA (a.k.a. LE MALL SAIDA), Saida, Al Janub, Lebanon [SDNTK] (Linked To: MERHI, Merhi Ali Abou; Linked To: ABOU MERHI GROUP). Designated for being owned, controlled, or directed by, or acting for or on behalf of, Merhi Ali Abou MERHI and/or ABOU MERHI GROUP.

9. LEBANON CENTER, 176 Wasfi Tall Street, The Gardens, Amman, Jordan [SDNTK] (Linked To: MERHI, Merhi Ali Abou; Linked To: ABOU MERHI GROUP). Designated for being owned, controlled, or directed by, or acting for or on behalf of, Merhi Ali Abou MERHI and/or ABOU MERHI GROUP. Designated for being owned, controlled, or directed by, or acting for or on behalf of, Merhi Ali Abou MERHI and/or ABOU MERHI GROUP.

10. ORIENT QUEEN HOMES (a.k.a. ABOU MERHI HOSPITALITY SAL), John Kennedy Street 56526, Beirut, Lebanon [SDNTK] (Linked To: MERHI, Merhi Ali Abou; Linked To: ABOU MERHI GROUP). Designated for being owned, controlled, or directed by, or acting for or on behalf of, Merhi Ali Abou MERHI and/or ABOU MERHI GROUP.

11. QUEEN STATIONS, Merhi Abou-Merhi Street, Saida, Lebanon [SDNTK] (Linked To: ABOU MERHI GROUP). Designated for being owned, controlled, or directed by, or acting for or on behalf of, Merhi Ali Abou MERHI and/or ABOU MERHI GROUP.

In addition, on October 1, 2015, the Acting Director of OFAC identified the following five vessels as property in which Merhi Ali Abou MERHI, ABOU MERHI GROUP, and ABOU MERHI LINES SAL, an individual and two entities whose property and interest in property are blocked pursuant to the Kingpin Act, have an interest.

Vessels

1. ORIENT QUEEN II (3FDJ9) Panama flag; Vessel Registration Identification IMO 8701193; MMSI 373703000 (vessel) [SDNTK] (Linked To: MERHI, Merhi Ali Abou; Linked To: ABOU-MERHI LINES SAL). Designated for being owned or controlled by Merhi Ali Abou MERHI, ABOU MERHI GROUP, and/or ABOU MERHI LINES SAL.

2. CITY OF ANTWERP (3FRY8) Panama flag; Vessel Registration Identification IMO 8709133; MMSI 356459000 (vessel) [SDNTK] (Linked To: MERHI, Merhi Ali Abou; Linked To: ABOU-MERHI LINES SAL). Designated for being owned or controlled by Merhi Ali Abou MERHI, ABOU MERHI GROUP, and/or ABOU MERHI LINES SAL.

3. CITY OF LUTECE (9HRJ6) Malta flag; Vessel Registration Identification IMO 8017970; MMSI 248781000 (vessel) [SDNTK] (Linked To: MERHI, Merhi Ali Abou; Linked To: ABOU-MERHI LINES SAL). Designated for being owned or controlled by Merhi Ali Abou MERHI, ABOU MERHI GROUP, and/or ABOU MERHI LINES SAL.

4. CITY OF MISURATA (3EMY5) Panama flag; Vessel Registration Identification IMO 7920857; MMSI 354134000 (vessel) [SDNTK] (Linked To: MERHI, Merhi Ali Abou; Linked To: ABOU-MERHI LINES SAL). Designated for being owned or controlled by Merhi Ali Abou MERHI, ABOU MERHI GROUP, and/or ABOU MERHI LINES SAL.

5. CITY OF TOKYO (D5GK6) Liberia flag; Vessel Registration Identification IMO 8709145; MMSI 636016488 (vessel) [SDNTK] (Linked To: MERHI, Merhi Ali Abou; Linked To: ABOU-MERHI LINES SAL). Designated for being owned or controlled by Merhi Ali Abou MERHI, ABOU MERHI GROUP, and/or ABOU MERHI LINES SAL.

Dated: October 1, 2015.

John E. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2015–25365 Filed 10–5–15; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF TREASURY

Internal Revenue Service

Office of the General Counsel; Appointment of Members of the Legal Division to the Performance Review Board, Internal Revenue Service

Under the authority granted to me as Chief Counsel of the Internal Revenue Service by the General Counsel of the Department of the Treasury by General Counsel Directive 15, pursuant to the Civil Service Reform Act, I have appointed the following persons to the Legal Division Performance Review Board, Internal Revenue Service Panel:

1. Chairperson, Christopher B. Sterner, Deputy Chief Counsel (Operations)

2. John Moriarty, Deputy Associate Chief Counsel (Income Tax and Accounting)

3. Tom Vidano, Deputy Division Counsel (Large Business and International)

4. Mark Kaizen, Associate Chief Counsel (General Legal Services)

5. Marjorie Rollinson, Deputy Associate Chief Counsel (International)

Alternate—Curt Wilson, Associate Chief Counsel, (Passthroughs and Special Industries)

This publication is required by 5 U.S.C. 4314(c)(4).

Date: September 28, 2015.

William J. Wilkins,

Chief Counsel, Internal Revenue Service.

[FR Doc. 2015–25336 Filed 10–5–15; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 80 Tuesday,
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Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Endangered Species Status for Trichomanes punctatum ssp. floridanum (Florida Bristle Fern); Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2014–0044; 4500030113]

RIN 1018–AY97

Endangered and Threatened Wildlife and Plants; Endangered Species Status for *Trichomanes punctatum ssp. floridanum* (Florida Bristle Fern)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine endangered species status under the Endangered Species Act of 1973 (Act), as amended, for *Trichomanes punctatum* ssp. *floridanum* (Florida bristle fern), a plant subspecies from Miami-Dade and Sumter Counties, Florida. The effect of this regulation will be to add this subspecies to the Federal List of Endangered and Threatened Plants and extend the Act's protections to this subspecies.

DATES: This rule becomes effective on November 5, 2015.

ADDRESSES: This final rule is available on the internet at *http://www.regulations.gov* and *http://www.fws.gov/verobeach/*. Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov*. All of the comments, materials, and documentation that we considered in this rulemaking are available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, South Florida Ecological Services Office, 1339 20th Street, Vero Beach, FL 32960; telephone 772–562–3909.

FOR FURTHER INFORMATION CONTACT: Roxanna Hinzman, Field Supervisor, U.S. Fish and Wildlife Service, South Florida Ecological Services 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, a species may warrant protection through listing if it is endangered or threatened throughout all or a significant portion of its range. Listing a species as an endangered or threatened species can only be completed by issuing a rule. This rule will finalize the listing of the *Trichomanes punctatum* ssp. *floridanum* (Florida bristle fern) as an endangered species.

The basis for our action. Under the Act, we can 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 *Trichomanes punctatum* ssp. *floridanum* consist primarily of destruction and modification of habitat (Factor A), proliferation of nonnative invasive species, natural stochastic events including hurricanes and tropical storms, and impacts from climate change including temperature shifts and sea level rise (Factor E), and that existing regulatory mechanisms have not reduced or removed such threats (Factor D).

Peer review and public comment. We sought comments from independent specialists to ensure that our designation is based on scientifically sound data, assumptions, and analyses. We invited these peer reviewers to comment on our listing proposal. We also considered all comments and information received during the comment period.

Previous Federal Actions

Please refer to the proposed listing rule for *Trichomanes punctatum* ssp. *floridanum* (79 FR 61136), published on October 9, 2014, for a detailed description of previous Federal actions concerning this subspecies.

Our proposed listing rule included a finding that designation of critical habitat was prudent, but that critical habitat was not determinable. In this final listing rule, we find that critical habitat is still not determinable (see Critical Habitat discussion below).

Background

Below we present updated and revised information, based on peer review and public comment received during the comment period on the proposed rule, as well as new information, related to the subspecies' life history, historical and current ranges, and habitat requirements.

Species Description

Trichomanes punctatum ssp. *floridanum,* commonly referred to as the Florida bristle fern, is mat-forming, has root-like structures, and contains trichomes (hairlike/bristlelike outgrowths), which extend from soral involucres (tubes containing sporangia (an enclosure in which spores, or reproductive cells, are formed)) on the tips of some fronds (leaves of ferns) when the plant is fertile (Wunderlin and Hansen 2000, pp. 153–154). This subspecies is very small in size and superficially resembles bryophytes, such as mosses and liverworts, making it difficult to observe in its natural habitat.

Wunderlin and Hansen (2000, pp. 153–154) described *Trichomanes punctatum* ssp. *floridanum* as having leaves, with the petiole (stalk by which a leaf is attached to a plant) 0.1–2.0 centimeters (cm) (0.04–0.79 inches (in)) long and typically shorter than the blade. The blade is fan-shaped, round, entire or irregularly lobed at the apex, and 0.5–2.0 cm (0.20–0.79 in) long and 0.2–1.1 cm (0.08–0.43 in) wide. *T. p.* ssp. *floridanum* has thin veinlets (small veins) that are not enlarged towards the margin while true veins are uniform in width to their apices (tips) (Nauman 1986, p. 179). This subspecies has few false veins, and fronds are considered simple (Morton 1963, p. 89).

One unusual characteristic of this plant is that it lacks cuticles (the protective layer that covers the epidermis, which is the outermost layer of cells that cover the leaves) or has highly reduced cuticles. The fern has differentiated epidermises and stomata (small openings in leaves and stems through which gases are exchanged), causing it to be dependent on elevated moisture conditions because a barrier is not present to prevent unregulated loss of water (Krömer and Kessler 2006, p. 57). This dependence restricts most *Trichomanes* ssp. to shaded areas within forested environments with high humidity, making them more vulnerable to changes in localized climatic conditions (Schuster 1971, p. 91; Nauman 1986, pp. 181–182; van der Heiden 2014, p. 5).

Taxonomy

The genus *Trichomanes* contains approximately 320 species of ferns that occur primarily in the tropics and for which we generally lack ecological information (Nauman 1986, p. 179; Nelson 2000, p. 77). The genus belongs to the family Hymenophyllaceae and the hymenophylloid clade, where ferns are also referred to as filmy ferns, which

describes the thin, filmy leaves of the species (Nelson 2000, p. 77). The common name, bristle fern, is used to reference the bristlelike structure that singularly protrudes from each soral involucre (a structure that holds and produces spores) (Nelson 2000, p. 77).

Five species commonly known as bristle ferns (*Trichomanes* ssp.) have been found in Florida (Krömer and Kessler 2006, p. 57). *Trichomanes punctatum* ssp. *floridanum* is a subspecies of *Trichomanes punctatum,* the current taxonomy of which is the result of monographic revision of *Trichomanes* sections (a taxonomic rank or position below the genus but above the species) *Didymoglossum* and *Microgonium* by Wessels Boer (1962, pp. 300–301). All U.S. species of *Trichomanes* now belong to the section *Didymoglossum,* except *T. boschianum* (Morton 1963). Wessels Boer, in reviewing specimens from throughout the American tropics, determined that all *Trichomanes punctatum* plants in Florida represented the same taxon, not two separate species, and that *T. sphenoides* (which he described as *T. punctatum* ssp. *sphenoides*) does not occur in Florida. He further determined that *Trichomanes punctatum* plants in Florida were different from those in the tropics and described them as a new subspecies, *Trichomanes punctatum* ssp. *floridanum* (Boer 1962, pp. 300–301). This treatment has been followed by almost all subsequent authors (Lakela and Long 1976, p. 53; Wunderlin 1982, p. 32; Lellinger 1985, p. 205; Nauman 1986, p. 181; Flora of North America Editorial Committee 1993, p. 196; Wunderlin 1998, p. 44; Nelson 2000, p. 81; Wunderlin and Hansen 2000, p. 153; Wunderlin and Hansen 2003, p. 44). The only exception is Long and Lakela (1971, p. 73), who treated the subspecies as *T. punctatum* without further explanation. Additionally, the following entities use the name *T. p.* ssp. *floridanum* and indicate that this subspecies' taxonomic standing is accepted:

- Florida Department of Agriculture and Consumer Services (2013, *https://www.flrules.org/gateway/RuleNo.asp?title=PRESERVATION%20OF%20NATIVE%20FLORA%20OF%20FLORIDA&ID=5B-40.0055*),
- The Integrated Taxonomic Information System (2011, p. 1),
- NatureServe (2013, *http://explorer.natureserve.org/servlet/NatureServe?loadTemplate=tabular_report.wmt&paging=home&save=all&sourceTemplate=reviewMiddle.wmt*),
- The online Atlas of Florida Vascular Plants (Wunderlin and Hansen 2008, (*http://www.florida.plantatlas.usf.edu/Plant.aspx?id=1122*),
- The Flora of North America (*http://www.efloras.org/florataxon.aspx?flora_id=1&taxon_id=233501316*), and
- The Florida Natural Areas Inventory (FNAI) (FNAI, 2013, *http://fnai.org/trackinglist.cfm*).

In summary, there is consensus that *Trichomanes punctatum* ssp. *floridanum* is a distinct taxon.

Currently there are two extant metapopulations (groups of spatially separated populations) of this subspecies (Gann *et al.* 2002, pp. 552–554), comprising four populations in Miami-Dade County and two in Sumter County, separated by a distance of approximately 400 kilometers (km) (249 miles (mi)). As noted by Small (1938, p. 50), the Sumter metapopulation is a considerable distance from where *T. p.* ssp. *floridanum* was first discovered (*i.e.,* south Florida) and resides in a climate and habitat unlike the Miami-Dade County metapopulation. These differences are likely why Morton (1963, p. 90) suggested that the previous determination of these two metapopulations be reviewed. In March 2014, the Service contracted researchers from Florida Atlantic University to determine if the two metapopulations were the same subspecies. Samples were collected from both metapopulations for genetic analysis. DNA was isolated from the samples, and sequencing was completed on five samples from each metapopulation. Researchers found no observable differences in the sequence between the five samples collected from Miami-Dade County and the five samples from Sumter County, indicating that both metapopulations are the same subspecies (Hughes 2014, pp. 1–4).

Life History

The life cycle of ferns is not commonly understood (Possley 2014c, pers. comm.). Information about the specific life cycle of *T. p.* ssp. *floridanum* is also lacking. Like all ferns, this taxon has two life-history stages, a gametophyte stage and a sporophyte stage, and only the sporophyte form is recognizable in the wild, while the gametophyte form is very cryptic (Possley 2013a, pers. comm.; van der Heiden 2013b, pers. comm.). Therefore, all reported populations of *Trichomanes punctatum* ssp. *floridanum* have been in the sporophyte stage.

Mature plants can reproduce sexually or asexually. The initial stage, when a spore germinates, is referred to as the gametophyte stage. The gametophyte contains separate sperm and egg-producing structures. In the presence of water or moisture, sperm reach the eggs for fertilization. Fertilized eggs, under the proper conditions, develop into sporophytes. The sporophytes produce spores, which in turn can germinate to produce new gametophytes (Nelson 2000, pp. 17–19). Reproduction may also occur in one other way: By division, when rhizomes (horizontal, underground plant stems capable of producing the shoot and root-like structures of a new plant) break, forming clones of the parent plant.

Although it has been suggested that plants sporulate (produce spores) mostly in the spring and summer (Nauman 1986, p. 182), field observations in Miami-Dade County have observed sporangia in the months of February, March, May, August, October, and December. The plants are likely fertile any time of year; however, during the dry season, sporophytes have been observed to desiccate and probably do not produce spores (Possley 2013d, pers. comm.). In Sumter County, sporangia have been observed from April through September; however, researchers suggest they are likely producing all year, with peaks in the wet season (van der Heiden 2013c, pers. comm.). For *Trichomanes punctatum* ssp. *floridanum,* specific reproductive and growth requirements, such as moisture levels needed for each stage of its life history, plant longevity, growth rates, recruitment rates, dispersal methods, and genetic variation, are currently unknown.

Organizations such as the Institute for Regional Conservation (IRC) and Fairchild Tropical Botanic Garden (Fairchild) are working together to understand the biology and life history of *Trichomanes punctatum* ssp. *floridanum.* In 2002, IRC and Fairchild collaborated with fern culture experts from Marie Selby Botanical Gardens (MSBG) in Sarasota, Florida, and tissue culture experts at the Lindner Center for Conservation and Research on Endangered Wildlife (CREW) in Cincinnati, Ohio (Gann *et al.* 2009, pp. 35–36). Currently, Fairchild maintains fewer than five healthy clusters of *T. p.* ssp. *floridanum* from plants obtained in local hammocks (tropical hardwood forests) that are monitored by their organization. The success of this effort to grow healthy *T. p.* ssp. *floridanum* has yet to be determined due to several factors, including: Slow growth rates, the formation of unusual linear fronds, the susceptibility to mold, and the lack of sporulation (Possley *et al.* 2013, pp. 43–45). However, researchers at CREW

have recently developed a successful method to culture *T. p.* ssp. *floridanum* in-vitro and cryopreserve (to preserve by freezing at low temperatures) sporophytes (V. Pence, submitted; Pence and Charls 2006, pp. 29–34). The new plants from CREW have recently been transferred to MSBG, and plans are under way to establish *T. p.* ssp. *floridanum* onto limestone rock, which could potentially be transferred to solution hole (see description under ''Habitat'' section, below) walls for eventual reintroduction to the wild (Holst 2014, pers. comm.).

It is important to note that the numerous efforts to cultivate *Trichomanes punctatum* ssp. *floridanum* ex-situ for possible future reintroduction have been only partially successful. Researchers have not been able to propagate *T. p.* ssp. *floridanum* via sexual reproduction. Although they have been able to maintain the subspecies in cultivation in the greenhouse for several months at a time, and temporarily establish rhizome growth onto limestone rock, the propagated fern eventually declines or becomes overrun with mosses. Even when there is vegetative growth, there is no sign of spore production (Holst 2014, pers. comm.).

Habitat

In southeastern North America, *Trichomanes* ssp. are considered rare because of their delicate nature and requirements for deeply sheltered habitats with almost continuous high moisture and humidity (Farrar 1993, pp. 190–197; Zots and Buche 2000, p. 203), restricting them from a more widespread pre-glaciation distribution. *Trichomanes punctatum* ssp. *floridanum* is considered strongly hygrophilous (growing or adapted to damp or wet conditions) and generally perceived as restricted to constantly humid microhabitat (Krömer and Kessler 2006, p. 57). *T. p.* ssp. *floridanum* occurs only in the United States in the State of Florida. In Florida, *T. p.* ssp. *floridanum* is known to occur only in Miami-Dade and Sumter Counties.

Both extant metapopulations occur in dense canopy habitats, with shady conditions that may be obligatory due to the poikilohydric (*i.e.,* possessing no mechanism to prevent desiccation) nature of some fern species (Krömer and Kessler 2006, p. 57). The canopy directly contributes to the surrounding humidity of an area. Dense canopies found in rockland habitats can minimize temperature fluctuations by reducing soil warming during the day and heat loss at night. In areas with greater temperature variations, as in Sumter County, this temperature minimization effect can help prevent frost damage to the interior of the hammock (FNAI 2010, p. 25). Mesic conditions are further maintained by the hammock's rounded canopy profile, which deflects winds, limiting desiccation during dry periods and reducing interior storm damage (FNAI 2010, p. 25). Changes in the canopy can impact humidity and evaporation rates, as well as the amount of light available to the understory.

In Miami-Dade County, *Trichomanes punctatum* ssp. *floridanum* is generally epipetric (a plant that grows on rocks) or epiphytic (a plant that grows non-parasitically upon another plant), typically growing in rocky outcrops of rockland hammocks, in oolitic (composed of minute rounded concretions resembling fish eggs) limestone solution holes (see description below), and, occasionally, on tree roots in limestone-surrounded areas (Phillips 1940, p. 166; Nauman 1986, p. 180; Whitney *et al.* 2004, pp. 105–106; Possley 2013e, pers. comm.; van der Heiden 2014b, pers. comm.). These rockland habitats are outcrops primarily comprising marine limestone representing the distinct geological formation of the Miami Rock Ridge, a feature that encompasses a broad area from Miami to Homestead, Florida, and narrows westward through the Long Pine Key area of Everglades National Park (ENP) (Snyder *et al.* 1990, pp. 233–234). Several endemic plant species have been identified to be closely associated with the rocklands of southern Florida; these plants are believed to have no adaptation for long-distance dispersal, suggesting a lengthy period of evolution on rocky substrate in southern Florida (Snyder *et al.* 1990, p. 236).

Rockland hammocks are a type of rich tropical hardwood forest on upland sites in areas where limestone is very near the surface and often exposed. Once numerous throughout South Florida, these rockland hammocks have a diverse closed canopy and shrub layer, where more than 120 native tree and shrub species are known to occur, including a number of rare plant and animal species, federally listed and candidate species, South Florida endemics, and tropical species at or near the northern limit of their ranges (Phillips 1940, p. 166; Snyder *et al.* 1990, p. 16; Gann *et al.* 2009, p. 3). The forest floor is characterized by leaf litter with varying amounts of exposed limestone and has few herbaceous species. Rockland hammocks generally consist of larger, mature trees in the interior, while the margins can be almost impenetrable due to dense growth of smaller shrubs, trees, and vines (FNAI 2010, pp. 24–27). The canopy cover is typically very dense where *Trichomanes punctatum* ssp. *floridanum* occurs. In Miami-Dade County, the hammocks consist of a mix of temperate and tropical hardwood trees, both canopy and understory, including *Ocotea coriacea* (lancewood), *Coccoloba diversifolia* (pigeon plum), *Quercus virginiana* (live oak), *Simarouba glauca* (paradise tree), *Ficus aurea* (strangler fig), and *Sideroxylon foetidissimum* (mastic) (see Snyder *et al.* 1990, p. 241, for complete list). Soils where *T. p.* ssp. *floridanum* is extant in Miami-Dade County generally consist of an uneven layer of highly organic soil overlying rock (Snyder *et al.* 1990, p. 238); soils are classified as Matecumbe Muck (moderately well-drained soils that are very shallow) (Florida Geographic Data Library 2013, *http://www.fgdl.org/*). Soils from historical and extant records consist of the following soil types: Krome Very Gravelly Loam, Cardsound Silty Clay Loam-Rock Outcrop Complex, Opalocka Sand-Rock Outcrop Complex, and Dania Muck.

The limestone solution holes are considered specialized habitat within these hammock areas that host *Trichomanes punctatum* ssp. *floridanum,* as well as several other fern species (Snyder *et al.* 1990, p. 247). The solution hole features that dominate the rock surface in the Miami Rock Ridge are steep-sided pits, varying in size, formed by dissolution of subsurface limestone followed by a collapse above (Snyder *et al.* 1990, p. 236). Limestone solution holes vary in size, from shallow holes less than 0.5 meter (m) (1.6 feet (ft)) deep to those that cover over 100 m^2 (1,076 ft^2) and are several meters deep (Snyder *et al.* 1990, p. 238). The bottoms of most solution holes are filled with organic soils, while deeper solution holes penetrate the water table and have (at least historically) standing water for part of the year (Snyder *et al.* 1990, pp. 236–238). Humidity levels are higher in and around the solution holes because of standing water and moisture retained in the organic soils. Many tropical, epipetric plant species are associated with the sinkholes and solution holes in rockland hammocks.

In Sumter County, *Trichomanes punctatum* ssp. *floridanum* is known to be epipetric, residing on limestone boulders in high atmospheric humidity hammocks (van der Heiden 2013a, pers. comm). The extant populations are located in mesic hammocks on limestone boulders 0.1–1.5 m (0.3–4.9 ft) tall (see ''Current Range'' section,

below). Mesic hammock is a developed evergreen hardwood and/or palm forest on soils that are rarely inundated (FNAI 2010, pp. 19–23) and commonly associated with hydric hammock and mixed wetland hardwoods. The difference between mesic hammocks and surrounding habitats is a slight difference in elevation. Mesic hammocks occur on higher ground within basin or floodplain wetlands; as patches of oak/palm forest in dry prairie or flatwoods communities; on river levees; in ecotones (transition area between two biomes or areas of distinct plant and animal groups) between wetlands and upland communities; and at the edges of lakes, sinkholes, other depressional or basin wetlands, and river floodplains where natural fires do not occur (FNAI 2010, pp. 19–23).

Recent field surveys (van der Heiden 2015a, p. 6; van der Heiden 2015b, unpublished data; van der Heiden 2015c, unpublished data) have provided additional information regarding potential suitable habitat in Sumter County. These surveys, conducted by IRC and funded by the Service, delineated suitable habitat within and around the Jumper Creek Tract of the Withlacoochee State Forest. Within surveyed areas, IRC mapped all suitable substrate found in areas having suitable canopy and hydrology to support growth of *Trichomanes punctatum* ssp. *floridanum*. The resulting map included limestone rocks and boulders in not only mesic hammock, but also hydric hammock, elevated hydric hammock, and (in a small number of instances) adjacent wetland (but non-hammock) habitats. The Service is still evaluating this information and working with IRC to further refine suitable habitat parameters for the fern in Sumter County. Despite extensive surveys through approximately 1,904 ha (4,705 ac) in and around the Jumper Creek Tract, van der Heiden (2015a, p. 9) did not find any new populations of *T. p.* ssp. *floridanum*.

Although there are several occurrences of *Trichomanes punctatum* ssp. *floridanum* in Sumter County where sunlight can be observed through the canopy, generally the habitat is shaded throughout the year, with the lowest amount of canopy cover recorded at approximately 65 percent (van der Heiden and Johnson 2014, p. 20; in Rocky Hammock). *T. p.* ssp. *floridanum* has been observed growing on small limestone rocks, as well as boulders with tall, horizontal faces with numerous other species, including rare State-listed species (*e.g., Asplenium cristatum* (hemlock spleenwort)) and widespread *Pecluma dispersa* (widespread polypody) (van der Heiden 2013b, pers. comm.; van der Heiden and Johnson 2014, pp. 15–16).

Within one occupied Sumter County hammock (Rocky Hammock), the majority of *Trichomanes punctatum* ssp. *floridanum* occur on the northern face of limestone boulders; however, those clusters found on non-north-facing limestone generally occur in close proximity to other boulders, trees, or within protected crevices (van der Heiden and Johnson 2014, p. 7). Van der Heiden and Johnson (2014, pp. 9–10) suggested that the northern aspect of limestone boulders is more often inhabited by this taxon because of the reduced exposure to sunlight, promoting cooler temperatures and higher moisture as compared to other sun-exposed sections of rock. This may also be the case for those clusters shielded by other boulders, by trees, or in crevices, allowing the plant to grow on any portion of the shielded rock as long as moisture levels remain high enough to prevent desiccation (van der Heiden and Johnson 2014, pp. 9–10). Additionally, both populations of *T. p.* ssp. *floridanum* in Sumter County grow within the northern quadrant of each hammock.

Soils of mesic hammock are sands mixed with organic matter, often containing a thick layer of leaf litter and generally well-drained. Although some areas maintain high-moisture soils due to the accumulation of leaf litter and extensive canopy cover, in general, mesic hammocks can occur across a broad gradient of soil moisture conditions, from somewhat xeric to almost hydric soils. Rock outcrops may also occur in mesic hammocks, especially where limestone is near the surface (FNAI 2010, pp. 19–23). Soil types for the extant metapopulation of *Trichomanes punctatum* ssp. *floridanum* in Sumter County include Okeelanta Muck, Frequently Flooded, and Mabel Fine Sand (*i.e.,* deep and very deep, somewhat poorly drained, slowly permeable soils that formed in sandy to clayey marine deposits, with a bouldery (abounding in rocks or stones) subsurface and 0–5 percent slopes (Florida Geographic Data Library 2013, *http://www.fgdl.org/*). Additionally, one historical record has Adamsville Fine Sand, Bouldery Subsurface, while another population containing a questionable record from an extirpated population has what is classified as Malabar Fine Sand, Frequently Flooded.

Plant communities associated with mesic hammocks vary depending on the latitude; tropical species gradually increase in frequency from the central to southern peninsular Florida. In south Florida, some high-elevation areas dry enough to support a semi-tropical mesic hammock do exist; however, most ''high hammocks'' are rockland hammocks occurring on limestone (FNAI 2010, pp. 19–23). *Q. virginiana* is common in mesic hammock communities. Oak species found in these hammocks tend to possess a broader tolerance of a range of conditions than do oaks in other habitats (FNAI 2010, pp. 19–23). Mesic hammocks do not contain wetland trees, as found in hydric hammocks; however, these two hammock types often occur as intermixed stands. Because mesic hammocks are often associated with hydric hammocks, with wetlands, or as a transition to uplands, they are sensitive to hydrologic alteration in the landscape. For example, changes in flooding frequency and/or duration can kill most mesic hammock tree species, while lowered water tables can shift vegetation towards xeric species or promote wildfires, destroying the hammock (FNAI 2010, pp. 19–23). Mesic hammocks may be distinguished from rockland hammocks by the dominance of temperate species in the canopy, whereas rockland hammocks are composed of predominantly tropical woody species.

Trichomanes punctatum ssp. *floridanum* in Sumter County can be found under a dense canopy including *Q. virginiana, Sabal palmetto* (cabbage palm), *Carpinus caroliniana* (American hornbeam), *Celtis laevigata* (sugarberry), *Acer negundo* (boxelder), *Liquidambar styraciflua* (sweetgum), and *Sapindus saponaria* (wingleaf soapberry) (van der Heiden 2013c, pers. comm.; van der Heiden and Johnson 2014, p. 19). The hammocks where *T. p.* ssp. *floridanum* has been found are also surrounded by a mosaic of wetlands dominated by *Taxodium distichum* (cypress trees). Field surveys of Sumter County populations recorded 18 canopy species in Rocky Hammock and 12 in Tree Frog Hammock (van der Heiden and Johnson 2014, p. 19). The average canopy closure for both populations in Sumter County has been estimated to be more than 75 percent, where it is heavily shaded, maintaining high humidity to reduce chances of desiccation (van der Heiden and Johnson 2014, p. 9). Van der Heiden and Johnson (2014, p. 9) speculate this dense, closed canopy can serve as a shield for *T. p.* ssp. *floridanum* to inhibit the growth of other plant species on the same part of an inhabited rock area.

Although it is believed this subspecies needs high temperatures (although likely not above 100 degrees Fahrenheit (°F); Possley 2014c, pers. comm.) and humidity, along with dense

canopy, there is limited information on optimal temperature and humidity ranges or thresholds for *Trichomanes punctatum* ssp. *floridanum* growth and survival. In Miami-Dade County where *T. p.* ssp. *floridanum* currently is found, the mean maximum temperature from 2004 to 2013 was 29.0 degrees Celsius (°C) (84.3 °F), and the mean minimum temperature for the same time period was 21.4 °C (70.5 °F) (*http://www1.ncdc.noaa.gov*). In contrast, yearly mean temperatures were lower for Sumter County with 23.4 °C (74.2 °F) recorded as the mean maximum temperature from 2004 to 2013, and 11.8 °C (53.2 °F) as the mean minimum temperature for the same time period (National Oceanic and Atmospheric Administration 2014, *http://www1.ncdc.noaa.gov*).

Recent field studies have provided some data on microhabitat conditions (*e.g.,* temperature and humidity) for *Trichomanes punctatum* ssp. *floridanum* populations in Sumter County. Van der Heiden and Johnson (2014, pp. 8, 21) found average relative humidity to be around 95 percent in both Rocky Hammock and Tree Frog Hammock, while average ambient temperature in both hammocks was approximately 21 °C (70 °F) from September 2013 to November 2013. However, during cooler periods (19–21 °C; 66–70 °F) when humidity levels dropped slightly (by approximately 2 percent), observed plant health declined, demonstrating the fragile nature of this taxon and its dependence on high-humidity conditions (van der Heiden and Johnson 2014, pp. 9, 21). Collection of humidity and temperature data within these same areas was subsequently continued through March 2015. From September 2013 to March 2015, average monthly temperatures in both hammocks were very similar and ranged from approximately 12 °C (53 °F; in January 2014) to 25 °C (78 °F; in August 2014) (van der Heiden 2015a, p. 17). The average relative humidity in both hammocks was 94.8 percent throughout the study (van der Heiden 2015a, p. 5). This type of information needs to be further explored to determine habitat requirements (*i.e.,* thresholds for humidity and temperature) for both metapopulations of this taxon.

Historical Range/Distribution

The historical range of *Trichomanes punctatum* ssp. *floridanum* included southern (Miami-Dade County; see Table 1, below) and central (Sumter County; see Table 2, below) Florida.

Miami-Dade County

In Miami-Dade County, the historical range of this subspecies extended from its southern limit in Royal Palm Hammock (now part of ENP) northeast to Deering-Snapper Creek Hammock, which includes the modern-day site of Smather's Four Fillies Farm residential area, near R. Hardy Matheson Preserve (derived from Gann *et al.* 2002, pp. 552–554), a range of at least 45 square kilometers (km^2) (17 square miles (mi^2)). Plants in Miami-Dade were known to historically occur in at least 11 hammocks: Deering-Snapper Creek Hammock, Castellow Hammock, Silver Palm Hammock (also known as Caldwell), Ross Hammock, Royal Palm Hammock (in ENP), Hattie Bauer Hammock, Shields Hammock, Nixon-Lewis Hammock, Fuchs Hammock, Addison Hammock (in the Deering Estate at Cutler), and Matheson Hammock. In the 1980s, *T. p.* ssp. *floridanum* was also documented in Meissner Hammock and Cox Hammock (now part of the tourist attraction ''Monkey Jungle'') (Small 1918, p. 6; Small 1921, p. 211; Morton 1963 p. 90; Fairchild Tropical Garden 1968, p. 1; Nauman 1986 p. 182; Gann *et al.* 2002, pp. 552–554; Gann 2013, *http://regionalconservation.org/ircs/database/plants/IRCSpAccount.asp?TXCODE=Tricpuncflor&GENUS=Trichomanes&SPECIES=punctatum&Author=Poir.&INFRA1=subsp.&INFRA1NAME=* ssp. *floridanum&INFRA1AUTHOR=Wess.%20Boer&CommonNames=Florida%20bristle%20fern*).

J.K. Small documented *Trichomanes punctatum* ssp. *floridanum* in 1901 at Deering-Snapper Creek. J.K. Small made subsequent collections of the subspecies in and around Miami-Dade County including one in 1903, probably located in or near present-day Castellow Hammock (Gann 2014d, pers. comm.). A.A. Eaton collected additional specimens from Castellow Hammock in 1903. More recent observations of *T. p.* ssp. *floridanum* in Castellow Hammock include documentation by G. Gann and K. Bradley in the late 1990s (Bradley and Gann 1999), and subsequent observations by J. Possley and others (Gann *et al.* 2002, pp. 552–554; Possley *et al.* 2013, pp. 43–45). *T. p.* ssp. *floridanum* was collected by A.A. Eaton in Silver Palm Hammock in 1903 and reported again in 1980; however, the 1980 report was not confirmed. The fern was collected from Ross Hammock by J.K. Small and colleagues in 1906. Since then, part of this hammock has been damaged, and what remains is currently protected as a Miami-Dade County Environmentally Endangered Lands (EEL) Preserve. In 1909, the subspecies was collected in Royal Palm Hammock (also known as Paradise Key), now within ENP, and later reported by W.E. Stafford in 1917 (Stafford 1919, p. 386; Gann *et al.* 2002, pp. 552–554).

Several collections of *Trichomanes punctatum* ssp. *floridanum* were made in Miami-Dade in 1915, including: Hattie Bauer Hammock, Shields Hammock, Nixon-Lewis Hammock, Fuchs Hammock, and Deering-Snapper Creek Hammock. Hattie Bauer Hammock, now a Miami-Dade County conservation area, has numerous subsequent collection records by Small (1915, 1916), Correll (1936), and McFarlin (1934, 1940) as cited by Gann 2013, *http://regionalconservation.org/ircs/database/plants/IRCSpAccount.asp?TXCODE=Tricpuncflor&GENUS=Trichomanes&SPECIES=punctatum&Author=Poir.&INFRA1=subsp.&INFRA1NAME=* ssp. *floridanum&INFRA1AUTHOR=Wess.%20Boer&CommonNames=Florida%20bristle%20fern*. The last known collection in Hattie Bauer Hammock was recorded in 1960, by T. Darling, Jr. It was subsequently reported as extirpated by Gann *et al.* (2002, pp. 552–554), until it was rediscovered in this hammock in 2011 by Possley (Possley *et al.* 2013, pp. 1–2). Shields Hammock was destroyed prior to 1991 (Cressler 1991, Handwritten Notes). Fuchs Hammock is now part of the Fuchs Hammock Preserve (Gann *et al.* 2002, pp. 552–554), and the subspecies was vouchered (pressed plant samples taken for future reference) again in 1954, by L. J. Brass; in 1959, by T. Darling Jr.; and in 1969, by F.C. Craighead (The Institute for Regional Conservation, Herbarium Specimens, Floristic Inventory of South Florida Database, September 12, 2007). *T. p.* ssp. *floridanum* was also vouchered in Fuchs Hammock in 1993, following Hurricane Andrew (1992) by A. Cressler (Cressler 12 February 1993, handwritten notes), and it has been more recently observed by Possley and others over the years (Gann *et al.* 2002, pp. 552–554; Possley *et al.* 2013, pp. 43–45). *T. p.* ssp. *floridanum* was observed by G. N. Avery in 1983 in Meissner Hammock (immediately adjacent to Fuchs Hammock) and was since vouchered by K. Bradley in 1997 and 2002 and also observed by others (Gann *et al.* 2002, pp. 552–554; Possley *et al.* 2013, pp. 43–45).

In 1916, J.K. Small reported *Trichomanes punctatum* ssp. *floridanum* in Addison Hammock, now located within Deering Estate at Cutler,

currently Miami-Dade County Park; however, these reports were never vouchered (J.K. Small 1916; Gann *et al.* 2002, pp. 552–554). Surveys in recent years have yet to find any populations of *T. p.* ssp. *floridanum* in Deering Estate at Cutler, Matheson Hammock, or Silver Palm Hammock (Possley 2013i, pers. comm.). The subspecies was last reported from Cox Hammock in 1989, by A. Cressler, where plants were observed in a sinkhole in the tourist attraction ''Monkey Jungle'' (Cressler 1991, handwritten notes); it is not known if these plants still exist. Cox Hammock is located about 1.6 km (1.0 mi) northeast of Castellow Hammock Park. Additional hammocks existing today where the taxon formerly occurred include Ross and Royal Palm Hammock (in ENP) and Deering-Snapper Creek Hammock. A section of Deering-Snapper Creek Hammock was destroyed in 1912–1913, when the Snapper Creek Canal was constructed. Dredging of this canal drastically altered the water table in the area, depleting the freshwater springs, while a large spoil berm from excavation of the canal destroyed habitat (Metro-Dade County Park and Recreation Department 1991, p. 10). Other hammocks in the historical range that are presumed destroyed include Nixon Lewis Hammock, which is partially destroyed (Gann 2013, *http://regionalconservation.org/ircs/database/plants/IRCSpAccount.asp?TXCODE=Tricpuncflor&GENUS=Trichomanes&SPECIES=punctatum&Author=Poir.&INFRA1=subsp.&INFRA1NAME=*ssp. *floridanum&INFRA1AUTHOR=Wess.%20Boer&CommonNames=Florida%20bristle%20fern*) and a station presumably near the Matheson Hammock Park vouchered by G. Peterson in 1940.

TABLE 1—SUMMARY OF HISTORICAL REPORTS AND CURRENT POPULATION AND HAMMOCK STATUS OF EACH TRICHOMANES PUNCTATUM SSP. FLORIDANUM LOCATION IN MIAMI-DADE COUNTY

[Gann *et al.* 2002; The Institute for Regional Conservation, Herbarium Specimens, Floristic Inventory of South Florida Database, September 12, 2007; Florida Natural Areas Inventory element occurrences 9/12/2013; Possley 2013c, i–j, 2014a–c; Possley 2013, 2014a pers. comm.; Gann 2013, pers. comm.; van der Heiden 2013e, pers. comm.; Gann 2014a–f, pers. comm.; Gann *et al.* 2001–2014). Population locations (hammocks) are numbered in chronological order by *T. p.* ssp. *floridanum* initial discovery date.]

No.	Population location	Year(s) of initial report(s)	Observer	Number of specimens collected	Current population status	Current hammock status
1	Deering-Snapper Creek Hammock-Smather's Four Fillies Farm (R. Hardy Matheson Preserve).	1901	J.K. Small, G.V. Nash.	3	Extirpated	Protected Area, Partially Destroyed.
		1915	J.K. Small, C.A. Mosier.	1		
2	Castellow Hammock	1903	J.K. Small, J.J. Carter.	2	Extant	Protected Area.
		1903	A.A. Eaton	4		
3	Silver Palm Hammock	1903	A.A. Eaton	1	Extirpated	Protected Area.
4	Ross Hammock	1906	J.K. Small, J.J. Carter.	2	Extirpated	Protected Area, Partially Destroyed.
5	Royal Palm Hammock (ENP); aka Paradise Key.	1909	J.K. Small, J.J. Carter.	2	Extirpated	Protected Area.
		1917	W.E. Stafford	None		
		1915	J.K. Small, C.A. Mosier.	2		
		1915	J.K. Small	3		
		1915	J.K. Small, C.A. Mosier, G.K. Small.	5		
6	Hattie Bauer Hammock (Orchid Jungle).	1916	J.K. Small	1	Extant	Protected Area.
		1934	J.B. McFarlin	2		
		1936	D.S. Correll	2		
		1940	J.B. McFarlin	1		
		1960	T. Darling Jr.	1		
7	Shields Hammock	1915	J.K. Small, C.A. Mosier, G.K. Small.	1	Extirpated	Destroyed.
8	Nixon-Lewis Hammock	1915	J.K. Small, C.A. Mosier.	1	Extirpated	Protected Area, Partially Destroyed.
9	Fuchs Hammock (Sykes Hammock).	1915	J.K. Small, C.A. Mosier.	1	Extant	Protected Area.
		1954	L.J. Brass	1		
		1959	T. Darling Jr.	1		
		1969	A.F. Clewell, F.C. Craighead.	1		
10	Deering Estate at Cutler (Addison Hammock).	1916	J.K. Small	None	Unconfirmed [1].	Protected Area.
11	Matheson Hammock Park	1940	G. Peterson	2	Unconfirmed [2].	Protected Area.
12	Meissner Hammock	1983	G.N. Avery	None	Extant	Protected Area.
13	Monkey Jungle (Cox Hammock)	1989	A. Cressler	None	Unknown [3]	Privately Owned, Partially Destroyed.

[1] Initial report is questionable.
[2] Precise location of sample and associated report is questionable.
[3] It is not known whether the subspecies still occurs here.

Sumter County

In Sumter County, early collections and herbarium label data for *Trichomanes punctatum* ssp. *floridanum* are not accurate or precise in their location descriptions. The first documented collection in 1936, by R.P. St. John, simply states that *T. p.* ssp. *floridanum* was found 11.26 km (7.0 mi) east of Floral City. This collection is close to the extant populations in Sumter (in Rocky Hammock within Withlacoochee State Forest), which is east-southeast of Floral City, and is thought to be the location where *T. p.* ssp. *floridanum* existed on private land until it was cleared for cattle sometime after 1983. A specimen found 3 years later, by J.B. McFarlin in 1939, was originally thought to be *T. sphenoides;* the herbarium label data described this collection as ''South of Floral City, Florida. *T. sphenoides* is a misapplied synonym for *T. p.* ssp. *floridanum* according to FNAI. This is the only known station in the United States.'' It is believed that these label data may have been incorrectly recorded, indicating a direction of south from Floral City, when it should have been east. In all likelihood, McFarlin's collection probably referred to the population in the Wahoo area, where St. John previously collected because he states his collection was from the same locality where it was originally found in 1936. The specimen found by McFarlin eventually led to reports of the taxon in Citrus County (Wherry 1964, p. 232; Nelson 2000, p. 81); however, this was never confirmed beyond the initial report. Systematic surveys have not been conducted in Citrus County; therefore, the only documented occurrences of *T. p.* ssp. *floridanum* in this region of Florida have been in Sumter County, just north of Wahoo and east of the Withlacoochee River.

Several years later, in 1954, R. Garrett collected *Trichomanes punctatum* ssp. *floridanum* southeast of Floral City. It is thought to be the same location where St. John and McFarlin made their previous collections; however, label data were again minimal and the exact location is uncertain. In 1959, T. Darling Jr. found this subspecies near Floral City, 11.26 km (7.0 mi) south near a location called Battle Slough. This record has never been confirmed because it is located on private property. Another specimen was found in 1963, by O. Lakela in an area known as Indian Field Ledges. Lakela recorded his location and collection to be west of Withlacoochee River off State Road #48. This information is believed to be incorrect based on a site visit by Darling (1961, p. 7), stating that the Indian Field Ledges is north of Wahoo, a locality east of the Withlacoochee River. *T. p.* ssp. *floridanum* was not found again in Sumter County until 1983, when SW. Leonard made a collection on private property known as Rocky Point, north of Wahoo. This is presumed to be the same location where St. John, McFarlin, and Garrett collected their specimens. This population is now extirpated.

TABLE 2—SUMMARY OF PRESUMED EXTIRPATED, EXTIRPATED, AND UNCONFIRMED TRICHOMANES PUNCTATUM SSP. FLORIDANUM POPULATIONS IN SUMTER COUNTY

[Gann *et al.* 2002; The Institute for Regional Conservation, Herbarium Specimens, Floristic Inventory of South Florida Database, September 12, 2007; Florida Natural Areas Inventory Element Occurrences 9/12/2013; van der Heiden 2013d, 2014a, pers. comm.; Gann *et al.* 2001–2014). Population locations (hammocks) are numbered in chronological order by *T. p.* ssp. *floridanum* initial discovery date.]

No.	Population location	Year of initial report	Observer	Number of specimens collected	Current population status	Current hammock status
1	11.26 km (7 mi) East of Floral City [1].	1936	R.P. St. John	1	Presumed Extirpated	Privately Owned, Presumed Destroyed.
2	Floral City Area [1]	1939	J.B. McFarlin	1	Unconfirmed [2]	Unknown.
3	Southeast of Floral City [1].	1954	R. Garret	1	Presumed Extirpated	Privately Owned, Presumed Destroyed.
4	Floral City, 11.26 km (7 mi) south (Battle Slough) [1].	1959	T. Darling Jr.	1	Unconfirmed [2]	Privately Owned, Unknown.
5	East of Withlacoochee River, off State Road #48 (Indian Field Ledges) [1].	1963	O. Lakela	1	Extirpated	Protected Area.
6	Rocky Point, (north of Wahoo).	1983	S.W. Leonard	1	Extirpated	Privately Owned, Destroyed.

[1] Sumter County collections and herbarium label data for *Trichomanes punctatum* ssp. *floridanum* are inaccurate in location descriptions.
[2] Initial report is questionable.

Current Range

The extant metapopulation of *Trichomanes punctatum* ssp. *floridanum* in Miami-Dade County is approximately 400 km (249 mi) south of the extant metapopulation in Sumter County. Both metapopulations of *T. p.* ssp. *floridanum* are located entirely on public lands (see Table 3, below). In general, *Trichomanes punctatum* ssp. *floridanum* occurs in small areas within each hammock.

TABLE 3—SUMMARY OF KNOWN EXTANT OCCURRENCES OF TRICHOMANES PUNCTATUM SSP. FLORIDANUM.

[Possley 2013, pp. 1–2; Dozier 2014, Pers. Comm.; van der Heiden and Johnson 2014, pp. 5, 26]

Metapopulation location (county)	Population location	Land ownership	Number of subpopulations	Status
Miami-Dade	Meissner Hammock	State	2	Extant.
Miami-Dade	Fuchs Hammock Preserve.	County	4	Extant.
Miami-Dade	Castellow Hammock Park	County	3	Extant.

TABLE 3—SUMMARY OF KNOWN EXTANT OCCURRENCES OF TRICHOMANES PUNCTATUM SSP. FLORIDANUM.—Continued

[Possley 2013, pp. 1–2; Dozier 2014, Pers. Comm.; van der Heiden and Johnson 2014, pp. 5, 26]

Metapopulation location (county)	Population location	Land ownership	Number of subpopulations	Status
Miami-Dade	Hattie Bauer Hammock	County	1	Extant.
Sumter	Rocky Hammock, Withlacoochee State Forest's Jumper Creek Tract.	State	1	Extant.
Sumter	Tree Frog Hammock, Withlacoochee State Forest's Jumper Creek Tract.	State	1	Extant.

Miami-Dade County

The four populations that constitute the Miami-Dade County metapopulation are located in urban preserves managed by the County's EEL Program and the Natural Areas Management (NAM) Division of Miami-Dade County's Parks, Recreation and Open Spaces (PROS) Department (see *Factor A,* Conservation Efforts to Reduce Habitat Destruction, Modification, or Curtailment of Its Range, below). These EEL Preserves include: Castellow Hammock Park (39.5 hectares (ha)) (97.6 acres (ac)), Hattie Bauer Hammock (5.7 ha (14.0 ac)), Fuchs Hammock Preserve (15.7 ha (38.8 ac)), and Meissner Hammock (4.1 ha (10.1 ac)). Three of these preserves (76 percent of the land area) are owned by the County; the fourth, Meissner Hammock (24 percent), is owned by the State and leased to the County (Dozier 2014, pers. comm.). The population in Fuchs Hammock Preserve includes a new subpopulation that was found in July 2013 (Possley *et al.* 2013, pp. 43–45). Fuchs and Meissner Hammocks are immediately adjacent to each other, and Castellow Hammock Park is 10.5 km (6.5 mi) to the northeast. Although the fern was thought to be extirpated from Hattie Bauer Hammock in 1960, another population was re-discovered there in 2011 (8 ha (20 ac)) (Possley *et al.* 2013, pp. 43–45). Hattie Bauer Hammock is 4.02 km (2.5 mi) south of Castellow Hammock and approximately 8.05 km (5 mi) northeast of Fuchs and Meissner Hammocks.

No comprehensive survey has been conducted in rockland hammocks in Miami-Dade County where suitable *Trichomanes punctatum* ssp. *floridanum* habitat has been identified. Although these areas have been extensively explored by numerous botanists and plant enthusiasts, including sites where the subspecies was formerly found, due to the cryptic nature of this plant it may have been overlooked and new occurrences may yet be discovered (Possley 2013e, pers. comm.; van der Heiden 2013c, pers. comm.). Surveys conducted in the late 1990s, and as late as 2010, did not find *T. p.* ssp. *floridanum* in Silver Palm Hammock (Gann *et al.* 2002, pp. 552–554; Possley 2013f, pers. comm.). A sporophyte sample was collected in Nixon-Lewis Hammock by Small and Mosier in 1915; however, due to extensive disturbance of this hammock, subsequent surveys conducted in 2006, by IRC, could not find the taxon (Bradley and Gann 2005, unpublished data). Over the years, IRC has completed systematic surveys in ENP in Royal Palm Hammock and other hammocks on Long Pine Key (also in ENP); however, sporophytes have not been found there (Gann *et al.* 2009; pp. 1–66). In 2003, based on historical records, staff from ENP and IRC surveyed Royal Palm Hammock for *T. p.* ssp. *floridanum* without success; subsequent surveys conducted in rockland hammocks throughout Long Pine Key for other rare plants also were not successful in finding *T. p.* ssp. *floridanum* (Sadle 2013, pers. comm.).

Sumter County

The Sumter County metapopulation consists of two extant populations of *Trichomanes punctatum* ssp. *floridanum* that have been reported north of Wahoo, in the Withlacoochee State Forest's Jumper Creek Tract; these populations are located in Rocky Hammock (located on 44 boulders) and Tree Frog Hammock (located on 4 boulders) (van der Heiden and Johnson 2014, p. 7). The population in Tree Frog Hammock was discovered as recently as April 2013, during regional surveys (van der Heiden 2013c, pers. comm.). Two additional populations were known from private land just south of the State Forest; however, these populations were subsequently extirpated due to the clearing of land for agriculture by the property owner (van der Heiden 2013c, pers. comm.).

Recent GIS analyses show the soil type associated with known extant occurrences of *Trichomanes punctatum* ssp. *floridanum* in the northern metapopulation to be Okeelanta Muck, Frequently Flooded; this soil covers approximately 1,478 ha (3,652 ac) in Sumter County. However, not all of these areas have been systematically surveyed. Surveys were conducted of a boulder field within Withlacoochee State Forest's Jumper Creek Tract (called the Indian Field Ledges) in August 2007 and April 2013 and were unsuccessful (van der Heiden 2013c, pers. comm.). The discovery of new populations may be possible in the area. Indeed, the population of this subspecies in Jumper Creek's Tree Frog Hammock is a new population that was discovered in April 2013, during additional hammock surveys within Withlacoochee State Forest and the surrounding area (van der Heiden 2013c, pers. comm.). However, IRC recently conducted extensive surveys through approximately 1,904 ha (4,705 ac) in and around the Jumper Creek Tract, and no additional populations of *T. p.* ssp. *floridanum* were located (van der Heiden 2015a, p. 9).

It is also possible that other subpopulations may exist in Sumter County. Indian Ledges, a hammock located on private land near Jumper Creek (not to be confused with Indian Field Ledges), just north of Wahoo, is believed to be suitable for *Trichomanes punctatum* ssp. *floridanum,* including a dense canopy and appropriate soil (Deangelis 2014a–b, pers. comm.). Over the years, many rare ferns and orchids have been observed in the Indian Ledges Hammock; unfortunately, this hammock was heavily damaged by hurricanes in 2004 (Deangelis 2014a, pers. comm.).

Portions of the Southwest Florida Water Management District (SWFWMD) property within the Green Swamp, more than 40.23 km (25 miles) southeast of the Jumper Creek Tract in Withlacoochee State Forest, may also contain appropriate habitat for *Trichomanes punctatum* ssp. *floridanum* based on existing habitat features such as dense canopy, high humidity microclimates, mesic hammock, and limestone outcroppings (Elliott 2014, pers. comm.). The SWFWMD property within the Green Swamp is the only area where land alteration has not occurred in Sumter

County (11,343 ha (28,030 ac)). Portions of Green Swamp owned by the SWFWMD also extend into three other counties: Lake, Polk, and Pasco. Future survey efforts, coordinating with local land owners and conservation organizations in this area, may prove successful in finding new populations of *T. p.* ssp. *floridanum.*

Population Estimates and Status

Trichomanes punctatum ssp. *floridanum* grows in dense mats and is rhizomatous (a horizontal stem that often sends out root-like structures from its nodes). Fronds are scattered in matted clusters along the stems, making it difficult to count clusters, or groups of plants in the same location, and nearly impossible to accurately count individual plants (Nelson 2000, p. 79). This issue has been encountered in other *Trichomanes* species, such as *Trichomanes boschianum* (Appalachian bristle fern) (Hill 2003, p. 11). As such, populations are typically described by the number of clusters (*i.e.,* groups of plants in various sinkholes, on tree roots, on boulders) and the total area covered by the cluster.

Miami-Dade County

In Miami-Dade County, there are four populations of the fern with a total of 10 subpopulations (*i.e.,* nine solution holes and one rocky outcropping on a tree root). Overall, this taxon occurs in small areas (*i.e.,* less than 0.5 ha (1.2 ac)) at each site, with 88 percent of the total area in three subpopulations in Castellow Hammock. Recent surveys (see Table 4, below) in Miami-Dade by Fairchild (Possley 2013, pp. 1–2) found the fern covering a total area of approximately 9.92 m^2 (106.56 ft^2) (Possley 2013, pp. 1–2).

TABLE 4—AREA COVERED BY EACH OF 10 KNOWN SUBPOPULATIONS OF TRICHOMANES PUNCTATUM SSP. FLORIDANUM IN MIAMI-DADE COUNTY, OCTOBER AND NOVEMBER 2013

[(Possley 2013, pp. 1–2) and in Sumter County, December 2013 (van der Heiden and Johnson 2014, pp. 7, 14)]

Metapopulation	Population	Subpopulation	Estimated area covered (m^2)	Number of clusters
Miami-Dade	Hattie Bauer Hammock	Hole (no tag)	0.078	2–10
Miami-Dade	Fuchs Hammock	Hole 532	0.017	2–10
Miami-Dade	Fuchs Hammock	Hole 533	0.038	2–10
Miami-Dade	Fuchs Hammock	Hole 1431	0.128	2–10
Miami-Dade	Fuchs Hammock	Root 1430	0.047	1
Miami-Dade	Meissner Hammock	Hole 2319	0.145	2–10
Miami-Dade	Meissner Hammock	Hole 3337	0.713	2–10
Miami-Dade	Castellow Hammock	Hole 2332	4.688	11–100
Miami-Dade	Castellow Hammock	Hole 2331	3.925	11–100
Miami-Dade	Castellow Hammock	Hole 944	0.141	2–10
Miami-Dade County Total			9.920	
Sumter	Rocky Hammock	N/A	4.355	44
Sumter	Tree Frog Hammock	N/A	0.132	4
Sumter County Total			4.487	
TOTAL Area Covered			14.407	

The largest known population of *Trichomanes punctatum* ssp. *floridanum* in Miami-Dade County is located at Castellow Hammock (Possley *et al.* 2013, p. 43), where it occurs in three of the larger subpopulations. In October of 2011, field surveys revealed extensive desiccation of this population after intensive nonnative vegetation removal (Possley 2013g, pers. comm.); however, by November 2013, these plants had recovered, and the total area covered by all clusters (*i.e.,* two or more plants next to each other) was estimated at 8.754 m^2 (94.227 ft^2). Meissner Hammock has two subpopulations; the clusters in this hammock cover an area of 0.858 m^2 (9.235 ft^2) and are considered healthy, with no signs of desiccation (Possley *et al.* 2013, pp. 43–45). There is one subpopulation in Hattie Bauer Hammock covering approximately 0.78 m^2 (8.4 ft^2), and three subpopulations of *T. p.* ssp. *floridanum* at Fuchs Hammock, with an additional one that was discovered in July 2013, totaling an area of 0.230 m^2 (2.476 ft^2) (Possley 2013, pp. 1–2; Possley *et al.* 2013, pp. 43–45).

Sumter County

In Sumter County, the Rocky Hammock subpopulation contains 44 clusters, while the newly discovered subpopulation (Tree Frog Hammock) is much smaller with only 4 clusters observed (van der Heiden and Johnson 2014, p. 7). Average cluster size for Rocky Hammock is estimated at 4.355 m^2 (46.877 ft^2) and 0.132 m^2 (1.421 ft^2) for Tree Frog Hammock.

Summary of Comments and Recommendations

In the proposed rule published on October 9, 2014, we requested that all interested parties submit written comments on the proposal by December 8, 2014. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the *Miami Herald.* We did not receive any requests for a public hearing. All substantive information provided during comment periods has either been incorporated directly into this final determination or addressed below.

Peer Reviewer Comments

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from five knowledgeable individuals with scientific expertise that included familiarity with *Trichomanes punctatum* ssp. *floridanum* and its habitat, biological needs, and threats. We received responses from all five of the peer reviewers.

We reviewed all comments received from the peer reviewers for substantive issues and new information regarding the listing of *Trichomanes punctatum* ssp. *floridanum.* The peer reviewers

generally concurred with our methods and conclusions and provided additional information, clarifications, and suggestions to improve the final rule.

(1) *Comment:* One peer reviewer noted that he was unaware of any documentation that *Trichomanes punctatum ssp. floridanum* formed gemmae, as stated in the proposed rule. He commented that the works cited were in reference to other species of *Trichomanes* and Hymenophyllaceae, in general. Also, the peer reviewer pointed out a reference (Hughes 2014) in the proposal that the two metapopulations have no observable genetic differences. The peer reviewer noted that, in the Life History section, the proposal states many traits of the subspecies, such as ''genetic variation,'' are unknown, which contradicts the data from Hughes.

Our Response: We appreciate this information and have corrected and updated the rule as follows: (1) We removed the phrase that stated *Trichomanes punctatum* ssp. *floridanum* produces gemmae; and (2) the term genetic variation has been removed from a sentence discussing specific reproductive and growth requirements that are unknown for the subspecies, as it conflicted with previous information within the proposed rule.

(2) *Comment:* Two peer reviewers noted that, under the Species Description section, the proposed rule incorrectly compares physical characteristics of *Trichomanes punctatum* ssp. *floridanum* with ''other bryophytes.'' The phrase should only read ''bryophytes,'' not ''other bryophytes.''

Our Response: The word ''other'' has been deleted from the text within the Species Description section because *Trichomanes punctatum* ssp. *floridanum* is a fern and not a bryophyte.

(3) *Comment:* One peer reviewer noted, under the Life History section, that although it is true that the sporophyte form is recognizable and spores are invisible to the naked eye, that sentence does not align with the previous thought in the paragraph that there are two stages, a sporophyte and a gametophyte stage.

Our Response: We have restructured the sentence and noted that the gametophyte form is cryptic and invisible to the naked eye.

(4) *Comment:* One peer reviewer questioned why the two extant populations in Sumter County (that are listed in Table 3) are not listed in Table 2.

Our Response: Table 2 is a composite of populations that are presumed extirpated, extirpated, or unconfirmed (where the report was questionable). Table 3 is a summary of the known extant occurrences of *Trichomanes punctatum* ssp. *floridanum.* The title of Table 2 has been modified for clarity in the final rule.

(5) *Comment:* One peer reviewer noted that numerous efforts to cultivate *Trichomanes punctatum* ssp. *floridanum* ex-situ for possible future reintroduction have only been partially successful and provided information on ex-situ reproduction efforts. The reviewer noted that, given the problems with ex-situ reproduction, it is critical the extant wild populations be protected to the greatest extent possible.

Our Response: We have added text explaining propagation challenges and the importance of protecting extant populations in the wild.

Comments From the State

We received one comment from the Florida Natural Areas Inventory regarding a discrepancy between Table 2 and Table 3. That comment is addressed above under *Peer Reviewer Comments* in our response to Comment (4).

Public Comments

We received eight public comments, three of which were from the same individual, directly addressing the proposed listing. Most commenters suggested technical corrections pertaining to the Background and Summary of Factors Affecting the Species sections of the proposed rule, scientific names, species biology, and citations. Some commenters suggested we include additional information and correct minor errors. We did not receive any requests for a public hearing. The comments are appreciated, and most have been incorporated into the appropriate sections of the final rule.

(6) *Comment:* Two commenters noted an inaccurate statement in the proposed listing rule that states ''The life cycle of ferns is not well known'' (Woodmansee, 2013, pers. comm.). One of these commenters also noted that the second part of the same sentence mentions the life history of *Trichomanes punctatum* ssp. *floridanum* and then includes other members of the genus, which is inconsistent. One of these commenters also noted that the next sentence in this paragraph is incorrect and provided edits to describe the gametophyte form and the sporophyte form.

Our Response: We revised the language regarding the life cycle of the *Trichomanes punctatum* ssp. *floridanum* in the Life History section from not well known to not commonly understood, as suggested by one of the commenters. The second part of the sentence, which includes information on other members of the genus *Trichomanes,* is unnecessary and has been removed. We have also revised the last sentence in that paragraph to best describe the gametophyte and sporophyte forms.

(7) *Comment:* One commenter noted that *Trichomanes punctatum* ssp. *floridanum* bristles do not protrude from the sporangia, but rather one bristle protrudes from each soral involucre, which is the tube that also houses the sporangia.

Response: We have corrected this information in the Background section of this final rule.

(8) *Comment:* Two commenters noted that the four populations of *Trichomanes punctatum* ssp. *floridanum* within the urban preserves of Miami-Dade County are cooperatively managed by Miami-Dade County's EEL Program as well as the NAM Division of Miami-Dade County. One of these commenters suggested specific edits to sections about the EEL Program and the EEL Covenant Program. Both commenters provided additional information and clarification about the impacts of Hurricane Andrew on Hattie Bauer Hammock and the recovery of the hammock.

Our Response: We agree that the NAM Division of the Miami-Dade County PROS Department and the EEL Program are significant local partners in the conservation of *Trichomanes punctatum* ssp. *floridanum.* As such, their efforts have been acknowledged in the final rule. We have incorporated suggested edits about the EEL Program, the EEL Covenant Program, and Hattie Bauer Hammock.

(9) *Comment:* A commenter provided information clarifying the historical range of the subspecies. The text in the proposed rule reads ''In Miami-Dade, the range of this subspecies extended from Royal Palm Hammock (now in Everglades National Park (ENP)) at its southern limit, northeast to Snapper Creek Hammock, which is located in R. Hardy Matheson Preserve.'' The reviewer noted that portions of historical Snapper Creek are now developed and are a residential community called Smather's Four Fillies Farm, owned by the University of Miami. Smather's Four Fillies Farm is located in the northwestern 6.5 acres of what was historical Snapper Creek Hammock.

Our Response: We modified the historical range of the subspecies to

include the additional description of the Smather's Four Fillies Farm residential development within the Background section of the final rule.

(10) *Comment:* One commenter noted the proposed listing rule states, in the Species Description section, that the subspecies does not have roots and then later states, in the Life History section, that the subspecies sends out roots and shoots. The commenter requested clarification on this issue.

Response: The first paragraph in the Species Description section has been modified to state that *Trichomanes punctatum* ssp. *floridanum* is mat-forming, has root-like structures, and contains trichomes. The Life History section has been modified to reflect that *T. punctatum* ssp. *floridanum* is rhizomatous (having a horizontal stem and scale leaves, bearing aerial shoots from its tips, and producing root-like structures from its undersurface).

(11) *Comment:* One commenter noted that the proposed listing states the subspecies needs high temperatures and humidity for optimum growth. The commenter remarked that this information is vague and temperatures above 100 °F may be harmful to the subspecies.

Response: We have modified our statements regarding suitable temperatures for *Trichomanes punctatum* ssp. *floridanum.* In addition, we have included new humidity and temperature data recorded in two Sumter County hammocks where *Trichomanes punctatum* ssp. *floridanum* is found.

(12) *Comment:* One commenter reported that Ross Hammock continues to exist and was not destroyed by a hurricane in 1935. The same commenter reported the canopy of Hattie Bauer has also recovered after Hurricane Andrew.

Response: We have corrected these statements in the Background section of this final rule.

(13) *Comment:* One commenter noted that we cannot definitively state that *Trichomanes punctatum* ssp. *floridanum* is extirpated outside of the four known populations in Miami-Dade County. It is possible that gametophytes or undiscovered sporophytes exist outside the known extant range, particularly in the ''Monkey Jungle'' (Cox Hammock) area.

Response: We have revised this statement in the Summary of Factors Affecting the Species section in this final rule.

Summary of Changes From the Proposed Rule

Based on the information we received from peer reviewers and public commenters, we made the changes listed below. Additional minor corrections and edits were made in the text of the rule. We also incorporated new temperature, humidity, and survey information from a recent study conducted by the IRC in Sumter County and added information about the Clean Water Act (CWA; 33 U.S.C. 1251 *et seq.*) under *Factor D. The Inadequacy of Existing Regulatory Mechanisms.*

Background Section

(1) We modified the information in the rule regarding the relationship between the bristles and the sporangia of *Trichomanes punctatum* ssp. *floridanum* and their functions.

(2) We clarified the sentence regarding the visibility of the sporophyte and the gametophyte of *Trichomanes punctatum* ssp. *floridanum.*

(3) We clarified information regarding the historical extent of the subspecies to include the addition of the current-day residential community, Smather's Four Fillies Farm, to the description of the Snapper Creek Hammock historical area.

(4) We added the NAM Division of Miami-Dade County's PROS Department as cooperative managers of EEL's preserves and clarified the difference between the EEL Program and the EEL Covenant Program.

(5) We clarified that *Trichomanes punctatum* ssp. *floridanum* does not have roots and that the subspecies is rhizomatous.

(6) We added information regarding challenges to propagation and the importance of protecting extant populations in the wild.

Summary of Factors Affecting the Species Section

(1) We revised the information about the impacts of the hurricane of 1935 on the habitat at Ross Hammock and the impacts of Hurricane Andrew on Hattie Bauer Hammock and *Trichomanes punctatum* ssp. *floridanum.* We also included additional information about the recovery and restoration of that habitat in Hattie Bauer Hammock after Hurricane Andrew.

(2) We added information regarding the potential existence of *Trichomanes punctatum* ssp. *floridanum* in Miami-Dade County outside of the four known populations, particularly in ''Monkey Jungle'' (Cox Hammock).

Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR part 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, we may list a species based on one or more of the following 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. Listing actions may be warranted based on any of the above threat factors, singly or in combination.

Information pertaining to *Trichomanes punctatum* ssp. *floridanum* in relation to the five factors provided in section 4(a)(1) of the Act is discussed below. In considering what factors might constitute threats, we must look beyond the mere exposure of the species to the factor to determine whether the species responds to the factor in a way that causes actual impacts to the species. If there is exposure to a factor, but no response, or only a positive response, that factor is not a threat. If there is exposure and a negative response, the factor may be a threat, meaning that it may drive or contribute to the risk of extinction of the species such that the species warrants listing as an endangered or threatened species as those terms are defined by the Act. This does not necessarily require empirical proof of a threat. The combination of exposure and some corroborating evidence of how the species is likely impacted could suffice. The mere identification of factors that could impact a species negatively is not sufficient to compel a finding that listing is appropriate; we require evidence that these factors are operative threats that act on the species to the point that the species meets the definition of an endangered or threatened species under the Act.

Factor A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Habitat modification and destruction, caused by human population growth and development, agricultural conversion, regional drainage, and canal installation, have impacted the range and abundance of *Trichomanes punctatum* ssp. *floridanum.* Secondary effects from hydrology and canopy changes have resulted in changes in humidity, temperature, and existing water levels; loss of natural vegetation; and habitat fragmentation. The modification and destruction of habitat where *T.p.* ssp. *floridanum* was once

found has been extreme in most areas of Miami-Dade County; while they have been less dramatic in Sumter County, clearing of land for agricultural conversion and historical logging has resulted in very few areas where the habitat has not been modified. These threats are discussed in detail below.

Human Population Growth, Development, and Agricultural Conversion

Miami-Dade County—Rockland hammocks are considered imperiled both locally and globally, with a limited distribution and an FNAI ranking of G2 (imperiled globally because of rarity (6 to 20 occurrences or fewer than 3,000 individuals) or because of vulnerability to extinction due to some natural or manmade factor)/S2 (either very rare and local in Florida (21–100 occurrences or fewer than 10,000 individuals) or found locally in a restricted range or vulnerable to extinction from other factors)) (FNAI 2010, pp. 24–26, FNAI 2013). The tremendous development and agricultural pressures in the rapidly urbanizing rockland hammock areas in south Florida have resulted in significant reductions of this habitat type, which is also susceptible to fire, frost, canopy disruption, and groundwater reduction (FNAI 2010, pp. 24–26).

Extensive land clearing for human population growth and development in Miami-Dade County has altered, degraded, or destroyed hundreds of acres of this once abundant rockland hammock ecosystem. Rockland hammocks once occurred across the Miami-Rock Ridge, usually in association with pine rocklands, or the edges of marl prairies (areas of thin, calcitic soil that has accumulated over limestone bedrock) or tidal swamps (Service 1999, p. 122). Destruction of rocklands, including rockland hammocks, has occurred since the beginning of the 1900s. Historical impacts to the environment were addressed by Small (1938, p. 50), who called attention to the demise of *Trichomanes punctatum* ssp. *floridanum* from habitat destruction, and Phillips (1940, p. 167) who expressed his concern for south Florida hammocks due to the obvious and vast amount of destruction of land in the region. Early settlers in Florida cleared hammocks for residential development, farming, and range for livestock, while industrial logging also occurred in the region (Snyder *et al.* 1990, pp. 271–272). Consistent burning of pinelands in Miami-Dade also encroached upon adjacent hammocks, as in the case of Castellow Hammock (Phillips 1940, p. 167). Habitat impacts were further exacerbated by natural stochastic events, such as the hurricane in 1935 that impacted Ross Hammock (Phillips 1940, p. 167).

Public conservation lands play a significant role in the recovery of rockland hammock habitat where future development and habitat alteration are less likely than on private lands. However, these lands could be sold off in the future and become more likely to be developed or altered in a way that negatively impacts the subspecies and its habitat. Additionally, rockland hammock may be found on private lands; however, the fate of this existing habitat is unknown, as it is dependent upon actions of individual property owners (see discussion under *Factor D*). Therefore, we find that habitat loss due to population growth, development, and agricultural conversion poses a threat to this subspecies in Miami-Dade County.

Sumter County—In Sumter County, human population growth and development has occurred, but to a lesser degree than in Miami-Dade County. However, Sumter County has a long history of agriculture dating back to the early 1860s. Generally speaking, all land that was feasible for agriculture was cleared at some point. In particular, mesic hammocks where *Trichomanes punctatum* ssp. *floridanum* occurs have experienced disturbances from human activities such as logging, understory clearing, cattle grazing, and introduction of feral hogs. These natural mesic canopies and soils have largely been destroyed due to their desirable locations for living, camping, and recreating. The global and State rank for mesic hammock habitat (G3/S3) signifies it is considered to have a restricted range or be vulnerable to extinction from other factors (FNAI 2010, p. 22).

Concerns exist regarding future population growth and development in those communities remaining in Sumter County and on lands where urbanization and agriculture have not yet been established. According to the Sumter County Comprehensive Plan, a growth management paradigm has been developed that focuses public resources on urban areas to protect existing undeveloped land for agricultural use (Sumter County 2012, Data and Analysis section). Currently, the threat with greatest impact to *T.p.* ssp. *floridanum* habitat in Sumter County is the potential for agricultural and residential clearing of mesic hammocks on small, fragmented private parcels.

Privately owned land in the area around Wahoo where *Trichomanes punctatum* ssp. *floridanum* is found has been zoned as ''agricultural'' on the Sumter County Future Land Use Map (Sumter County 2012, p. 42). The County exempts single-site residential development and agriculture from environmental review and does not regulate land clearing for a single residence. Therefore, any undocumented populations and suitable habitat on private lands are at risk due to land-clearing activities, agricultural conversions, and development. For example, one Sumter County subpopulation observed in 1999 on private land was extirpated due to pasture clearing on the property for livestock (van der Heiden 2013c, pers. comm.). A full survey for *T.p.* ssp. *floridanum* and associated suitable habitat is needed in Sumter County to determine the severity of potential habitat loss on this subspecies regionally, including the potential impact from future human population growth and development.

Due to existing agricultural and residential clearing of mesic hammocks and potential future clearing on private lands, habitat loss due to human population growth, development, and agricultural conversion poses a threat to *T.p.* ssp. *floridanum* in Sumter County.

Regional Drainage and Consumptive Use

Miami-Dade County—Landscape-level drainage has been extensive in Miami-Dade County. In the early 1900s, drainage initiatives were undertaken to modify land for agriculture and development. Impacts resulted in a region-wide drop in the water table (Nauman 1986, p. 182; Lodge 2005, p. 222), disturbing rockland hammocks and their flora (Service 1999, pp. 3–138), including *Trichomanes punctatum* ssp. *floridanum.* Additional stress from regional drainage for canal construction has also contributed to the decline of this metapopulation (Nauman 1986, p. 182; see also ''Historical Range/Distribution,'' *Miami-Dade County* section, above). As a consequence of the pervasive drainage throughout Miami-Dade County, solution holes, which often contained standing water during the rainy season, now hold much less, if any, water during much of the year, resulting in decreased ambient humidity levels (Phillips 1940, p. 171; Nauman 1986, p. 182; Adimey 2013a, field notes). Even though regional changes in hydrology have not caused extirpation of *T.p.* ssp. *floridanum* at most locations, they may have already induced stress by promoting vulnerability to other stressors, such as periodic long-term droughts, cold

weather exposure, and other stochastic events. Furthermore, groundwater levels in the vicinity of *T.p* ssp. *floridanum* are not targeted as part of the Comprehensive Everglades Restoration Plan (CERP) (a framework and guide to restore, protect, and preserve the water resources of central and southern Florida, including the Everglades), and, therefore, impacts from regional drainage are not expected to be ameliorated by CERP. Rockland hammocks in Miami-Dade County have been modified as a result of hydrology changes, reducing the amount of water available to these habitats. This is an ongoing threat to *T.p.* ssp. *floridanum,* as hammocks on limestone substrates are dependent on the underlying water table to keep humidity levels high, especially in limestone sinkholes (Service 1999, pp. 3–127).

Currently, the human population in Miami-Dade County 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). Although water demands will continue to rise with population increases, the extent of future impacts on existing habitat and the metapopulation of *Trichomanes punctatum* ssp. *floridanum* in Miami-Dade County is unknown at this time.

Sumter County—In Sumter County, water drawdowns have historically been minimal. Regional modeling conducted by SWFWMD indicates less than a 0.06-m (0.2-ft) current use of water in the Upper Floridan Aquifer (Deangelis 2014a, 2014c, pers. comm.). No surface water withdrawals are currently occurring in Sumter County; however, they are possible in the future. Minimum flows and levels (MFLs), which are water withdrawal standards to limit water use set by the regional water management districts, are already established for the Withlacoochee River portion of the Withlacoochee River watershed in Sumter County. Although increases in human population and development in Sumter County may increase water use, it is believed that changes due to drought conditions (*e.g.,* on the order of several feet) will have a far greater impact on the hydrology (Deangelis 2013a, pers. comm.).

Hydrology Changes

Hydrology is a key ecosystem property that affects distribution and viability of rare plants (Gann *et al.* 2009, p. 6). Hydrology changes have extensively modified and, in some cases, destroyed habitat in south Florida. As a result of human population growth, development, agricultural conversion, and regional drainage, the hydrology of *Trichomanes punctatum* ssp. *floridanum* habitat has changed drastically and has contributed to the alteration in ambient humidity and temperature.

For a hygrophilous (living or growing in damp places) subspecies thought to be restricted to a consistently humid microhabitat (Krömer and Kessler 2006, p. 57), high humidity is a critical factor to its survival, so any habitat modification or destruction that changes ambient humidity levels poses a threat to this subspecies (Nauman 1986, p. 182). As noted above, drainage efforts implemented in south Florida have significantly reduced historical water table levels, altering ambient humidity in the area. It is speculated that this subspecies may be living in discrete areas where humidity may be at the threshold for *T.p.* ssp. *floridanum* to survive. Minor drops in ambient humidity may limit reproduction and can negatively impact overall health of existing metapopulations, as well as inhibit the growth of new plants, impacting long-term viability (van der Heiden, 2013c, pers. comm.; Possley 2013e, pers. comm.). Van der Heiden and Johnson (2014, p. 9) recently observed this in Sumter County, where small drops in ambient temperature and humidity resulted in observed declines in the health of some clusters of *T.p.* ssp. *floridanum* within the local population.

Canopy Changes

Canopy also is an important habitat feature for *Trichomanes punctatum* ssp. *floridanum,* and, in most cases, is the primary factor controlling surrounding temperature and humidity levels that are critical to the survival of this subspecies. The proper amount of high shade and low light is critical for the persistence of this subspecies. These features help to maintain humidity and prevent desiccation from excessive light exposure (van der Heiden 2013c, pers. comm.; Possley 2013e, pers. comm.; Adimey 2013a–b, field notes). Currently, in both metapopulations, dense canopy cover is a necessity; however, the amount of canopy density needed to ensure survival is not yet known. Changes to existing canopies can result from land clearing and conversion, natural stochastic events, competition with nonnative species, and nonnative species control (see discussion under *Factor E*).

Historically, as land was developed, natural features of the landscape changed, directly eliminating *Trichomanes punctatum* ssp. *floridanum* and also eliminating surrounding vegetation and habitat features essential to this subspecies. Field observations in Miami-Dade County have found clusters of *T.p.* ssp. *floridanum* desiccated when the immediate canopy above the ferns was destroyed or substantially reduced, allowing high amounts of light into the understory (Possley 2013g, pers. comm.); however, over the course of many months, these clusters eventually recovered.

The loss of canopy can result in plant desiccation via increased sun and wind exposure, increased ambient temperatures, changes in ambient humidity, and the proliferation of exotic species (see *Factor E* discussion, below). Destruction or changes in canopy of any existing populations could result in elimination of an entire population. Therefore, we find the loss of canopy through habitat loss and modification to be a threat to *T.p.* ssp. *floridanum.*

Habitat Fragmentation

Habitat fragmentation limits dispersal and population size, and promotes vulnerability among existing populations. In Miami-Dade County, most remaining *Trichomanes punctatum* ssp. *floridanum* habitat (*i.e.,* Fuchs, Meissner, Castellow, Hattie Bauer hammocks) is surrounded by housing development and agricultural land, resulting in scattered and small natural areas. Regional drainage and hydrology changes may also have contributed to the fragmented habitat in Miami-Dade County. In Sumter County, the impacts of habitat fragmentation are not as severe, as conservation lands are on large, adjacent tracts. Future development in Sumter County could result in an increase in fragmented habitat and pose a threat for this northern metapopulation (van der Heiden 2013c, pers. comm.). However, data regarding the impacts and subsequent consequences from habitat fragmentation are incomplete for both metapopulations of *Trichomanes punctatum* ssp. *floridanum.* Information and understanding of dispersal mechanisms for this subspecies are also currently lacking. The best available data for other plant species regarding the impacts of habitat fragmentation suggest that habitat fragmentation is likely a stressor impacting this subspecies but does not indicate that it rises to the level of a threat.

Conservation Efforts To Reduce Habitat Destruction, Modification, or Curtailment of Its Range

Conservation efforts to reduce habitat destruction are generally focused on the conservation of land on which both metapopulations occur. All known

extant populations occur on State- or County-owned land that is currently protected from future development. In Miami-Dade County, extant occurrences of *Trichomanes punctatum* ssp. *floridanum* have been protected through acquisition within the County's EEL Program.

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 (acquisition) 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 95 ha (236 ac) of tropical hardwood and rockland hammocks (Gil 2013b, pers. comm.). The EEL Program also manages approximately 639 ha (1,578 ac) of tropical hardwood and rockland hammocks known as EEL Preserves and owned by the Miami-Dade County PROS Department, including some of the largest remaining areas of tropical hardwood and rockland hammocks (*e.g.,* Matheson Hammock Park, Castellow Hammock Park, and Deering Estate Park and Preserves). The EEL Program may acquire lands that were once under an EEL Covenant (see description below). However, the existence of an EEL Covenant is not a requirement or precursor for acquisition of lands under the EEL Program.

EEL Covenant Program

In 1979, Miami-Dade County established the EEL Covenant Program to reduce taxes for private landowners who own natural forest communities (NFC), such as pine rocklands and rockland hammocks. Under the EEL Covenant Program, landowners agree not to develop their property and to manage it for a period of 10 years, with the option to renew for additional 10-year periods (Service 1999, pp. 3–177). The EEL Covenant Program currently protects approximately 119 rockland hammock properties, comprising approximately 315.65 ha (780 ac) of habitat (Joyner 2013b, pers. comm.).

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 21 rockland hammock 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 removal of nonnative, invasive plants. Although the EEL Covenant Program has the potential to provide valuable habitat for unknown or future populations of *Trichomanes punctatum* ssp. *floridanum,* the actual contribution of these designated conservation lands is largely determined by whether individual landowners follow prescribed EEL management plans and NFC regulations (see ''Local'' under *Factor D* below).

The County- and State-owned land areas that are protected by the EEL Program are critical to providing habitat for *Trichomanes punctatum* ssp. *floridanum,* as well as other native flora in Florida. Conservation efforts to prevent the future extirpation of *T. p.* ssp. *floridanum* and other fern species in Miami's EEL Preserves have been under way for many years. In Miami-Dade County, conservation lands are and have been monitored by Fairchild and IRC, in coordination with the EEL Program and the NAM Division of Miami-Dade County's PROS Department, to assess habitat status and determine any changes that may pose a threat to or alter the abundance of *T. p.* ssp. *floridanum* (Possley 2013k, pers. comm.; van der Heiden 2013f–h, pers. comm.). 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.

Other Efforts

To date, only one reintroduction of filmy ferns (no specific species was indicated) was attempted by F.C. Craighead in the early 1960s, in several hammocks within ENP within the Long Pine Key area. These efforts were unsuccessful, but no explanation was provided as to why they were unsuccessful (Gann 2013). Within-range reintroductions into unoccupied habitat have historically resulted in low success rates for plants (Maschinski *et al.* 2011, p. 159). Future reintroduction efforts will likely be attempted by MSBG from *Trichomanes punctatum* ssp. *floridanum* plants grown in-vitro from CREW.

In Sumter County, monitoring and management in Withlacoochee State Forest is provided through the Florida Forest Service (Werner 2013e, pers. comm.). Habitat is assessed annually for canopy changes that may alter ambient humidity levels and for impacts from nonnative plant species and feral pigs. Additionally, surveys on SWFWMD property are conducted periodically to assess habitat and search for rare plant species in the area (Deangelis 2013b, pers. comm.).

Summary of Factor A

Past human actions have destroyed, modified, and curtailed the range and habitat available for *Trichomanes punctatum* ssp. *floridanum.* Human population growth and development, agricultural conversion, and regional drainage have modified, or in most cases, destroyed, habitat where *T. p.* ssp. *floridanum* once occurred, thereby limiting the subspecies' current range and abundance in Florida.

In Miami-Dade County, habitat modification and destruction have severely impacted rockland hammocks that were once abundant. The *Trichomanes punctatum* ssp. *floridanum* metapopulation in Miami-Dade County is currently composed of four known populations, all on County-managed conservation lands. Historically, *T. p.* ssp. *floridanum* was found in an additional nine hammocks in Miami-Dade County. Most of these populations have been extirpated, and the historical range of the southern metapopulation has been reduced by nearly 80 percent. However, the subspecies was observed in ''Monkey Jungle'' (historically referred to as Cox Hammock) in 1989, and no thorough surveys have been conducted there since then. Upon recent visitation to the site (Adimey 2013a, field notes), the habitat features appeared to be similar to other hammocks where *T. p.* ssp. *floridanum* is currently known to occur (large solution holes, high humidity, dense canopy, standing water). Thus, much of the habitat has been destroyed, and while those fragments suitable for the plant remain protected in Miami-Dade County, habitat loss and modification from future development or conversion on private and conservation lands in Miami-Dade County poses a threat. In addition, the areas where *T. p.* ssp. *floridanum* currently exists are still vulnerable to activities in the surrounding areas, including agricultural clearing and hydrologic alterations.

The Sumter County metapopulation of *Trichomanes punctatum* ssp. *floridanum* is composed of two known

populations, both on State-owned land in the Jumper Creek Tract of the WSF. In central Florida, the subspecies was historically found in as many as seven additional locations. All of these historical populations have since been extirpated, primarily due to land conversion and clearing (including for cattle grazing) and the impacts of local and regional drainage. Land clearing and hydrological alterations on private lands adjacent to the Jumper Creek Tract continue to be threats to *T. p.* ssp. *floridanum* populations and habitat.

The destruction and modification of habitat have resulted in changes in canopy, humidity, hydrology, and fragmentation that have contributed to the declines of this taxon. High humidity and dense canopy cover are critical for *Trichomanes punctatum* ssp. *floridanum*'s survival. Therefore, any habitat modification or destruction that changes ambient humidity levels or canopy cover poses a threat to this subspecies. Data regarding the impacts of habitat fragmentation are incomplete for both metapopulations of *T. p.* ssp. *floridanum* because information on dispersal mechanisms of this subspecies is currently lacking. Habitat fragmentation is likely a stressor impacting this subspecies, but the best available data do not indicate that it rises to the level of a threat.

Conservation efforts are currently providing some benefits to this subspecies but are not sufficient to ameliorate the habitat threats. Therefore, based on the best information available, we have determined that the threats to *Trichomanes punctatum* ssp. *floridanum* 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 occurring and, therefore, we find that overutilization is not a threat to *Trichomanes punctatum* ssp. *floridanum.*

Factor C. Disease or Predation

No diseases or incidences of predation have been reported for *Trichomanes punctatum* ssp. *floridanum.* Therefore, the best available data do not indicate that disease or predation is a threat to the subspecies.

Factor D. The Inadequacy of Existing Regulatory Mechanisms

Under this factor, we examine whether threats to the subspecies 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 designed to address threats to *Trichomanes punctatum* ssp. *floridanum* to determine whether they effectively reduce or remove threats to the subspecies.

Federal

The only known extant populations of *Trichomanes punctatum* ssp. *floridanum* occur on State- or County-owned properties, and development of most of these areas is not likely to require a Federal permit or other authorization.

Section 404 of the Clean Water Act (CWA; 33 U.S.C. 1251 *et seq.*) establishes a Federal program for regulating the discharge of dredged or fill material into waters of the United States, including wetlands. Additionally, section 401 of the CWA forbids Federal agencies from issuing a permit or license for activities that may result in a discharge to waters of the United States until the State or Tribe where the discharge would originate has granted or waived certification. The State of Florida maintains regulatory programs providing a framework for issuance of section 401 certifications related to applications for section 404 permits. This legislation does not prohibit the discharge of these materials into wetlands; rather, it provides a regulatory framework that requires permits prior to such action being taken. The U.S. Army Corps of Engineers (Corps) reviews individual permits for potentially significant impacts; however, most discharges are considered to have minimal impacts and may be covered by a general permit that does not require individual review.

On June 29, 2015, the Environmental Protection Agency and Corps published a final rule (80 FR 37054), effective August 28, 2015, that revises the definition of ''waters of the United States.'' Specific guidance on implementation of this revised definition is currently lacking, but it appears that the revised definition is likely to include hydric hammocks in areas where *Trichomanes punctatum* ssp. *floridanum* occurs in Sumter County among waters of the United States. However, as noted above, section 404 of the CWA does not necessarily prevent degradation to such habitats from the discharge of dredge or fill material. It simply provides a regulatory program for permitting activities that would result in such a discharge. Further, discharges associated with normal farming, ranching, and forestry activities, such as plowing, cultivating, minor drainage, and harvesting for the production of food, fiber, and forest products are exempt from the requirement to obtain a permit.

State

FNAI considers the State status of *Trichomanes punctatum* ssp. *floridanum* to be S1, ''critically imperiled in Florida because of extreme rarity (five or fewer occurrences or less than 1,000 individuals) or because of extreme vulnerability to extinction due to some natural or man-made factor'' (FNAI, 2013; Element Tracking Summary). The IRC considers its status as ''critically imperiled'' (Gann *et al.* 2002, pp. 552–554).

The Florida Department of Agriculture and Consumer Services has listed *Trichomanes punctatum* ssp. *floridanum* on the Regulated Plant Index (Index) as endangered under Chapter 5B–40, Florida Administrative Code (State of Florida 2013, Florida Statutes). This listing provides little or no habitat protection beyond the State's Development of Regional Impact process, which discloses impacts from projects, but provides no regulatory

protection for State-listed plants on private lands.

Florida Statutes chapter 581.185, sections (3)(a) and (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, section (10) of the statute 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. Sections (8)(a) and (b) of the statute waive 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.

The Florida Forest Service (FFS) is the lead managing agency for State forests, as outlined in the Management Lease from the landowner (Board of Trustees of the Internal Improvement Trust Fund of the State of Florida) with guidance provided in chapters 253, 259, and 589 of the Florida Statutes (State of Florida, 2013 Florida Statutes, Preservation of Native Flora and Fauna). FFS is responsible for the management and supervision of the multiple-use guidelines of Withlacoochee State Forest. For research on State forest lands, prior approval is required. Research deemed legitimate will be issued a State Forest Use Permit (FDACS–11228) or letter of authorization (The Florida Forest Service 2013, State Forest Handbook).

Although the MFLs established by the South Florida Water Management District (SFWMD) in southeast Florida (a separate entity from the SWFWMD described earlier) are not directly applicable in the area of Miami Rock Ridge where *Trichomanes punctatum* ssp. *floridanum* occurs, they do indirectly limit ground water withdrawals in other areas of south Florida, including other areas of the Miami Rock Ridge. Unfortunately, MFL thresholds in place that establish water withdrawal standards are set so low that protection measures are rarely triggered. These low water level standards may be further exacerbated during times of drought, resulting in even greater impacts to the water table and the overall regional hydrology. Furthermore, MFL standards also do not apply to wells on private property or for consumptive use. The lowering of ground water and associated changes in local ambient humidity have already occurred throughout south Florida and have likely contributed to the decline of *T. p.* ssp. *floridanum* and possibly limited distribution and resilience (*i.e.,* ability to withstand stochastic (random) events and recover from disturbances) of the subspecies (Grossenbacher 2013, pers. comm.). Plants are likely to be further stressed by the continued lowering of ground water if additional large wells are created on private property for such activities as agriculture or during extended periods of drought because these types of circumstances are not regulated by the water withdrawal standards established by the SFWMD. In general, this regulatory mechanism has not been sufficient to reduce or remove the threat to *T. p.* ssp. *floridanum* posed by changes in hydrology discussed under *Factor A* by ensuring that current water levels will persist into the future.

Sumter County MFLs identified and adopted by the SWFWMD protect the Withlacoochee River and the Tsala Apopka lake chain, which connects to the Withlacoochee in the vicinity of Jumper Creek Tract where *Trichomanes punctatum* ssp. *floridanum* occurs. Maintaining designated MFLs will have a direct bearing on the design of future water supply development projects, of which there are several already proposed in Sumter County (Deangelis 2014c, pers. comm.). However, it is uncertain how these future projects would impact extant occurrences of *T. p.* ssp. *floridanum* or suitable habitat for the subspecies.

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 10 percent of a rockland hammock designated as NFC to be developed for properties greater than 5 acres and requires 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 can be cleared if the request is deemed a reasonable use of property; this allowance often can be greater than 10 percent 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 discovered, unpermitted work is pursued by RER through appropriate enforcement action, and restoration is sought 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.

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 10 percent 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 requires coordination with the landowners only if they plan to develop property or perform work within the NFC designated area. As such, 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 requires the land to be 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 the Miami-Dade County Code (Grossenbacher 2013, pers. comm.).

Although *Trichomanes punctatum* ssp. *floridanum* is currently afforded some protection from outright destruction on public conservation land, changes in the surrounding landscape that affect the subspecies are not regulated. For example, the private property known as ''Monkey Jungle'' (historically referred to as Cox Hammock) is a public attraction and is home to a considerable number of primate species. Upon recent visitation to this site (Adimey 2013a, field notes), the habitat features appeared to be similar to other hammocks where *T. p.* ssp. *floridanum* currently is known to live (*i.e.,* large solution holes, high humidity, dense canopy, standing water). Although much of the hammock has been altered to accommodate captive animals and visitors, a significant portion of the hammock still remains untouched and overgrown with extensive nonnative, invasive plant species. ''Monkey Jungle'' receives limited protection under the Miami-Dade County Environmental Protection Ordinance as an NFC, where only portions of NFCs can be cleared once a permit is obtained from the County.

Additionally, Miami-Dade County has oversight of any work or research completed within the local preserve areas; permits are required for any outside work or research on County-owned lands in order to further protect the habitat from potential direct or indirect impacts (Gil 2013a, pers. comm.).

Under section 13–644(a)(1) of the Sumter County code, ''[m]ajor developments shall identify and protect habitats of protected wildlife and vegetation species,'' and in section 13–644(a)(1)2.b.2, ''[n]o permit will be issued for development which results in unmitigated destruction of specimens of endangered, threatened or rare species.'' Therefore, the County code prevents unmitigated destruction of endangered, threatened, or rare species only when associated with ''major developments.'' Current zoning in the Wahoo area limits development to one unit per 4 ha (10 ac); therefore, ''major developments'' do not seem to be likely in that area. In general, existing county ordinances do not prevent the conversion of habitat to agricultural use or building on sites with endangered, threatened, or rare plant species. Without complete survey information for Sumter County, it is difficult to assess the extent to which unknown occurrences and suitable habitat on private lands are at risk. Agriculture and development are ongoing and promoted in this County, and no regulatory mechanisms exist that protect *T. p.* ssp. *floridanum* and its habitat on private lands.

Summary of Factor D

Currently, *Trichomanes punctatum* ssp. *floridanum* is only known to occur on State and County lands; however, there are no regulatory mechanisms in place that provide substantive protection of habitat or protection of potentially suitable habitat at this time. In addition, subsections of applicable statutes waive State regulation for private landowners or their agents, allowing certain activities to clear or remove species on the Index. Little, if any, protection is afforded to *T. p.* ssp. *floridanum* by the established MFLs in south Florida, as they are set very low, are rarely triggered, and are not applicable in the portion of the Miami Rock Ridge where the subspecies currently lives. Established MFLs in Sumter County can positively impact areas where *T. p.* ssp. *floridanum* occurs, provided that these designated MFLs are maintained when future water supply development projects are undertaken. The NFC program in Miami is designed to protect rare and important upland (non-wetland) habitats in south Florida. However, this regulatory strategy has several limitations that can negatively affect *T. p.* ssp. *floridanum.* Sumter County code prevents unmitigated destruction of endangered, threatened, or rare species only when associated with ''major developments'' and does not prevent conversion of habitat to agricultural use or building on private property.

Although all known extant populations of *Trichomanes punctatum* ssp. *floridanum* 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 the subspecies by a wide array of sources (see discussions under Factors A and E).

Factor E. Other Natural or Manmade Factors Affecting Its Continued Existence

Other natural or manmade factors affect *Trichomanes punctatum* ssp. *floridanum* to varying degrees. Specific threats include the spread of nonnative, invasive species; potentially incompatible management practices (*e.g.,* inadvertent spraying of *T. p.* ssp. *floridanum* while controlling for nonnatives); direct impacts to plants from recreation and other human activities; small population size and isolation; climate change; and the related risks from environmental stochasticity (extreme weather). Each of these threats and its specific effect on *T. p.* ssp. *floridanum* is discussed in detail below.

Nonnative Species

Nonnative species can stress, alter, or even destroy native species and their habitats. The threat of nonnative plant species is ongoing due to their: (1) Number and extent, (2) ability to out-compete native species, (3) abundant seed sources, and (4) extensive disturbance within habitats. Further challenges exist due to limitation of resources to combat this threat, as well as the difficulty in managing fragmented hammocks bordered by urban development, which often can serve as seed sources for nonnative species (Bradley and Gann 1999, p. 13). Nonnative, invasive plants compete with native plants for space, light, water, and nutrients, and they limit growth and abundance of natural vegetation and can make habitat conditions unsuitable for native plants.

In south Florida, 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 hammock and mesic hammock habitats where *Trichomanes punctatum* ssp. *floridanum* occurs and are considered one of the threats with greatest impact to the subspecies (Snyder *et al.* 1990, p. 273; Gann *et al.* 2002, pp. 552–554; FNAI 2010, pp. 22, 26). Nonnative plants outcompete and displace *T. p.* ssp. *floridanum* in solution holes, and may form dense strata (layers) in the hammock, where it is possible that the fern may be blanketed and smothered (Possley 2014c, pers. comm.). It has also been suggested that the insular nature of south Florida, as well as the hammocks themselves, predispose this habitat to

invasion by nonnative plants (*e.g.,* the proximity of seed sources, which increases the volume of nonnatives and accelerates the time it takes for the arrival and establishment of nonnatives) (Horvitz *et al.* 1998, p. 961).

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. Problematic nonnative invasive plants in Miami-Dade County associated with *Trichomanes punctatum* ssp. *floridanum* include *Schinus terebinthifolia* (Brazilian pepper), *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 2013g–h, pers. comm.).

In Sumter County, the most problematic nonnative invasive species occurring in *Trichomanes punctatum* ssp. *floridanum* habitat are *Tradescantia fluminensis* (small leaf spiderwort) and *Paederia foetida* (skunkvine) (Werner 2013d, pers. comm.). Furthermore, *Citrus aurantium* (bitter orange) is found in this locale and is considered problematic due to its tendency to attract feral hogs, another nonnative species associated with extensive habitat destruction (see below). Agricultural fields in proximity to the Sumter metapopulation are a nonnative seed source, increasing potential encroachment of nonnative plants to the area (Werner 2013b–c, pers. comm.).

In some instances, management of nonnative vegetation may also be detrimental, in that nonnative species may actually provide the necessary canopy to limit sunlight exposure and control humidity, so that removing the nonnative species exposes the fern. In Castellow Hammock, the majority of the shade near two of the large solution holes containing *Trichomanes punctatum* ssp. *floridanum* is provided by giant *Schinus terebinthifolia* trees; eliminating these trees could likely result in detrimental effects to *T. p.* ssp. *floridanum* residing in the underlying solution holes. In hammocks such as Castellow, desiccation from excessive sun exposure due to the removal of *S. terebinthifolia* canopy has already occurred. In this case, the subpopulation of *T. p.* ssp. *floridanum* below the *S. terebinthifolia* tree turned brown; however, *T. p.* ssp. *floridanum* could eventually revitalize if sufficient canopy is reestablished to limit sunlight exposure (Possley 2013d, pers. comm.). Additionally, nonnative plant control may also become a threat when *T. p.* ssp. *floridanum* is inadvertently sprayed while authorities conduct local nonnative removal efforts (Possley 2013d, pers. comm.).

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. Overall, active management is necessary to control for nonnative species and to protect unique and rare habitat where *T.p.* ssp. *floridanum* occurs (Snyder *et al.* 1990, p. 273). Treatment of nonnative plant species should consider canopy and humidity needs of *T.p.* ssp. *floridanum.*

Nonnative feral hogs living in the Withlacoochee State Forest are also considered a threat to this plant. Surveys in Sumter County have revealed evidence of hogs lying against or rubbing their bodies against large rocks, removing existing vegetation in the process. Recently, van der Heiden and Johnson (2014, p. 11) found one small rock where *Trichomanes punctatum* ssp. *floridanum* had been scraped off when a hog rubbed itself on the rock after wallowing in the mud. Furthermore, rooting from hogs can destroy existing habitat by displacing smaller rocks where *T.p.* ssp. *floridanum* is found to grow and potentially damaging or eliminating a cluster (Werner 2013d, pers. comm.). In Withlacoochee State Forest, damaged areas from feral hogs are also more susceptible to invasion from nonnative plant species, such as *Urena lobata* (Caesarweed) and *Tradescantia fluminensis* (small-leaf spiderwort) (Werner 2013a, pers. comm.). If feral hogs continue to forage in areas where *T.p.* ssp. *floridanum* lives, it is possible that entire clusters inhabiting one rock/boulder could be eliminated.

In recent years, scientists in south Florida have noticed an increase in sightings of the nonnative genus *Zachrysia* (Cuban tree snails). Although snail grazing has not been observed on *Trichomanes punctatum* ssp. *floridanum,* it has been documented on other rare ferns living in the same habitat and could possibly become a threat in the future, either by this snail or another introduced species (Possley 2013b, c, pers. comm.).

Climate Change

Climatic changes, including sea level rise (SLR), are occurring in the State of Florida and are impacting associated plants, animals, and habitats. 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 IPCC (IPCC 2013, entire).

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). Projected changes in climate and related impacts can vary substantially across and within different regions of the world (*e.g.,* IPCC 2007, p. 8–12). Therefore, we use ''downscaled'' projections when they are available and have been developed through appropriate scientific procedures (see Glick *et al.* 2011, pp. 58–61, for a discussion of downscaling). As to *Trichomanes punctatum* ssp. *floridanum,* 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 Miami-Dade County populations of *T.p.* ssp. *floridanum* occur at elevations 2.83–4.14 m (9.29–13.57 ft) above sea level, making the subspecies highly susceptible to increased storm surges and related impacts associated with SLR, whereas the Sumter County populations are at approximately 10.40 m (34.12 ft) above sea level and significantly farther from the coast.

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,'' below). Models where sea level 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 (see ''Alternative Future Landscape Models,'' below). 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).

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 of coastal waters 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 rockland 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 rockland location in the Florida Keys (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 ground water 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. Patterns of human development will also likely be significant factors influencing whether natural communities can move and persist (IPCC 2008, p. 57; USCCSP 2008, p. 7–6).

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 and/or endemic species with possible extirpation. In south Florida, SLR of 1–2 m (0.30–0.61 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 a 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).

Saha (*et al.* 2011, p. 4) suggested that the rising water table accompanying SLR will shrink the vadose zone (the area that extends from the top of the ground surface to the water table); increase salinity in the bottom portion of the freshwater lens (a convex layer of fresh ground water that floats on top of denser saltwater), thereby increasing brackishness of plant-available water; and influence tree species composition

of hardwood hammocks based upon species-level tolerance to salinity and/or drought. 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). Altered freshwater inputs can lead to the disappearance or decline of critically imperiled coastal plant species. Shifts in freshwater flows, annual precipitation, and variability in SLR can impact salinity regimes. Although it is unknown if salinity changes will impact existing habitat where *T. p.* ssp. *floridanum* currently lives, it should be noted that salinity-intolerant plants can become stressed within a few weeks from exposure to saline conditions, and persistent conditions can promote colonization by more salinity-tolerant species, thereby leading to an irreversible composition change, even if the salinity is lower over subsequent years (Saha *et al.* 2011, p. 23).

In some areas of south Florida, precipitation is the main source of fresh water. Predictive climate change models demonstrate periods of drought will pose a threat to existing populations of *Trichomanes punctatum* ssp. *floridanum.* Saha (*et al.* 2011, pp. 19–21) found that during times of drought and resultant salinity stress, coastal hardwood tree density from the canopy was lost, while other species showed an increase. Areas with a deeper freshwater lens, such as rockland hammocks, may be able to sustain vegetation during periods of drought; however, whether this theory is true is currently unknown. Some tree species in coastal hammocks have the ability to access pockets of fresh water and tolerate mild salinities. These initial responses to salinity increases may trigger responses similar to drought, while prolonged exposure may cause irreversible toxicity caused by accumulation of salts (Munns 2002, p. 248), causing a reduction in canopy or mortality (Maschinski *et al.* 2009, entire paper). Impacts from climate change causing shifts in local plant communities and invasion of additional nonnative plant species may be lessened by the ability of hardwood hammocks (such as rockland hammocks) to harvest rainfall water and retain it in the highly organic soil and lower their transpiration (*i.e.,* the process of water movement through a plant and its evaporation from leaves and stems) during the dry season (Saha *et al.* 2011, p. 24).

Drier conditions and increased variability in precipitation associated with climate change are expected to hamper successful regeneration of forests and cause shifts in vegetation types through time (Wear and Greis 2012, p. 39). With regard to *Trichomanes punctatum* ssp. *floridanum,* any weather shifts causing less precipitation would likely impact the viability of existing populations and could potentially limit future reproduction if droughts were to become a common occurrence. Ecosystem shifts would result in rockland and mesic hammocks having drier conditions, regular droughts, and changes in humidity, temperature, and canopy. Increases in the scale, frequency, or severity of droughts and wildfires (see ''Fires'' section, below) could have negative effects on this taxon considering its general vulnerability due to small population size, restricted range, few populations, and relative isolation.

Climate change impacts specifically for *Trichomanes punctatum* ssp. *floridanum* may be numerous and vary depending on factors such as severity, the speed at which climate changes occur, timing, health of the species, and habitat and tolerance of species. Overall, management of healthy ecosystems can support greater biodiversity, which is considered one of the best strategies to combat impacts of climate change. Removing nonnative plants and minimizing natural disturbance impacts and other external stresses can improve the subspecies' response to climate change impacts (Maschinski *et al.* 2011, p. 159). In general, the best ways to prepare and protect rare species, such as *T. p.* ssp. *floridanum,* from impacts of climate change include actively managing habitats to improve population growth and potential for natural dispersal, and controlling for nonnative species. Efforts to actively manage for *T. p.* ssp. *floridanum* are currently limited for both metapopulations due to logistical feasibility (*e.g.,* dense forest, difficulty locating populations), insufficient funding and research, small and fragmented existing populations, and lack of successful reintroduction efforts into the wild.

Alternative Future Landscape Models

To accommodate the high uncertainty in SLR projections, researchers must estimate effects from a range of scenarios. Various model scenarios developed at MIT and GeoAdaptive Inc. have projected possible trajectories of future transformation of the peninsular Florida landscape by 2060 based upon four main drivers: Climate change, shifts in planning approaches and regulations, human population change, and variations in financial resources for conservation (Vargas-Moreno and Flaxman 2010, pp. 1–6). The scenarios do not account for temperature, precipitation, or species habitat shifts due to climate change, and no storm surge effects are considered. The current MIT scenarios in Florida range from an increase in sea level of 0.09–1.0 m (0.3–3.3 ft) by 2060.

Based on the most recent estimates of SLR and the best available data at this time, we evaluated potential effects of SLR using the current ''worst case'' (*e.g.,* the highest range for SLR) MIT scenario, as well as comparing elevations of remaining rockland hammock fragments in Miami-Dade County and mesic hammocks in Sumter County with extant populations of *Trichomanes punctatum* ssp. *floridanum.* The ''worst case'' MIT scenario assumes SLR of 1.0 m (3.3 ft) by 2060, low financial resources, a 'business as usual' approach to planning, and a doubling of human population.

Based on the 1.0-m (3.3-ft) scenario, none of the rockland hammocks in Miami-Dade County where extant populations of *Trichomanes punctatum* ssp. *floridanum* occur would be inundated. However, all four populations would be within 9.66 km (6.0 mi) of saltwater, increasing the likelihood of localized vegetation shifts within the rockland hammocks and vulnerability to natural stochastic events such as hurricanes and tropical storms. The 1.0-m SLR scenario shows existing rockland hammocks in Miami-Dade County (that do not contain *T.p.* ssp. *floridanum*) directly adjacent to saltwater. Although these existing hammocks 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. A few remaining rockland hammocks further inland (*e.g.,* Big and Little George Hammocks) are located in highly urbanized areas; these hammocks are small and fragmented, reducing the chances of further development due to SLR in the area. Actual impacts may be greater or less than anticipated based upon the high variability of factors involved (*e.g.,* SLR, human population growth) and the assumptions made in this model.

A projected SLR (using elevation data) of 2.0 m (6.6 ft) appears to inundate much larger portions of urban Miami-Dade County. This evaluation was not based on any modeling, as opposed to the previous 1.0-m scenario; rather, this scenario examines current elevation based on LiDAR (remote sensing technology that measures distance by

illuminating a target with a laser and analyzing the reflected light) data. Under this 2.0-m (6.6-ft) SLR scenario, none of the four hammocks where *Trichomanes punctatum* ssp. *floridanum* is known to occur will be inundated, but all will be within approximately 2.41 km (1.5 mi) of saltwater in the inundated transverse glades joining the enlarged Biscayne Bay. Castellow Hammock will be the least impacted at approximately 2.41 km (1.5 mi) from saltwater, while Hattie Bauer will be adjacent to saltwater. Fuchs and Meissner hammocks will be 1.61 km (1.0 mi) from saltwater and will be surrounded by more wetlands. This scenario will leave all these locations extremely vulnerable to vegetation shifts, natural stochastic events, and loss of existing habitat and land protection. Of the remaining rockland hammocks not containing *T.p.* ssp. *floridanum* in south Florida, most would be fully or partially inundated after a 2.0-m (6.6-ft) SLR, except for the hammocks located on the higher elevated coastal ridge, which would still be adjacent to saltwater.

Due to the higher elevation and inland location of Sumter County in north Florida, existing populations of *Trichomanes punctatum* ssp. *floridanum* and associated habitat will not be impacted by 1.0- and 2.0-m (3.3- and 6.6-ft) rises in sea level. The 2.0-m (6.6-ft) SLR scenario would still leave the Sumter occurrences approximately 37.0 km (23.0 mi) from saltwater. Regional shifts in water table salinity, soils, or vegetation are not expected.

Environmental Stochasticity

Endemic species whose populations exhibit a high degree of isolation, such as *Trichomanes punctatum* ssp. *floridanum,* are extremely vulnerable to extinction from both random and nonrandom catastrophic natural or human-caused events. Small populations of species, without positive growth rates, are considered to have a high extinction risk from site-specific demographic (variability in population growth rates arising from random differences among individuals in survival and reproduction within a season) and environmental (unpredictable changes in environmental conditions such as weather, food supply, or predators) stochasticity (Lande 1993, pp. 911–927). Populations at the edge of a species' range, as may be the case with *T.p.* ssp. *floridanum* in Sumter County, may be particularly vulnerable to environmental stochasticity, as they may also be at the edge of their physiological and adaptive limits (Baguette 2004, p. 216).

The climate in Florida is driven by a combination of local, regional, and global events, regimes, and oscillations (*e.g.,* El Niño Southern Oscillation with a frequency of every 4 to 7 years, solar cycle every 11 years, and the Atlantic Multi-decadal Oscillation); however, the exact magnitude, direction, and distribution of these climatic influences on a regional level are difficult to project. There are three main ''seasons'' in Florida: (1) The wet season, which is hot, rainy, and humid from June through October; (2) the official hurricane season that extends 1 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 (Miller 2013, pers. comm.). 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 and 36 major hurricanes. Given the few isolated populations and restricted range of *Trichomanes punctatum* ssp. *floridanum* in locations prone to storm influences (*i.e.,* Miami-Dade County), this subspecies is at substantial risk from hurricanes, storm surges, and other extreme weather events.

Natural stochastic events can pose a threat to the persistence of *Trichomanes punctatum* ssp. *floridanum* through the destruction of existing habitat. 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 that hurricane and tropical storm frequencies in the Atlantic will decrease between 10–30 percent by 2100 (Knutson *et al.* 2008, pp. 1–21). For those models that predict fewer hurricanes, hurricane wind speeds are expected to increase by 5–10 percent due to an increase in available energy for intense storms. Increases in hurricane winds can elevate the chances of damage to existing canopy.

In south Florida, tropical hardwood hammock forests are known to experience frequent disturbances from hurricanes (Horvitz *et al.* 1998, p. 947). Hurricanes and tropical storms can damage existing canopy, which provides shade and cover from wind. Canopy loss of any kind is determined to be the threat with greatest impact to existing metapopulations of *Trichomanes punctatum* ssp. *floridanum* (Adimey 2013b, field notes; Possley 2013l, pers. comm.). For example, impacts from Hurricane Andrew in 1992 may have been responsible for the temporary loss of the subspecies from Hattie Bauer Hammock, where it had been observed for many years. Following this hurricane, the canopy was damaged, allowing increased exposure to sunlight for several years. *T.p.* ssp. *floridanum* was not seen again in Hattie Bauer Hammock until 2011 (Possley 2013l, pers. comm.). Through natural recovery, assisted by active management activities by the EEL Program and PROS–NAM, a large portion of the Hattie Bauer Hammock canopy has been restored to pre-hurricane Andrew conditions (Guerra 2014, pers. comm.). Destruction of habitat due to hurricanes has also been documented in Sumter County in the Indian Ledges Hammock located near the town of Wahoo. This hammock, known to host a variety of rare ferns, orchids, and large trees, sustained severe damage from several hurricanes in 2004; very few native plant species once found in Indian Ledges Hammock exist in this location today (Deangelis 2014a, pers. comm.).

Historically, *Trichomanes punctatum* ssp. *floridanum* may have benefitted from more abundant and contiguous habitat to buffer it from storm events. The destruction and modification of native habitat, combined with the subspecies' small population sizes, has likely contributed over time to the stress, decline, and, in some instances, extirpation of populations or local occurrences due to stochastic events.

A study conducted by Horvitz *et al.* (1998, p. 947) found that the regeneration of forest species after stochastic events depended on the amount of canopy disturbance, the time since disturbance, and the biological relationship between the individual species and its environment. Following Hurricane Andrew, the relative abundance and life stage changed for

many nonnative plant species within Miami-Dade County. These shifts continued to occur as a result of subsequent stochastic events, suggesting hurricanes can alter long-term hammock structure and the ongoing changes in species composition (Horvitz *et al.* 1998, pp. 961, 966).

Stochastic events resulting in changes in normal precipitation (amount, seasonal timing, and distribution) and extreme temperature fluctuations may also impact *Trichomanes punctatum* ssp. *floridanum.* During the winter dry season, *T.p.* ssp. *floridanum* can become desiccated without periodic rainfall and then recover during the wet season. Multiyear droughts may negatively impact populations. While droughts are natural events, they are a threat because there are so few populations of this subspecies. Specific parameters regarding humidity, temperature, and precipitation requirements are not known at this time for *T.p.* ssp. *floridanum,* making it difficult to accurately determine what impacts will occur from modifications in current environmental conditions where extant metapopulations occur. Extreme temperature changes such as cold events in south Florida or freezing temperatures in central Florida could have devastating impacts on this subspecies. The small size of each population makes this plant especially vulnerable, in which the loss of even a few individuals could reduce the viability of a single population.

Due to the small size of existing populations of *Trichomanes punctatum* ssp. *floridanum* and its limited genetic variability, the subspecies' overall ability to respond and adapt to threats is likely low. These factors, combined with additional stress from habitat modifications (*e.g.,* hydrological changes) may increase the inherent risk posed by stochastic events that impact this subspecies (Matthies *et al.* 2004, pp. 481–488). Additionally, stochastic events are expected to exacerbate the impacts of regional drainage and subsequent drops in humidity. For these reasons, *T.p.* ssp. *floridanum* is at risk of extirpation during extreme stochastic events. We have determined that these natural stochastic events coupled with existing small population sizes, as addressed above, are a threat to the subspecies (Adimey 2013b, field notes; Possley 2013l, pers. comm.).

Fires

Although fires are not a current concern for existing populations of *Trichomanes punctatum* ssp. *floridanum,* they have been known to impact populations in the past. Craighead (1963, p. 39) noted that extensive fires in hammocks eliminated ferns in much of their former range. Drainage efforts in the early 1900s also increased the occurrence of fire, as lands became drier. Phillips (1940, p. 166) noted that the frequent occurrence of fires in the late 1930s in southern Florida resulted in widespread destruction of flora. Fires may have been a factor in the disappearance of this taxon in Royal Palm Hammock, which suffered multiple fires in the first half of the 1900s according to photographs from J.K. Small (1917; Florida Memory, State Library and Archives of Florida; Tallahassee, Florida). In recent decades, wildfires have been controlled in most rockland hammocks due to the extensive urbanization in Miami-Dade County. However, fires do have the potential to impact *T.p.* ssp. *floridanum* during periods of prolonged drought. While fires are a natural component of some ecosystems in south Florida, fires in hammocks can set back succession to pine rockland or other communities and will directly kill many plant species that are not adapted to fires, such as *T.p.* ssp. *floridanum.*

Generally, hammock environments are considered less susceptible to wildfires because their shaded, humid microclimate is not conducive to fire spread (Snyder *et al.* 1990, p. 258). Additionally, rockland hammocks occupy elevated, rarely inundated, and fire-free sites in all three of the major rockland areas in south Florida (Snyder *et al.* 1990, p. 239). Mesic hammocks are also considered fire resistant in that many occur as ''islands'' on high ground within basin or floodplain wetlands, as patches of oak/palm forest in dry prairie or flatwoods communities, on river levees, or in ecotones between wetlands and upland communities, and possess high-moisture soils due to heavy shading of the ground layer and accumulation of litter (FNAI 2010, p. 20). Additionally, wildfires are now considered a minor stressor in mesic hammocks because of the use of prescribed burns within the last 15 years (Werner 2013d, pers. comm.).

Snyder (*et al.* 1990, p. 238) points out that the high organic content of hammock soils in south Florida can enable the soil to burn; however, soil fires typically only burn in hammocks in times of drought or when fires are intentionally set (Snyder *et al.* 1990, pp. 258–260). This stressor is considered minimal in that fires typically will go out when they reach hammock margins, whether entering from pineland or some other community due to the presence of hardwood leaf litter lying directly on moist organic soil with minimal herbaceous fuel.

Although wildfires are known to occur in Miami-Dade and Sumter Counties, they are not currently considered a threat at this time due to regional prescribed burn efforts that help minimize the occurrence of wildfires, the natural fire-resistant features of these two habitats, and, in Sumter County, hydric hammock (less likely to burn) surrounding *Trichomanes punctatum* ssp. *floridanum* populations.

Public Use/Encroachment

In Miami-Dade County, two of the four hammocks containing *Trichomanes punctatum* ssp. *floridanum* (Castellow and Hattie Bauer) are accessible to the public. However, in both cases, *T.p.* ssp. *floridanum* is not accessible from the nature trail (Possley 2013g, pers. comm.). If public use were to increase significantly at any of the Miami-Dade hammocks, populations of *T.p.* ssp. *floridanum* could become at risk. For example, because the taxon grows along the rim and walls of solution holes, people climbing into these holes could damage existing populations; increased use could also introduce additional nonnative seed sources into the habitat. Similarly, climbing on boulders where the fern occurs in Sumter County could also cause damage. However, due to the low amount of visitation at the Withlacoochee State Forest (Werner 2013b–c, pers. comm.), public use and encroachment do not appear to be occurring at this time, and we have determined they do not pose a threat to *T.p.* ssp. *floridanum.*

Small Population Size Effects and Isolation

Small, isolated populations are more susceptible to impacts overall, and relatively more vulnerable to extinction due to genetic problems, demographic and environmental fluctuations, and natural catastrophes (Primack 1993, p. 255). That is, the smaller a population becomes, the more likely it is that one or more stressors could impact a population, potentially reducing its size such that it is at increased risk of extinction. Although robust population viability analyses (including minimum viable population calculations) have not been conducted for this subspecies, indications are that most existing populations are minimal in terms of abundance and size. Lack of dispersal between occurrences also contributes to the low resilience for this subspecies (see ''Habitat Fragmentation'' under *Factor A*).

Limited genetic variability will also impact *Trichomanes punctatum* ssp. *floridanum* populations. The ability of a species to adapt to environmental change is dependent upon genetic variation, a property of populations that derives from its members possessing different forms (*i.e.,* alleles) of the same gene (Primack 1998, p. 283). High genetic diversity can enhance a species' persistence in a changing environment (Lynch and Lande 1993, pp. 246–247). Although *Trichomanes punctatum* ssp. *floridanum* can grow in clusters, separate clusters are not necessarily different individuals, as they may have been connected by one or more stems in the past (Possley 2014b, pers. comm.). Thus, a population of *T.p.* ssp. *floridanum* containing many clusters may not have greater genetic diversity than a population with few clusters. Because there are only six extant populations of *T.p.* ssp. *floridanum,* each with few plants, the genetic variability is considered low, and the subspecies is inherently at greater risk from stochastic events and changes in environmental conditions (Matthies *et al.* 2004, pp. 481–488).

In summary, *Trichomanes punctatum* ssp. *floridanum* is impacted by factors such as small population size, vulnerability to random demographic fluctuations or natural catastrophes, and low genetic diversity, which is further magnified by synergistic (interaction of two or more components) effects with other threats, such as those discussed above. In evaluating the stressor of small population size effects on *Trichomanes punctatum* ssp. *floridanum,* we reviewed the limited data available concerning abundance at each of the occurrences across the subspecies' range. This represents a conservative classification of small population size, as available data do not discriminate among individual plants and life-history stages. 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 extirpation from one location occurs.

Conservation Efforts To Reduce Other Natural or Manmade Factors Affecting Its Continued Existence

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 publically owned properties at least once a year and more often in many cases. Annual monitoring of *Trichomanes punctatum* ssp. *floridanum* is conducted by Fairchild, which records health and size of individual clusters of the subspecies along with potential new stressors, including nonnative, invasive species or habitat destruction; reports are forwarded to the County preserve managers for further attention (Possley 2013l, pers. comm.). IRC also conducts research and monitoring in multiple hammocks within Miami-Dade County for various rare and endangered plant species. Nonnative, invasive species are documented, along with any occurrence of human disturbance (van der Heiden 2013i, pers. comm.). In Sumter County, the Florida Park Service surveys each State-owned property at least once a year to manage for nonnative plants (Werner 2013a–b, pers. comm.). Furthermore, Withlacoochee State Forest conducts prescribed burning on an annual basis, controlling regional wildfires in dry swamps and mesic hammocks.

Continuing efforts to propagate *Trichomanes punctatum* ssp. *floridanum* in-vitro may eventually lead to the establishment of healthy populations that can be reintroduced in locations where the taxon once occurred or introduced to new areas deemed appropriate. These efforts can assist with combating potential or realized impacts from natural stochastic events that may harm or destroy existing populations.

Summary of Factor E

Stochastic events resulting in changes in canopy structure and environmental conditions within the taxon's current habitat are considered threats to existing and future populations of *T.p.* ssp. *floridanum.* Droughts, tropical storms, and hurricanes are common occurrences in Florida, and changes associated with these events have the potential to limit reproduction and compromise overall health in the long term, making plants more vulnerable to other stressors (*e.g.,* periodic, long-term droughts, hurricanes) or causing extirpations. As few populations remain, the entire taxon is at risk of extinction during these events. Climatic changes, including SLR, are longer term concerns expected to exacerbate existing impacts and ultimately reduce the extent of available habitat for *T.p.* ssp. *floridanum.*

The presence of nonnative species, including other plants and feral hogs, is also a threat, but may be reduced on public lands due to active programs by Miami-Dade County and the State. The majority of the remaining populations of this plant are small and geographically isolated, and genetic variability is likely low, increasing the inherent risk due to overall low resilience of this subspecies. Furthermore, the isolated existence of *Trichomanes punctatum* ssp. *floridanum* makes natural recolonization of extirpated populations virtually impossible without human intervention. Although considered stressors, wildfires and public use at extant sites are minimal and do not rise to the level of a threat.

Cumulative Effects of Threats

When two or more threats affect *Trichomanes punctatum* ssp. *floridanum* occurrences, 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 *T.p.* ssp. *floridanum* make it 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 this taxon, as discussed above, range from local (*e.g.,* hydrology changes, 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 *T.p.* ssp. *floridanum,* making this subspecies more vulnerable.

Determination

We have carefully assessed the best scientific and commercial data available regarding the past, present, and future threats to *Trichomanes punctatum* ssp. *floridanum. T.p.* ssp. *floridanum* has been extirpated from the majority of its historical range, and the primary threats of habitat destruction and modification resulting from human population growth and development, agricultural conversion, regional drainage, and resulting changes in canopy and hydrology (Factor A); competition from

nonnative, invasive species (Factor E); changes in climatic conditions, including sea level rise (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 subspecies from these factors (see Factor D discussion). These threats are ongoing, rangewide, and expected to continue in the future. Populations of *T.p.* ssp. *floridanum* are relatively small and isolated from one another, and their ability to recolonize suitable habitat is unlikely without human intervention. Because of the current condition of the extant populations and life-history traits of the subspecies, it is vulnerable to natural or human-caused changes in its currently occupied habitats. The threats have had and will continue to have substantial adverse effects on *T.p.* ssp. *floridanum* and its habitat. 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, this plant is currently at risk throughout all of its 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 the subspecies in danger of extinction. The risk of extinction is high because the populations are small, isolated, and have limited to no capacity 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 this subspecies. Furthermore, natural stochastic events and changes in climatic conditions pose a threat to the persistence of the subspecies, especially because mitigation measures have yet to be developed. Individually and collectively, all of these threats can contribute to the local extirpation and potential extinction of this subspecies. Because these threats are placing this subspecies in danger of extinction throughout its range, we have determined this plant meets the definition of an endangered species. Therefore, on the basis of the best available scientific and commercial information, we are listing *Trichomanes punctatum* ssp. *floridanum* as an endangered species in accordance with sections 3(6) and 4(a)(1) of the Act. We find that a threatened species status is not appropriate for *T.p.* ssp. *floridanum* because of the contracted range of the subspecies and because the threats are occurring rangewide, are currently acting on the subspecies at a high intensity, and are expected to continue into the future.

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. Because we have determined that *Trichomanes punctatum* ssp. *floridanum* is an endangered species throughout all of its range, no portion of its range can be ''significant'' for purposes of the definitions of ''endangered species'' and ''threatened species.'' See the Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species'' (79 FR 37578, July 1, 2014).

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened species 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 requires that recovery actions be carried out for all 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 requires 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 develop a recovery plan. The plan may be revised to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan identifies recovery criteria for review of when a species may be ready for downlisting (from endangered species to threatened species) 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. When completed, the draft and final recovery plans 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.

Following publication of this final listing rule, 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 will be eligible for Federal funds to implement management actions that promote the protection or recovery of *Trichomanes punctatum* ssp. *floridanum.* Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Please let us know if you are interested in participating in recovery efforts for *Trichomanes punctatum* ssp. *floridanum.* Additionally, we invite you to submit any new information on this subspecies 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 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)(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 any endangered or threatened species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, 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, but are not limited to, federally funded or authorized actions such as habitat restoration and control of nonnatives management and any other landscape-altering activities on Federal lands administered by the U.S. Fish and Wildlife Service; issuance of section 404 Clean Water Act permits by the Army Corps of Engineers; and construction and maintenance of roads or highways by the Federal Highway Administration.

With respect to endangered plants, 50 CFR 17.61 makes 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 contained in 50 CFR 17.62.

We may issue permits to carry out otherwise prohibited activities involving endangered plants under certain circumstances. Regulations governing permits are codified at 50 CFR 17.62. 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 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 listing on proposed and ongoing activities within the range of a listed species. The following activities could potentially result in a violation of section 9 of the Act. This list is not comprehensive:

(1) Import the subspecies into, or export the subspecies from, the United States without authorization;

(2) Remove and reduce to possession the subspecies from areas under Federal jurisdiction; maliciously damage or destroy the subspecies on any such area; or remove, cut, dig up, or damage or destroy the subspecies 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) Sell or offer for sale in interstate or foreign commerce the subspecies; except for properly documented antique specimens of the taxon at least 100 years old, as defined by section 10(h)(1) of the Act;

(4) Unauthorized delivering, carrying, or transporting of the subspecies, including import or export across State lines and international boundaries;

(5) Introduction of nonnative species that compete with or prey upon *Trichomanes punctatum* ssp. *floridanum;*

(6) Unauthorized release of biological control agents that attack any life stage of this subspecies; and

(7) Unauthorized manipulation or modification of the habitat where *Trichomanes punctatum* ssp. *floridanum* is present on Federal lands including, but not limited to, unauthorized water withdrawal from solution holes and unauthorized removal of canopy.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the South Florida Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

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 (16 U.S.C. 1532(3)) also defines the terms ''conserve,'' ''conserving,'' and ''conservation'' to mean ''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 this chapter are no longer necessary.''

Prudency Determination

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 shall 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.

In our proposed listing rule, because we 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 determined that designation of critical habitat is prudent for *Trichomanes punctatum* ssp. *floridanum.*

Critical Habitat Determinability

Having determined that designation is prudent under section 4(a)(3) of the Act, we must find whether critical habitat for *Trichomanes punctatum* ssp. *floridanum* is determinable. 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.

In our proposed listing rule, we found that critical habitat was not determinable because a careful assessment of the economic impacts that may occur due to a critical habitat designation was still ongoing, and we were still in the process of acquiring the information needed to perform that assessment. We have recently received new data on suitable habitat for *T. p.* ssp. *floridanum* in Sumter County, which has caused us to begin reassessing which specific features and areas are essential for the conservation of the species and, therefore, meet the definition of critical habitat. Consequently, a careful assessment of the new biological information is still ongoing, and we are still in the process of acquiring the information needed to perform that assessment. The information sufficient to perform a required analysis of the impacts of the designation is lacking, and therefore, we find designation of critical habitat to be not determinable at this time. Accordingly, we will publish a proposed critical habitat rule when we finish our assessment of the new biological information.

Required Determinations

National Environmental Policy Act

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes. We are not aware of any *Trichomanes punctatum* ssp. *floridanum* populations on tribal lands.

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 final 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.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245; unless otherwise noted.

■ 2. Amend § 17.12(h) by adding an entry for ''*Trichomanes punctatum* ssp. *floridanum*'' to the List of Endangered and Threatened Plants in alphabetical order under Ferns and Allies to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
*	*	*	*	*	*		*
FERNS AND ALLIES							
*	*	*	*	*	*		*
Trichomanes punctatum ssp. *floridanum*.	Florida bristle fern	U.S.A. (FL)	Hymenophyllaceae	E	859	NA	NA
*	*	*	*	*	*		*

* * * * *

Dated: September 28, 2015.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

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Endangered and Threatened Wildlife and Plants; Threatened Species Status for Black Pinesnake With 4(d) Rule; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2014–0046; 4500030113]

RIN 1018–BA03

Endangered and Threatened Wildlife and Plants; Threatened Species Status for Black Pinesnake With 4(d) Rule

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine threatened species status under the Endangered Species Act of 1973 (Act), as amended, for the black pinesnake (*Pituophis melanoleucus lodingi*), a reptile subspecies from Alabama, Louisiana, and Mississippi. The effect of this rule is to add this subspecies to the List of Endangered and Threatened Wildlife. We are also adopting a rule under the authority of section 4(d) of the Act (a ''4(d) rule'') to provide for the conservation of the black pinesnake.

DATES: This rule is effective November 5, 2015.

ADDRESSES: This final rule is available on the Internet at *http://www.regulations.gov* and *http://www.fws.gov/mississippiES/*. Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov*. All of the comments, materials, and documentation that we considered in this rulemaking are available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Mississippi Ecological Services Field Office, 6578 Dogwood View Parkway, Jackson, MS 39213; by telephone at 601–965–4900; or by facsimile at 601–965–4340.

FOR FURTHER INFORMATION CONTACT: Stephen Ricks, Field Supervisor, U.S. Fish and Wildlife Service, Mississippi Ecological Services Field Office, 6578 Dogwood Parkway, Jackson, MS 39213; by telephone 601–965–4900; or by facsimile 601–965–4340. 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, a species may warrant protection through listing if we determine that it is endangered or threatened throughout all or a significant portion of its range. Listing a species as an endangered or threatened species can only be completed by issuing a rule.

This rule lists the black pinesnake *(Pituophis melanoleucus lodingi)* as a threatened species. It includes provisions published under the authority of section 4(d) of the Act that are necessary and advisable to provide for the conservation of the black pinesnake.

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 black pinesnake is threatened based on four of these five factors (Factors A, C, D, and E), specifically the past and continuing loss, degradation, and fragmentation of habitat in association with silviculture, urbanization, and fire suppression; road mortality; and the intentional killing of snakes by individuals.

Peer review and public comment. We sought comments from independent specialists to ensure that our determination is based on scientifically sound data, assumptions, and analyses. We also considered all comments and information we received during two public comment periods.

Previous Federal Action

Federal actions for the black pinesnake prior to publication of the proposed listing rule are outlined in that rule, which was published on October 7, 2014 (79 FR 60406). Publication of the proposed rule opened a 60-day comment period, which closed on December 8, 2014. On March 11, 2015, we published a proposed critical habitat designation for the black pinesnake (80 FR 12846) and invited the public to comment on the critical habitat proposal; the entire October 7, 2014, proposed listing rule; and the draft economic analysis of the proposed critical habitat designation. This second 60-day comment period ended on May 11, 2015.

We will finalize the designation of critical habitat for the black pinesnake at a later date.

Background

Species Information

Species Description and Taxonomy

Pinesnakes (genus *Pituophis*) are large, non-venomous, oviparous (egg-laying) constricting snakes with keeled scales and disproportionately small heads (Conant and Collins 1991, pp. 201–202). Their snouts are pointed. Black pinesnakes are distinguished from other pinesnakes by being dark brown to black both on the upper and lower surfaces of their bodies. There is considerable individual variation in adult coloration (Vandeventer and Young 1989, p. 34), and some adults have russet-brown snouts. They may also have white scales on their throat and ventral surface (Conant and Collins 1991, p. 203). In addition, there may also be a vague pattern of blotches on the end of the body approaching the tail. Adult black pinesnakes range from 48 to 76 inches (in) (122 to 193 centimeters (cm)) long (Conant and Collins 1991, p. 203; Mount 1975, p. 226). Young black pinesnakes often have a blotched pattern, typical of other pinesnakes, which darkens with age. The subspecies' defensive posture when disturbed is particularly interesting; when threatened, it throws itself into a coil, vibrates its tail rapidly, strikes repeatedly, and utters a series of loud hisses (Ernest and Barbour 1989, p. 102).

Pinesnakes (*Pituophis melanoleucus*) are members of the Class Reptilia, Order Squamata, Suborder Serpentes, and Family Colubridae. There are three recognized subspecies of *P. melanoleucus* distributed across the eastern United States (Crother 2012, p. 66; Rodriguez-Robles and De Jesus-Escobar 2000, p. 35): The northern pinesnake (*P. m. melanoleucus*); black pinesnake (*P. m. lodingi*); and Florida pinesnake (*P. m. mugitus*). The black pinesnake was originally described by Blanchard (1924, pp. 531–532), and is geographically isolated from all other pinesnakes. However, there is evidence that the black pinesnake was in contact with other pinesnakes in the past. A form intermediate between *P. m. lodingi* and *P. m. mugitus* occurs in Baldwin and Escambia Counties, Alabama, and Escambia County, Florida, and may display morphological characteristics of both subspecies (Conant 1956, pp. 10–11). These snakes are separated from populations of the black pinesnake by the extensive Tensas-Mobile River Delta and the Alabama River, and it is unlikely that there is currently gene flow between pinesnakes across the Delta (Duran 1998a, p. 13; Hart 2002, p.

23). A study on the genetic structure of the three subspecies of *P. melanoleucus* (Getz *et al.* 2012, p. 2) showed evidence of mixed ancestry, and supported the current subspecies designations and the determination that all three are genetically distinct groups. Evidence suggests a possible historical intergradation between *P. m. lodingi* and *P. ruthveni* (Louisiana pinesnake), but their current ranges are no longer in contact and intergradation does not presently occur (Crain and Cliburn 1971, p. 496).

Habitat

Black pinesnakes are endemic to the longleaf pine ecosystem that once covered the southeastern United States. Optimal habitat for these snakes consists of sandy, well-drained soils with an open-canopied overstory of longleaf pine, a reduced shrub layer, and a dense herbaceous ground cover (Duran 1998a, p. 2). Duran (1998b, pp. 1–32) conducted a radio-telemetry study of the black pinesnake that provided data on habitat use. Snakes in this study were usually located on well-drained, sandy-loam soils on hilltops, on ridges, and toward the tops of slopes in areas dominated by longleaf pine. With other habitat types readily available on the landscape, we can infer that these upland habitats were preferred by black pinesnakes. They were rarely found in riparian areas, hardwood forests, or closed canopy conditions. From radio-telemetry studies, black pinesnakes were located below ground 53 to 70 percent of the time (Duran 1998a, p. 12; Yager *et al.* 2005, p. 27; Baxley and Qualls 2009, p. 288). These locations were usually in the trunks or root channels of rotting pine stumps.

During two additional radiotelemetry studies, individual pinesnakes were observed in riparian areas, hardwood forests, and pine plantations periodically, but the majority of their time was still spent in intact upland longleaf pine habitat. While they used multiple habitat types periodically, they repeatedly returned to core areas in the longleaf pine uplands and used the same pine stump and associated rotted-out root system from year to year, indicating considerable site fidelity (Yager, *et al.* 2006, pp. 34–36; Baxley 2007, p. 40). Several radio-tracked juvenile snakes were observed using mole or other small mammal burrows rather than the bigger stump holes used by adult snakes (Lyman *et al.* 2007, pp. 39–41).

Pinesnakes have shown some seasonal movement trends of emerging from overwintering sites in February, moving to an active area from March until September, and then moving back to their overwintering areas (Yager *et al.* 2006, pp. 34–36). The various areas utilized throughout the year may not have significantly different habitat characteristics, but these movement patterns illustrate that black pinesnakes may need access to larger, unfragmented tracts of habitat to accommodate fairly large home ranges while minimizing interactions with humans.

Life History

Black pinesnakes are active during the day but only rarely at night. As evidenced by their pointed snout and enlarged rostral scale (the scale at the tip of their snout), they are accomplished burrowers capable of tunneling in loose soil, potentially for digging nests or excavating rodents for food (Ernst and Barbour 1989, pp. 100–101). Black pinesnakes are known to consume a variety of food, including nestling rabbits (*Sylvilagus aquaticus*), bobwhite quail (*Colinus virginianus*) and their eggs, and eastern kingbirds (*Tyrannus tyrannus*) (Vandeventer and Young 1989, p. 34; Yager *et al.* 2005, p. 28); however, rodents represent the most common type of prey. The majority of documented prey items are hispid cotton rats (*Sigmodon hispidus*), various species of mice (*Peromyscus* spp.), and, to a lesser extent, eastern fox squirrels (*Sciurus niger*) (Rudolph *et al.* 2002, p. 59; Yager *et al.* 2005, p. 28). During field studies of black pinesnakes in Mississippi, hispid cotton rats and cotton mice (*Peromyscus gossypinus*) were the most frequently trapped small mammals within black pinesnake home ranges (Duran and Givens 2001, p. 4; Baxley 2007, p. 29). These results suggest that these two species of mammals represent essential components of the snake's diet (Duran and Givens 2001, p. 4).

Duran and Givens (2001, p. 4) estimated the average size of individual black pinesnake home ranges (Minimum Convex Polygons (MCPs)) at Camp Shelby, Mississippi, to be 117.4 acres (ac) (47.5 hectares (ha)) using data obtained during their radio-telemetry study. A more recent study conducted at Camp Shelby, a National Guard training facility operating under a special use permit on the De Soto National Forest (NF) in Forrest, George, and Perry Counties, Mississippi, provided home range estimates from 135 to 385 ac (55 to 156 ha) (Lee 2014a, p. 1). Additional studies from the De Soto NF and other areas of Mississippi have documented somewhat higher MCP home range estimates, from 225 to 979 ac (91 to 396 ha) (Baxley and Qualls 2009, p. 287). The smaller home range sizes from Camp Shelby may be a reflection of the higher habitat quality at the site (Zappalorti *in litt.* 2015), as the snakes may not have to travel great distances to meet their ecological needs. A modeling study of movement patterns in bullsnakes (*Pituophis catenifer sayi*) revealed that home range sizes increased as a function of the amount of avoided habitat, such as agricultural fields (Kapfer *et al.* 2010, p. 15). As snakes are forced to increase the search radius to locate preferred habitat, their home range invariably increases.

The dynamic nature of individual movement patterns supports the premise that black pinesnake habitat should be maintained in large unfragmented parcels to sustain survival of a population. In the late 1980s, a gopher tortoise preserve of approximately 2,000 ac (809 ha) was created at Camp Shelby. This preserve, which has limited habitat fragmentation and has been specifically managed with prescribed burning and habitat restoration to support the recovery of the gopher tortoise, is centrally located within a much larger managed area (over 100,000 ac (40,469 ha)) that provides habitat for one of the largest known populations of black pinesnakes in the subspecies' range (Lee 2014a, p. 1).

No population and habitat viability analyses have been conducted for the black pinesnake due primarily to a lack of essential life-history and demographic data, such as estimates of growth and reproductive rates, as is the case for many snake species (Dorcas and Willson 2009, p. 36; Willson *et al.* 2011, pp. 42–43). However, radio-tracking studies have shown that a reserve area should include an unconstrained (unfragmented) activity area large enough to accommodate the long-distance movements that have been reported for the subspecies (Baxley and Qualls 2009, pp. 287–288). As with many snake species, fragmentation by roads, urbanization, or incompatible habitat conversion continues to be a major threat affecting the black pinesnake (see discussion below under *Factor E: Other Natural or Manmade Factors Affecting Its Continued Existence*).

Very little information on the black pinesnake's breeding and egg-laying is available from the wild. Lyman *et al.* (2007, p. 39) described the time frame of mid-May through mid-June as the period when black pinesnakes breed at Camp Shelby, and mating activities may take place in or at the entrance to armadillo burrows. However, Lee (2007, p. 93) described copulatory behavior in a pair of black pinesnakes in late

September. Based on dates when hatchling black pinesnakes have been captured, the potential nesting and egg deposition period of gravid females extends from the last week in June to the last week of August (Lyman *et al.* 2009, p. 42). In 2009, a natural nest with a clutch of six recently hatched black pinesnake eggs was found at Camp Shelby (Lee *et al.* 2011, p. 301) at the end of a juvenile gopher tortoise burrow. As there is only one documented natural black pinesnake nest, it is unknown whether the subspecies exhibits nest site fidelity; however, nest site fidelity has been described for other *Pituophis* species. Burger and Zappalorti (1992, pp. 333–335) conducted an 11-year study of nest site fidelity of northern pinesnakes in New Jersey, and documented the exact same nest site being used for 11 years in a row, evidence of old egg shells in 73 percent of new nests, and recapture of 42 percent of female snakes at prior nesting sites. The authors suggest that females returning to a familiar site should have greater knowledge of available resources, basking sites, refugia, and predator pressures; therefore they would have the potential for higher reproductive success compared with having to find a new nest site (Burger and Zappalorti 1992, pp. 334–335). If black pinesnakes show similar site fidelity, it follows that they too might have higher reproductive success if their nesting sites were to remain undisturbed.

Specific information about underground refugia of the black pinesnake was documented during a study conducted by Rudolph *et al.* (2007, p. 560), which involved excavating five sites used by the subspecies for significant periods of time from early December through late March. The pinesnakes occurred singly at shallow depths (mean of 9.8 in (25 cm); maximum of 13.8 in (35 cm)) in chambers formed by the decay and burning of pine stumps and roots (Rudolph *et al.* 2007, p. 560). The refugia were not excavated by the snakes beyond minimal enlargement of the preexisting chambers. These sites are not considered true hibernacula because black pinesnakes move above ground on warm days throughout all months of the year (Rudolph *et al.* 2007, p. 561; Baxley 2007, pp. 39–40). Means (2005, p. 76, and references therein) suggested that longleaf pine is likely to be more important than other southern pine species to animals using stumpholes, because longleaf pine has a more resinous heartwood, deeper taproot, and lateral roots spreading out 50 feet (ft) (15.2 meters (m)) or more.

Longevity of wild black pinesnakes is not well documented, but can be at least 11 years, based on recapture data from Camp Shelby (Lee 2014b, pers. comm.). The longevity record for a captive male black pinesnake is 14 years, 2 months (Slavens and Slavens 1999, p. 1). Recapture and growth data from black pinesnakes on Camp Shelby indicate that they may not reach sexual maturity until their 4th or possibly 5th year (Yager *et al.* 2006, p. 34).

Potential predators of black pinesnakes include red-tailed hawks (*Buteo jamaicensis*), raccoons (*Procyon lotor*), skunks (*Mephitis mephitis*), red foxes (*Vulpes vulpes*), feral cats (*Felis catus*), and domestic dogs (*Canis familiaris*) (Ernst and Ernst 2003, p. 284; Yager *et al.* 2006, p. 34; Lyman *et al.* 2007, p. 39).

Historical/Current Distribution

There are historical records for the black pinesnake from one parish in Louisiana (Washington Parish), 14 counties in Mississippi (Forrest, George, Greene, Harrison, Jackson, Jones, Lamar, Lauderdale, Marion, Pearl River, Perry, Stone, Walthall, and Wayne Counties), and 3 counties in Alabama west of the Mobile River Delta (Clarke, Mobile, and Washington Counties). Historically, populations likely occurred in all of these contiguous counties; however, current records do not support the distribution of black pinesnakes across this entire area. Recently, a black pinesnake was observed in a new county, Lawrence County, Mississippi, where the subspecies had not previously been documented (Lee 2014b, p. 1). However, is not known whether this snake represents a new extant population.

Duran (1998a, p. 9) and Duran and Givens (2001, p. 24) concluded that black pinesnakes have likely been extirpated from Louisiana and from two counties (Lauderdale and Walthall) in Mississippi. In these two studies, all historical and current records were collected; land managers from private, State, and Federal agencies with local knowledge of the subspecies were interviewed; and habitat of all historical records was visited and assessed. As black pinesnakes have not been reported west of the Pearl River in either Mississippi or Louisiana in over 30 years, and since there are no recent (post-1979) records from Pearl River County (Mississippi), we believe them to likely be extirpated from that county as well.

In general, pinesnakes are particularly difficult to survey given their tendency to remain below ground most of the time. However, a review of records, interviews, and status reports, coupled with a Geographic Information System (GIS) analysis of current suitable habitat, indicated that black pinesnakes likely remain in all historical counties in Alabama and in 11 out of 14 historical counties in Mississippi (Forrest, George, Greene, Harrison, Jackson, Jones, Lamar, Marion, Perry, Stone, and Wayne Counties). Black pinesnake populations in many of the occupied counties in Mississippi occur in the De Soto NF. Much of the habitat outside of De Soto NF has become highly fragmented, and populations on these lands appear to be small and isolated on islands of suitable habitat (Duran 1998a, p. 17; Barbour 2009, pp. 6–13).

Population Estimates and Status

Duran and Givens (2001, pp. 1–35) reported the results of a habitat assessment of all black pinesnake records (156) known at the time of their study. Habitat suitability of the sites was based on how the habitat compared to that selected by black pinesnakes in a previously completed telemetry study of a population occupying what was considered high-quality habitat (Duran 1998b, pp. 1–44). Black pinesnake records were joined using a contiguous suitable habitat model (combining areas of suitable habitat with relatively unrestricted gene flow) to create ''population segments'' (defined as ''that portion of the population located in a contiguous area of suitable habitat throughout which gene flow is relatively unrestricted'') from the two-dimensional point data. These population segments were then assessed using a combination of a habitat suitability rating and data on how recently and/or frequently black pinesnakes had been recorded at the site. By examining historical population segments, Duran and Givens (2001, p. 10) determined that 22 of the 36 (61 percent) population segments known at the time of their study were either extirpated (subspecies no longer present), or were in serious jeopardy of extirpation. During the development of this listing rule, we used GIS to reassess the habitat suitability of the 14 population segments not determined to be in serious jeopardy of extirpation by Duran and Givens (2001, p. 10). Our estimate of the number of populations was derived by overlaying habitat from a current GIS analysis with the locality record data (post-1990) from species/subspecies experts, Natural Heritage Programs, State wildlife agencies, and the site assessments of Duran and Givens (2001, pp. 1–35) and Barbour

(2009, pp. 1–36). We used locality records back to 1990, because this date coincides with that chosen by Duran and Givens (2001, pp. 1–35) and Barbour (2009, pp. 1–36) in their comprehensive black pinesnake habitat assessments. Using the movement and home range data provided by black pinesnake researchers (Duran 1998b, pp. 15–19; Yager *et al.* 2005, pp. 27–28; Baxley and Qualls 2009, pp. 287–288), a population was determined to be distinct if it was separated from other localities by more than 1.3 miles (mi.) (2.1 kilometers (km)). Using our recent assessment, we estimate that 11 of the 14 populations of black pinesnakes remain extant today. Five of these 11 populations occur in Alabama and 6 in Mississippi. However, current data are insufficient to make a determination of the number of individuals that comprise each remaining population.

Our current GIS analysis indicates that 3 of the 11 remaining black pinesnake populations, all located in Alabama and lacking recent records, are not likely to persist long term due to: Presence on, or proximity to, highly fragmented habitat; lack of protection and habitat management for the site; or both. The majority of the known black pinesnake records, and much of the best remaining habitat, occurs within the two ranger districts that make up the De Soto NF in Mississippi. These lands represent a small fraction of the former longleaf pine ecosystem that was present in Louisiana, Mississippi, and Alabama, and was historically occupied by the subspecies. At this time, we believe the six populations in Mississippi (five on the De Soto NF and one in Marion County) and two sites in Alabama (in Clarke County) are the only ones considered likely to persist long term because of their presence on relatively unfragmented forest and protection or management afforded to the habitat or subspecies.

Summary of Comments and Recommendations

In the proposed rule published on October 7, 2014 (79 FR 60406), we requested that all interested parties submit written comments on the proposal by December 8, 2014. We reopened the comment period on the listing proposal on March 11, 2015 (80 FR 12846) with our publication of a proposed critical habitat designation for the subspecies. This second 60-day comment period ended on May 11, 2015. During both comment periods, we also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the Mobile Press Register and Hattiesburg American on October 12, 2014, and again on March 15, 2015. We also presented several webinars on the proposed listing and critical habitat rules, and invited all stakeholders, media, and congressional representatives to participate and ask any questions. The webinar information was posted on our Web site along with copies of the proposed listing rule, press release, and a question/answer document. We did not receive any requests for a public hearing within the designated timeframe. During the two comment periods for the proposed rule, we received nearly 300 comments addressing the proposed listing and critical habitat rules. In this final rule, we address only the comments regarding the proposed listing and the associated rule under section 4(d) of the Act (16 U.S.C. 1531 *et seq.*). Comments specific to the proposed critical habitat designation (80 FR 12846) for this subspecies will be addressed in the final critical habitat determination at a later date. All relevant substantive information provided during comment periods has either been incorporated directly into this final determination or is addressed below.

Peer Reviewer Comments

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from six knowledgeable individuals with scientific expertise that included familiarity with the black pinesnake and its habitat, biological needs, and threats, as well as those with experience in studying other pinesnake species. We received responses from all of the peer reviewers.

We reviewed all comments we received from the peer reviewers for substantive issues and new information regarding the listing of black pinesnake. The peer reviewers generally concurred with our methods and conclusions, and provided additional information, clarifications, and suggestions to improve this final rule. Four of the peer reviewers specifically expressed their support for the subspecies' listing as a threatened species; a fifth peer reviewer questioned our characterization that the rate of decline had moderated for this subspecies due to conservation actions, and suggested the black pinesnake might actually qualify as endangered. The sixth peer reviewer limited her comments to the critical habitat proposal and did not specifically address the proposed listing rule. Several peer reviewers noted that information was limited on some life-history attributes but stated that, based on the best available information, the Service had presented a compelling case for listing as threatened. Four of the peer reviewers stressed the importance of stump holes and associated root systems to the subspecies and most noted the importance of conserving outlying populations to support conservation genetics of the subspecies. Substantive peer reviewer comments are addressed in the following summaries and incorporated into the final rule as appropriate.

(1) Comment: Peer reviewers provided additional information and suggestions for clarifying and improving the accuracy of the information in the ''Habitat,'' ''Life History,'' ''Historical/Current Distribution,'' Summary of Factors Affecting the Species, and Available Conservation Measures sections of the preamble of the proposed rule.

Our Response: We appreciate these corrections and suggestions, and have made changes to this final rule to reflect the peer reviewers' input.

(2) Comment: Two peer reviewers stated that our characterization of ''open canopy'' as ≤70 percent canopy coverage in our discussion of target suitable black pinesnake habitat, under the ''Provisions of the Proposed Special Rule'' section, was not appropriate. They stated that studies have shown that pinesnakes more frequently utilize areas with <50 percent canopy coverage.

Our Response: There appears to be some variability in the literature as to what percentage of canopy closure constitutes an open canopy. Therefore, we have removed any reference of a specific value for canopy coverage as optimal habitat for the black pinesnake in this final rule. We have focused instead on the presence of an abundant herbaceous groundcover, which is a component of optimal habitat for this subspecies and is provided for in an appropriately open-canopied forest.

(3) Comment: One peer reviewer stated that the increasing use of erosion control blankets (ECBs) containing polypropylene mesh poses a potential threat to black pinesnakes. ECBs, which are often used for erosion control on pipeline construction projects, but may also be used for bird exclusion, have been documented to entangle many species of snakes, causing lacerations and mortality. They often take years to decompose, presenting a long-term entanglement hazard, even when discarded.

Our Response: We appreciate this new information, and have made changes to this final rule to reflect the

peer reviewer's input (see ''*Factor E: Other Natural or Manmade Factors Affecting Its Continued Existence*'' in the Summary of Factors Affecting the Species section, below).

(4) Comment: One peer reviewer and several public commenters questioned whether our determination of ''threatened'' was appropriate, instead of ''endangered.'' While the public commenters provided no justification for their statements, the peer reviewer suggested there are no data that indicate rates of population decline have moderated; therefore it is possible that the decline has accelerated. The peer reviewer mentioned that there have been minimal conservation accomplishments concerning the black pinesnake throughout its intermittent status as a candidate species over the last 30 years.

Our Response: The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.'' The determination to list the black pinesnake as threatened was based on the best available scientific and commercial data on its status, the existing and potential threats to the subspecies, and ongoing conservation actions. While it may be difficult to determine the ultimate success of these conservation actions, we know that discussions between the Service and our public lands partners, in particular, have resulted in new language within their formal management plans to protect and enhance black pinesnake habitat. For example, the Mississippi Army National Guard (MSARNG) has amended its integrated natural resources management plan (INRMP) to provide for the protection and management of the black pinesnake (see ''Conservation Efforts to Reduce Habitat Destruction, Modification, or Curtailment of Its Range'' under Factor A in the Summary of Factors Affecting the Species section, below).

We find that endangered status is not appropriate for the black pinesnake because, while we found the threats to the subspecies to be significant and rangewide, we did not find that the threats currently place the subspecies in danger of extinction throughout all or a significant portion of its range. Although there is a general decline in the overall range of the subspecies and its available habitat, we believe that the rate of decline has slowed in recent years due to restoration efforts, and range contraction is not severe enough to indicate imminent extinction. Therefore, we find that the black pinesnake meets the definition of a threatened species based on the immediacy, severity, and scope of the threats described above (see Determination section, below).

(5) Comment: Two peer reviewers and several public commenters questioned our determination that illegal collection from the wild was not a significant threat to the black pinesnake. One peer reviewer suggested that people in the pet trade may value wild-caught individuals with novel genetics, while public commenters postulated that the listing of the pinesnake may make it more difficult for enthusiasts and hobbyists to purchase individuals, therefore snakes from wild populations may be more vulnerable to collection. Additionally, a peer reviewer suggested that illegal collection would have a drastic impact on those populations that may have only a few individuals.

Our Response: In this final listing rule, we continue to rely upon the best scientific and commercial information available, which in this case includes correspondence with individuals who have experience with the history of the pinesnake pet trade in the area (see ''*Factor B: Overutilization for Commercial, Recreational, Scientific, or Educational Purposes*'' in the Summary of Factors Affecting the Species section, below). Those sources maintained that the need for collection of wild specimens is thought to have declined dramatically due to the pet trade being currently saturated with captive-bred black pinesnakes. There is no information available to suggest that illegal collection will increase once the subspecies is listed (and no new information to support this was received during the comment periods). Since the black pinesnake is fossorial (and thus difficult to locate), and does not overwinter in communal den sites, we believe this potential threat to be minor.

(6) Comment: Two peer reviewers and a number of public commenters stated that using locality data from 1990 as support for presence of extant populations may not reflect the current status of black pinesnakes and the subspecies may have since disappeared from these sites. On the other hand, a third peer reviewer stated that the lack of records for several decades in an area is not sufficient evidence to support that black pinesnakes have been extirpated from that area if some suitable habitat still exists.

Our Response: As we discussed in ''Population Estimates and Status'' in the Background section (above), we used data dated back to 1990, which is consistent with the date used by black pinesnake researchers to represent occupied localities in their comprehensive habitat assessments of black pinesnake localities. These records and the researchers' reports represent the best scientific data available at the time of listing. We conducted an updated GIS habitat analysis of the areas containing the post-1990 records, and if we found that sufficient forested habitat was still present, we determined that there was a reasonable likelihood that black pinesnake populations may still occur in those areas. If suitable habitat had disappeared in proximity to the record, we made the assumption that although a few individual snakes may still be present, the area likely could no longer support a population capable of persisting long term.

(7) Comment: Three peer reviewers and several other commenters questioned our discussion and assessment relating to the viability of the black pinesnake populations. Two peer reviewers noted we needed to supply numerical values to demonstrate both population viability and minimum reserve area.

Our Response: We do not currently have data (numerical values) on what constitutes a viable population for the black pinesnake and, therefore, have removed any discussion on viability of populations from this final listing rule. As stated in the ''Population Estimates and Status'' section under the Background section, above, we determined that 3 of the 11 currently known populations were not likely to persist in the long term due to their location on fragmented habitat and the lack of any protection or management in place. Viability, particularly with respect to minimum reserve area (minimal acreage necessary to support a viable population), will be discussed in our final critical habitat designation.

Federal Agency Comments

(8) Comment: One Federal agency and many public commenters disagreed with our assessment of the current decline of the longleaf pine ecosystem in the Southeast. These commenters also questioned our statement that increases in longleaf pine forests through restoration efforts in the Southeast do not align with the range of the black pinesnake.

Our Response: See our discussion of longleaf pine habitat under *Factor A: The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range.* Although there has been an extensive effort to restore longleaf pine in the Southeast, the

footprint of the longleaf pine ecosystem across its historical range continues to contract, with considerable losses being attributed to the conversion to loblolly pine (Oswalt *et al.* 2015, p. 504). Increases in longleaf pine acreage from restoration efforts do not overlap completely with the range of the black pinesnake (Ware 2014, pers. comm.). Recent outlooks for the southern Gulf region (which includes the range of the black pinesnake) still predict large percentage losses in longleaf pine distribution; in fact, Clarke County, Alabama, and several Mississippi counties occupied by the black pinesnake are predicted to have some of the highest percentages of longleaf pine loss in the Southeast (Klepzig *et al.* 2014, p. 53).

(9) Comment: One Federal agency and many public commenters disagreed that urbanization is still a contributor to habitat loss within the range of the black pinesnake and expressed concern with our forecast on the continued loss of forest land to urbanization over the next 50 years. Commenters stated that our forestry forecast was not adjusted to account for the recent economic collapse and subsequent changes in U.S. timber markets and forecasts.

Our Response: We recognize that not all areas within the range of the black pinesnake are forecast to have the same predicted levels of population growth in the next few decades, and some rural areas may experience population declines. However, we also recognize that many counties within the black pinesnake's range are still forecast to experience increases in urban land use, especially in areas near Mobile, Alabama, that have historically seen drastic habitat loss. We used the Southern Forest Futures Project to develop information in this rule regarding factors that are likely to result in forest changes within the range of the black pinesnake; this analysis covered a number of different scenarios of future population/income growth and timber prices and baseline tree planting rates (Klepzig *et al.* 2014, pg. vi). In all future scenarios, the southern Gulf region (which includes the range of the black pinesnake), as well as all the other southern U.S. subregions, exhibited a strong growth in population (Klepzig *et al.* 2014, pg. 20). See our discussion of longleaf pine habitat under *Factor A: The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range.*

(10) Comment: One Federal agency and numerous commenters disagreed that clearcut harvesting (clearcutting) constituted a management activity that destroys black pinesnake habitat. Some public commenters further elaborated that it is the activities occurring prior to the clearcut, or the managed condition after the clearcut, which are the potential threats to habitat. Many public commenters recommended that clearcutting be exempted as an intermediate treatment under the 4(d) rule.

Our Response: We recognize that while some clearcut harvesting may have a negative impact on black pinesnake habitat, at other times it is a necessary management tool to restore a forest to a condition suitable for pinesnakes and other native wildlife. For instance, clearcutting off-site pine species prior to afforestation or reforestation with longleaf pine and clearcutting with longleaf reserves to promote natural regeneration can both be very appropriate for creating and maintaining suitable black pinesnake habitat. Therefore, we removed the specific activity ''clearcutting'' from the list of activities which could potentially result in a violation of Section 9 of the Act. The 4(d) rule identifies activities causing significant subsurface disturbance or the conversion of the native longleaf pine forest to another forest cover type (or agricultural/urban uses) as the specific activities potentially causing take and threatening the subspecies.

(11) Comment: Two Federal agencies, one State agency, and numerous public commenters stated that more data and information were needed before proceeding with a federal listing of the black pinesnake. Commenters noted the lack of demographic data, life-history studies, and current rangewide surveys and population estimates as critical information needed to assess the subspecies' status and population trends. Several others noted that population estimates should be considered a minimum because pinesnakes are difficult to locate given their tendency to remain below ground most of the time, and because most black pinesnake records were the result of incidental observations in the course of other activities or biased based on number of observers frequenting the area.

Our Response: It is often the case that data are limited for rare species, and we acknowledge that it would be useful to have more information on the black pinesnake. However, as required by the Act, we base our determination on the best available scientific and commercial information at the time of our rulemaking. Trend information on population levels and habitat loss/availability or population/habitat indices often represent the best available information upon which to base listing actions. In arriving at our determination that the black pinesnake meets the definition of ''threatened'' under the Act, we note our conclusion is not based on estimates of population size or strictly on observational data, but on the reductions in range and numbers of populations due to past threats, and the negative impact of ongoing threats to those few populations that remain. Observational data (records) were only part of the analysis of population trends, as we evaluated habitat suitability through GIS as part of a probability of occurrence determination (please see our response to Comment 6, above). The Service determined that the available suitable habitat has diminished to the point that many historical populations have been severely reduced and gene flow between surviving populations has been restricted to the point of preventing the natural recovery of the subspecies.

(12) Comment: One Federal agency expressed concern over our statement that activities causing ''ground disturbance'' could potentially result in a violation of take under section 9 of the Act and thereby impact military training or habitat restoration on the Camp Shelby Joint Forces Training Center (Camp Shelby) in Mississippi.

Our Response: Following a review of the comments and our revision of the 4(d) rule, we have clarified the list of potential section 9 violations (see Available Conservation Measures, below). We specifically focused on those activities that may impact the black pinesnake refugia (stump holes), the most important habitat feature for the subspecies, in our development of the list of potential section 9 violations. Therefore, we have replaced ''activities causing ground disturbance'' with a more focused statement of those ''activities causing significant subsurface disturbance.'' We do not believe that normal military training operations will cause significant subsurface disturbance in the forested areas occupied by black pinesnakes, as artillery firing occurs on ranges that are maintained as mowed open fields, and troop- and vehicle-maneuvering activities do not cause significant disturbance that would destroy underground refugia. Habitat restoration and maintenance activities are covered under Camp Shelby's INRMP, which includes specific conservation measures to benefit black pinesnakes, including protection and maintenance of pine stumps (MSARNG 2014, p. 93). Military training operations on Camp Shelby have been compatible with protection measures for the burrows of the gopher

tortoise (*Gopherus polyphemus*), which has been federally listed for 28 years. We believe these operations will be compatible with protecting black pinesnakes and their habitat as well. As we have done with the gopher tortoise, we will work with the Department of Defense (DoD) and Camp Shelby to ensure their military mission can be accomplished and habitat restoration efforts can continue.

Comments From States

Section 4(b)(5)(A)(ii) of the Act requires the Service to give actual notice of any proposed listing regulation to the appropriate agency of each State in which the species is believed to occur, and invite each such agency to comment on the proposed regulation. We received comments from the Alabama Department of Conservation and Natural Resources, Wildlife and Freshwater Fisheries Division (ADCNR); the Mississippi Department of Wildlife, Fisheries and Parks (MDWFP); the Secretary of State for Mississippi; and the Louisiana Department of Wildlife and Fisheries (LDWF). The ADCNR provided an initial comment supporting the listing of the black pinesnake as threatened, which was followed later by a letter rescinding its support for the threatened listing and citing its belief that additional information was needed prior to making a listing decision. The MDWFP noted that it did not support any regulation or listing that would restrict or prohibit private landowners from managing their property for their objectives, specifically timber management. These agencies in Alabama and Mississippi also expressed concern that the 4(d) rule as proposed was too narrow in scope and would negatively impact private landowners managing timber. The LDWF initially commented that it did not consider the black pinesnake extirpated in Louisiana, based on a 2005 reported observation; however, they later retracted this statement. Based on further analysis, LDWF determined that the 2005 report was unverifiable and scientifically invalid; therefore, it failed to meet the criteria as an element of occurrence in the Louisiana Natural Heritage Program database. LDWF also stated that it supported the black pinesnake's proposed listing as threatened with a 4(d) rule to exempt beneficial management practices and noted that Louisiana is continuing to lose suitable upland pine habitat due to urban development. Specific issues raised by the States are addressed below.

(13) Comment: ADCNR and many public commenters stated that the proposed 4(d) rule was overly prescriptive and recommended a 4(d) rule similar to the Louisiana black bear (*Ursus americanus luteolus*) 4(d) rule, which exempts take occurring during all normal forestry activities that do not negatively impact den trees (see 50 CFR 17.40(i)). ADCNR also stated that it would support a 4(d) rule that provides for open canopy conditions; abundant ground cover; and refugia habitat such as stumps, snags, and woody debris.

Our Response: We appreciate the input from ADCNR and other commenters, and have made adjustments to the 4(d) rule to exempt, among other things, all forest management activities that maintain lands in a forested condition, except those activities causing significant subsurface disturbance or converting longleaf pine forests to other forest cover types. This change is in recognition of the naturally decayed or burned-out pine stump holes as an essential habitat feature for the black pinesnake, much like the Louisiana black bear 4(d) rule was developed to protect an essential habitat feature for that species. Not all suggested changes were incorporated because not all activities are consistent with a 4(d) rule that is ''necessary and advisable for the conservation of the species.'' We believe this revised 4(d) rule for the black pinesnake focuses on protecting those habitats and features most important to black pinesnake conservation, and addresses the standards supported by ADCNR. In addition, many forest operations in Alabama and Mississippi may already be operating in a manner consistent with the 4(d) rule. For instance, the language associated with conversion of longleaf pine forests to other forest types is consistent with Sustainable Forestry Initiative guidelines that protect rare and ecologically significant native forests (SFI 2015, p. 4), while some landowners indicated that they did not routinely remove stumps in these habitats.

(14) Comment: One state agency (ADCNR) and many public commenters requested that the comment period be extended for the proposed listing.

Our Response: We consider the two comment periods on the proposed listing, totaling 120 days, to have provided the public a sufficient opportunity for submitting comments. We provided a 60-day comment period associated with the publication of the listing proposed rule, which opened on October 7, 2014 (79 FR 60406), and closed on December 8, 2014. We then reopened the comment period for an additional 60 days on March 11, 2015, in association with our publication of our proposed critical habitat designation for the black pinesnake (80 FR 12846). This second comment period closed on May 11, 2015.

The Act requires the Service to publish a final rule within 1 year from the date we propose to list a species. In order to extend the comment period, we would have risked missing this deadline, unless we sought an extension under section 4(b)(6)(B)(i) of the Act. The Act allows this extension is if there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the determination or revision concerned, but only for 6 months and only for purposes of soliciting additional data. Based on the comments we received and data we evaluated, although there are differences in interpretation of the existing data, there is not substantial scientific disagreement regarding the sufficiency or accuracy of the available data. Please also see our response to Comment 11, above.

(15) Comment: MDWFP and many public commenters voiced opposition to any regulations that would prohibit landowners from managing their lands for their objectives with the focus on timber management operations. The Secretary of State for Mississippi and many public commenters expressed concern due to their perception that the proposed 4(d) rule, as written, specifically required landowners to adhere to certain timber management metrics, including placing limitations on harvest size and canopy closure, as well as requiring the planting of only longleaf pine.

Our Response: Throughout the development of this listing rule, we have attempted to describe black pinesnake habitat by characterizing the historical ecosystem in which pinesnakes evolved, and the primary habitat features important to pinesnakes, with data from publications and reports to support the utility of these habitat features. This has been taken by many as a prescription for how all landowners must manage their land from now on; however, in no way is the rule intended to prescribe management conditions. The Service will not require landowners to harvest their timber in a certain way, nor will we restrict landowners from managing loblolly or other pine tree species on their lands.

We will continue to recommend that longleaf pine be the preferred overstory species within the historical longleaf range. While black pinesnake habitat management can be successfully integrated with forestry practices in all pine species, longleaf pine is better suited for many reasons. Longleaf pines have open crowns that allow more

sunlight to reach the ground. The trees can be burned at younger ages and can be managed on longer rotations. Further, longleaf pines are more disease- and insect-resistant when compared to loblolly pines, and more resistant to wind damage due to the deep taproot and smaller crown density.

It should also be noted that densely planted pine plantations are not considered habitat for the black pinesnake, and, therefore, any actions in these stands are unlikely to result in take. In addition, landowners are not required to adhere to the conditions outlined in the 4(d) rule. There is no requirement to follow these voluntary guidelines and landowners who would prefer not to use the exemptions may consult with the Service on their forestry management practices if there is a potential to impact the black pinesnake. No consultation would be needed for forest management activities outside of the known areas occupied by the subspecies.

(16) Comment: ADCNR and many public commenters stated that it is not essential for longleaf pine to be the primary forest cover for an area to be considered black pinesnake habitat and that it is the structure of the forest that is more important. Therefore, longleaf pine should be de-emphasized throughout the rule, and it should not be a requirement to meet the provisions for the 4(d) rule. Consequently, some public commenters maintained that if there is no indication that longleaf pines are a necessary component of black pinesnake habitat, then the assumption that black pinesnake populations have declined proportionately with the decline in longleaf pine forests is invalid.

Our Response: We believe the structure of the forest occupied by black pinesnakes is very important, and we recognize that some studies have shown that pinesnakes have not always been found exclusively using longleaf pine forests, though it should be noted that the need for open-canopy and herbaceous understory has been supported in these studies.

Many forests are not managed to foster open conditions in the understory. Typical pine plantation management (*i.e.,* characterized by high stocking rates), for instance, differs from the conditions favored by this subspecies for several reasons. Pine plantations are not typically maintained in the open-canopied condition with an abundant herbaceous groundcover that is characteristic of the structure of this historical ecosystem. These converted forests differ from the native longleaf pine ecosystem in which the black pinesnake evolved, most noticeably in that they exhibit frequent canopy closure, often use practices that destroy subsurface structure, and have more limitations on how fire may be used as the primary management tool.

Even in cases where loblolly is favored in a more open condition, it does not function in the same way as longleaf over the long term. In fact, the Longleaf Alliance has said, ''The introduction of periodic fire and recovery of groundcover and wildlife communities may be possible without longleaf for the short term. Eventually, however, the fire regime necessary to maintain the desired groundcover and wildlife communities can only be maintained in longleaf pine forests. Treating longleaf pine like loblolly pine will not achieve the desired results'' (Longleaf Alliance 2015, unpaginated). The tree species itself matters because, over time, the fire necessary to maintain the herbaceous groundcover that supports this subspecies is only well-tolerated by longleaf pine. Further, Means (2005, p. 76, and references therein) suggested that longleaf pine is likely to be more important than other southern pine species to animals using stumpholes, because longleaf pine has a more resinous heartwood, deeper taproot, and lateral roots spreading out 50 ft (15.2 m) or more. Therefore, we believe that the decline of the black pinesnake is closely linked to the decline of the characteristic longleaf pine ecosystem.

Typically, if converted forests display an open-canopied condition, it is only temporary, and when the canopy closes that habitat becomes unsuitable for both black pinesnakes and their prey. Occurrence of pinesnakes in these forests should not be confused with preference for those types of habitat. We believe the pinesnakes in converted forests are selecting for the best available sub-optimal habitat, and although they may be persisting sporadically in the modified habitat, once the canopy closes again they will be forced to relocate because there will be no herbaceous groundcover to support prey populations on which the subspecies depends for survival. This has been supported through radio-telemetry data, which show that black pinesnakes most often utilize open-canopied forests (Baxley and Qualls 2009, p. 289).

A long history of removal of subsurface structure (*e.g.,* stumps and root channels) and conversion from native forests to other uses has eliminated both the subspecies and suitable habitat; therefore, it is unlikely that sites that have been intensively managed through multiple rotations or converted to agriculture or urban areas will support populations long term. This is likely because the refugia habitat has been removed, the surface can no longer support prey species, road density and thereby the threat posed by road crossings increases, or simply because the habitat (in any condition, optimal or suboptimal) no longer remains on a site.

Public Comments

General Issue 1: Captive Propagation

(17) Comment: A number of commenters representing the captive breeding community voiced concern over the listing, especially with its impact to pet owners, future sales of black pinesnakes, work of researchers, and zoological institutions. Some specifically requested that captive-bred animals be excluded from the listing or exempted through a 4(d) rule to allow unfettered continuation of captive breeding, pet ownership, and trade.

Our Response: Black pinesnakes acquired before the effective date of the final listing of this subspecies (see **DATES**, above) may be legally held and bred in captivity as long as laws regarding this activity within the State in which they are held are not violated. This would include snakes acquired pre-listing by pet owners, researchers, and zoological institutions. Future sale of captive-bred black pinesnakes, born from pre-listing acquired parents, within their State of their origin would be regulated by applicable laws of that State. If individuals outside the snake's State of origin wish to purchase captive-bred snakes, they would have to first acquire a 10(a)(1)(A) Interstate Commerce permit from the Service (Web site: *http://www.fws.gov/forms/3-200-55.pdf*). Information about the intended purpose of purchasing a black pinesnake is required because using federally threatened species as pets is not consistent with the purposes of the Act, which is intended to support the conservation of species and recovery of wild populations. However, an animal with threatened species status may be legally kept in captivity if it is captive-bred and used for educational and/or breeding purposes consistent with the aforementioned intent of the Act. Through the permit process, we are able to track and monitor the trade in captive-bred listed species. For this reason, we believe exemption for this activity through a 4(d) rule would not be appropriate, as it would not meet the standard of providing for the conservation of the subspecies.

(18) Comment: Several commenters stated that the Service should have taken information relating to the large captive-bred population into the decision to list the subspecies. Several other commenters stated listing was unnecessary because captive-bred animals could be released in the wild.

Our Response: While there have been great advances by snake enthusiasts and hobbyists in successful breeding programs for pinesnakes, they are not animals bred to be returned to wild habitats. The Service views captive propagation programs as a last recourse for conserving species. The Act directs the Service to focus on conserving the ecosystems upon which endangered and threatened species depend. Loss of habitat is one of the primary threats to this subspecies. Before captive animals can be reintroduced, questions of genetics, disease, and survival in the wild must be evaluated, which is generally done in a recovery setting while considering all of the options available for conservation. Captive populations, even when they are healthy and genetically diverse, will likely not survive in the wild without adequate habitat to support the subspecies. As we begin the recovery process, we will consider various options for recovery of the subspecies, which may include captive propagation. If you have interest in participating, please refer to the Available Conservation Measures section, below, for further guidance on participating in this process.

General Issue 2: Forestry Management Practices

(19) Comment: Several commenters representing the forestry industry stated that the Service misunderstands the nature and ecology of modern pine plantations and mistakenly thinks that pine plantations are static ''closed canopies'' and have ''thick mid-stories.'' They stated that pine plantations can provide suitable black pinesnake habitat, and across a broad, actively-managed forest landscape, pine plantations that are at different stages of development ensure that suitable habitat is available at all times. The commenters referred to a 2013 National Council for Air and Stream Improvement (NCASI) report, which states that of the almost 9 million acres of planted pine forests owned by large corporate forest landowners, two-thirds of those acres were in some form of open-canopied condition. The commenters suggested that suitable black pinesnake habitat should include this type of matrix of forested stands where the canopy cover is at various stages of being open and closed, as the pinesnakes would always be able to find areas where they could locate food, shelter, and mates.

Our Response: We sincerely appreciate the efforts of forest landowners to provide habitat for a variety of species and would like to continue working with the forest industry to further explore the benefits of pine plantations. We believe there are several potential issues with depending on a matrix of pine plantations to provide suitable habitat for the subspecies long term; most notably, that not all forests are managed in a way that will protect the subspecies or its habitat. At the time of the survey cited by the commenter, two-thirds of those acres were comprised of young trees that had not grown large enough to close the canopy, as many of those lands go through cycles of having closed canopies. For example, if a stand becomes closed when the trees are 5 to 7 years old, and the first thinning is at age 14 to 20, there is a period of 7 to 15 years when that stand is unsuitable for pinesnakes.

The idea that a matrix of intermittently open- and closed-canopied forest stands provides suitable habitat for black pinesnakes relies on several assumptions, such as that suitable open habitat will always be located in close proximity to areas where the canopy is closing, that areas of suitable habitat will be expansive enough to support the large home ranges of these snakes, and that snakes which must relocate due to canopy closure will be able to find adequate access to relocated mates and prey in their shifted home range. Both Lane *et al.* (2013, p. 231) and Hanberry *et al.* (2013, p. 57) state that small mammal abundance decreases in response to canopy closure, often to the point of mammals abandoning the site. Therefore, stands such as these, although open for a part of the time during the cycle of management and harvesting activities, are not stable habitats for pinesnakes and do not contribute to the long-term conservation of the subspecies. In addition, if incompatible site preparation activities remove subsurface refugia from a site, it is unlikely pinesnakes would have retreat sites within these stands for several years following harvest. This increases the amount of time the subspecies has to spend on the surface vulnerable to predators.

(20) Comment: Commenters disagreed with the Service's characterization that site preparation in a modern pine plantation frequently involves mechanical clearing of downed logs and stumps, greatly reducing the availability of suitable refugia to black pinesnakes.

Our Response: It is likely that activities during site preparation that may greatly reduce the availability of refugia, such as clearing of stumps and other subsurface disturbance, may not occur as commonly now as in previous years, particularly on industrial forest lands, and we have altered the language in this final rule to reflect that. However, because we received comments from many others asking that these mechanical site preparation activities be exempted under the 4(d) rule, we know that they do still occur. These activities must be identified as potential threats because one of the most important features of the habitat for black pinesnakes is the presence and availability of naturally decayed or burned-out pine stump holes in which the snakes spend a large percentage of their time. Although pinesnakes may occasionally use debris piles and other aboveground refugia, it is the subterranean refugia (*i.e.,* stump holes) that are thought to be most important to the subspecies. Those who manage to the standards laid out under the 4(d) rule will be exempted from ''take'' for this subspecies.

General Issue 3: Private Land Issues

(21) Comment: Many public commenters stated that there are insufficient data to determine the effects of the listing on landowners. They expressed concern that the listing will put an economic burden on private landowners and restrict their activities.

Our Response: We understand that there is confusion and concern about the effect of listing the black pinesnake. We acknowledge that some economic impacts are a possible consequence of listing a species under the Act. However, the Act does not allow us to consider such impacts when making a listing decision. Rather, section 4(b)(1)(A) of the Act specifies that listing determinations be made ''solely on the basis of the best scientific and commercial data available.'' Such potential costs are therefore precluded from consideration in association with a listing determination. We are required to consider economic impacts in the decision to designate critical habitat, and have conducted an economic analysis for the proposed critical habitat rule, which is available at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2014–0065.

The Service believes that restrictions alone are neither an effective nor a desirable means for achieving the conservation of listed species. We prefer to work collaboratively with private

landowners. We encourage any landowners with a listed species present on their properties and who think they may conduct activities that negatively impact that species to work with the Service. We can help those landowners determine whether a habitat conservation plan (HCP) or safe harbor agreement (SHA) may be appropriate for their needs. These plans or agreements provide for the conservation of the listed species while providing the landowner with a permit for incidental take of the species during the course of otherwise lawful activities. Furthermore, our 4(d) rule for black pinesnake, which includes exemptions for certain forest management activities, was developed with the intent of maximizing timber management flexibility to landowners while also providing for the conservation of the subspecies. Other voluntary programs, such as the Service's Partners for Fish and Wildlife program and the Natural Resources Conservation Service's Farm Bill programs, offer opportunities for private landowners to enroll their lands and receive cost-sharing and planning assistance to reach their management goals. The conservation and recovery of endangered and threatened species, and the ecosystems upon which they depend, is the ultimate objective of the Act, and the Service recognizes the vital importance of voluntary, nonregulatory conservation measures that provide incentives for landowners in achieving that objective. We are committed to working with landowners to conserve this subspecies and develop workable solutions.

(22) Comment: Several commenters stated that property rights granted by the Constitution preclude the government from preventing landowners from managing property to meet their goals. Landowners should be able to make use of property at their own free will as long as it falls within the current county, State, and Federal regulations.

Our Response: The agency acknowledges the rights granted by the Constitution. Prior court rulings address this concern in more detail. However, Section 9 of the Act makes it illegal for anyone to ''take'' (defined as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt any of these actions) an endangered or threatened species. However, the mere promulgation of a regulation, such as listing a species under the Act, does not prevent landowners from managing their property to meet their goals. As discussed in our response to Comment 21, above, programs are available to private landowners for managing habitat for listed species, as well as permits that can be obtained to protect private landowners from the take prohibition when such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Private landowners may contact their local Service field office to obtain information about these programs and permits.

(23) Comment: Private landowners should be compensated if land use is restricted on their property.

Our Response: There is no provision in the Act to compensate landowners if they have a federally listed species on their property. However, as addressed in our response to Comment 22, above, the private landowners' only obligation is not to ''take'' the subspecies, and many forestry management activities have now been exempted from ''take'' (see 4(d) Rule, below). Also, as mentioned in our response to Comment 21, above, we have a number of programs to provide management guidance and financial assistance to private landowners managing their lands to benefit the recovery of listed species. A number of other Federal agencies and individual States provide financial assistance and similar programs to interested landowners.

(24) Comment: Several commenters stated that no private lands or State lands should be included in the listing.

Our Response: Under the Act, we determine whether a species warrants listing based on our assessment of the five-factor threat analysis using the best available scientific and commercial information; land ownership is not a consideration in that determination. The action of listing a species provides protection for the species wherever it occurs. Protection for lands essential to the conservation of a listed species is covered under a designation of critical habitat and is not a part of this listing rule. A proposed rule to designate critical habitat for the black pinesnake was published separately on March 11, 2015 (80 FR 12846), and comments regarding that proposal will be addressed in the final critical habitat determination and if appropriate, the designation.

(25) Comment: Several commenters noted that the continuous threat of species listings and designations of critical habitat will be a disincentive for landowners to participate in longleaf pine restoration efforts, may encourage more landowners to grow a monoculture of loblolly, or may encourage more landowners to abandon forest ownership and management.

Our Response: We acknowledge and commend landowners for their land stewardship and want to continue to encourage those management practices that support the black pinesnake. Under the Act, we have an obligation to assess threats to species and, if appropriate, provide for their protection. We have no desire to limit private landowners' ability to provide habitat for these imperiled species; in fact, we have a number of financial incentives through our Private Lands program to help private landowners manage their properties for endangered and threatened species. Continuation of longleaf pine restoration efforts across the subspecies' range will be necessary for conservation and recovery of this subspecies and many other species. We have reviewed all the comments we received from forest stakeholders and have used them to refine the 4(d) rule and improve the balance of activities that would promote conservation of the black pinesnake and its habitat and not unnecessarily burden private landowners. Please see also our responses to Comments 21 and 23, above.

General Issue 4: Science

(26) Comment: Several commented that the Service is using any scientific and commercial data available and not necessarily the best available. They further stated that the Service did not undertake efforts to fill the data gaps concerning life history, habitat, and status of the black pinesnake and have put the burden on private landowners to provide commercial and scientific data rebutting the data advanced by the Service.

Our Response: No new data were provided by these commenters to support this statement, although some have offered different interpretations of the existing data. We have used the best scientific and commercial data available to finalize our determination of threatened status for the black pinesnake. Furthermore, our analysis is supported by our peer reviewers. Please also see our responses to Comments 11 and 14, above.

(27) Comment: One commenter stated that the sightings of black pinesnakes in Alabama in the mid-1990s were reported by individuals that were not biologists or herpetologists, so these records cannot be ''scientific data.''

Our Response: All Alabama records for the black pinesnake are either from the Alabama Natural Heritage Program's databases or from reputable herpetologists. Heritage data are automatically accepted by the Service as valid due to the strict criteria for their acceptance as scientific records. Although the descriptive data (observer, date, coordinates, condition of the

animal) were not always recorded at a consistent level of detail in some of the older records, we scrutinized all reputable location data to differentiate between separate pinesnake observations.

General Issue 5: Procedural/Legal Issues

(28) Comment: One commenter stated that the Service should not use information that is not peer-reviewed in listing determinations.

Our Response: The Act and our regulations do not require us to use only peer-reviewed literature, but instead they require us to use the ''best scientific data available'' in a listing decision. Our Policy on Information Standards under the Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines (*http://www.fws.gov/informationquality/*), provide criteria and guidance, and establish procedures to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to list a species. Primary or original information sources are those that are closest to the subject being studied, as opposed to those that cite, comment on, or build upon primary sources. In making our listing decisions, we use information from many different sources, including articles in peer-reviewed journals, scientific status surveys and studies completed by qualified individuals, other unpublished governmental and nongovernmental reports, reports prepared by industry, personal communication about management or other relevant topics, management plans developed by Federal agencies or the States, biological assessments, other unpublished materials, experts' opinions or personal knowledge, and other sources. In finalizing this listing determination, we have relied on published articles, unpublished research, habitat reports, digital data publicly available on the Internet, and the expert opinions of subject biologists.

That said, in accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited peer review from knowledgeable individuals with scientific expertise that included familiarity with this subspecies and other pinesnakes, the geographic region in which the subspecies occurs, and conservation biology principles. Additionally, we requested comments or information from other concerned governmental agencies, the scientific community, industry, and any other interested parties concerning the proposed rule. Comments and information we received helped inform this final rule.

(29) Comment: Several commenters stated that because the proposed rule arose from the Service's settlement of a lawsuit, the Service is indirectly encouraged to list the subspecies, or avoid any delays in listing, even though such delays might result in a more scientifically sound analysis of the subspecies.

Our Response: Section 4 of the Act and its implementing regulations (50 CFR part 424) set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. We adhered to the requirements of the Act to determine whether a species warrants listing based on our assessment of the five-factor threats analysis using the best available scientific and commercial data (see Summary of Factors Affecting the Species, below). We had already determined, prior to the settlement agreement, that the black pinesnake warranted listing under the Act, but listing had been precluded by the necessity to commit limited funds and staff to complete higher priority species actions. The black pinesnake has been included in our annual candidate notices of review since 1999, during which time scientific literature and data have and continue to indicate that the subspecies is detrimentally impacted by ongoing threats, and we continued to find that listing was warranted but precluded. Thus, the listing process is not arbitrary, but uses the best available scientific and commercial data and peer review to ensure sound science and sound decision-making.

(30) Comment: Several commented that the Service should not list another species in Alabama because the Service is unable to fulfill various mandated obligations with respect to other species already listed (*i.e.,* timely recovery plans, 5-year reviews)

Our Response: The listing of a species is based on an analysis of threats according to the Act (see Determination section, below). The Act does not allow the Service to delay listing of new species until the Service has completed certain actions, such as recovery plans and 5-year reviews, for other previously listed species.

(31) Comment: Several comments stated that our proposed rule denied potentially affected landowners due process in that all landowners were not provided actual notice of this rulemaking.

Our Response: In the proposed listing rule published on October 7, 2014 (79 FR 60406), we requested that all interested parties submit written comments on the proposal by December 8, 2014. We reopened the comment period on the listing proposal on March 11, 2015 (80 FR 12846) with our publication of a proposed critical habitat designation for the subspecies. This second 60-day comment period ended on May 11, 2015. During both comment periods, we also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the Mobile Press Register and Hattiesburg American on October 12, 2014, and again on March 15, 2015. We also presented several webinars on the proposed listing and critical habitat rules, and invited all stakeholders, media, and congressional representatives to participate and ask any questions. The webinar information was posted on our Web site along with copies of the proposed listing rule, press release, and a question/answer document. As such, we have met our obligations under the Act with regard to notification concerning the proposed listing.

General Issue 6: Other

(32) Comment: Several commented that existing State regulations are adequate to protect the black pinesnake. A Federal listing would only duplicate existing protection because it is illegal to kill the snakes.

Our Response: Section 4(b)(1)(A) of the Act requires us, in making a listing determination, to take into account those efforts being made by a State or foreign nation, or any political subdivision of the State or foreign nation, to protect the species. Under Factor D in the proposed and final rules to list the subspecies, we provide an analysis of the existing regulatory mechanisms. In that analysis, we consider relevant Federal, State, and tribal laws and regulations. Regulatory mechanisms may negate the need for listing if we determine such mechanisms address the threat to the species such that listing is not, or no longer, warranted. However, for the black pinesnake, the best available information supports our determination that State regulations are not adequate to remove the threats to the point that listing is not warranted. Existing State

regulations, while providing some protection for individual snakes, do not provide any protection for their habitat (see Summary of Factors Affecting the Species, *Factor D* discussion). Loss of habitat has been a primary driver of the subspecies' decline. The Act provides habitat protection for listed species both through section 7 and the designation of critical habitat. In addition, listing provides resources under Federal programs to facilitate restoration of habitat, and helps bring public awareness to the plight of the species.

(33) Comment: One commenter stated that the Service should delay listing and work with other State and Federal agencies and with private landowners to develop prescribed burning programs to improve habitat and reverse the trend of decline of the black pinesnake, as it is largely due to the lack of fire in the woods.

Our Response: We acknowledge that the absence of prescribed burning has contributed to the degradation of the black pinesnake's habitat and the decline of the longleaf pine ecosystem. The Service has made the determination that the black pinesnake is likely to become endangered in the foreseeable future and that listing is warranted after an analysis of the five threat factors under the Act. There is no provision in the Act that would allow us to decline to list a species once that determination has been made. Furthermore, as discussed in our response to Comment 14, the criteria for delaying our listing decision have not been met. As discussed above in our response to Comment 21, we have a number of programs that provide assistance and financial incentives to private landowners to increase the use of fire as a management tool, and we will continue to actively pursue ways to work with the public and partners to reverse the decline of the black pinesnake and its habitat.

(34) Comment: Several commenters stated that endangered species protection is more effectively achieved by allowing forest landowners to continue to manage their land under voluntary best management practices or by providing incentives to landowners to initiate longleaf pine management. Landowners and groups like Longleaf Alliance and American Forest Foundation encourage landowners to return to longleaf pine and to manage with fire, thinning, and harvesting, all of which enhances black pinesnake habitat. Regulations through listing would serve to further deter cooperative management between public agencies and landowners.

Our Response: We recognize that the black pinesnake remains primarily on lands where habitat management has allowed them to survive, due in large part to voluntary actions incorporating good land-stewardship, and we want to encourage management practices that support the subspecies. However, the Service, in conducting its assessment of the status of the black pinesnake according to standards in the Act, has determined that certain forest management practices have contributed to the subspecies' decline. In order to protect the black pinesnake from continued decline, and because we have determined that it is likely to become endangered in the foreseeable future, we are listing the subspecies as threatened. We do recognize the contributions of forest landowners and have exempted from take a number of forest management activities under the 4(d) rule. We maintain that the best chance for conservation and, ultimately, the recovery of the subspecies will require the protections afforded by listing, as well as voluntary conservation measures undertaken by private landowners, with support from the States and conservation organizations. We, and other Federal and State agencies, have a number of existing programs that provide incentives to private landowners to initiate longleaf pine management (*e.g.,* Working Lands for Wildlife, Conservation Reserve Program). We will continue to work with the public through these programs to benefit the black pinesnake as we have done for other longleaf pine endemics such as the threatened gopher tortoise and endangered red-cockaded woodpecker (*Picoides borealis*) and dusky gopher frog (*Rana sevosa*).

(35) Comment: Several commenters asserted that because the proposed rule was opposed by the ADCNR and Alabama Forestry Association (AFA), which have expertise with the subspecies and Alabama forests, that the Service should not ignore ADCNR's admonitions to gather further information before proceeding with a listing decision.

Our Response: We acknowledge and value the expertise of the ADCNR and the AFA. We fully respect the position of the State, even when we do not entirely agree on their interpretation of the data. The Service is required to make a determination based on the best available scientific information, and after reviewing the comments presented by ADCNR and AFA, as well as all other comments we received, we believe that the information warrants a final listing determination as threatened for the black pinesnake. ADCNR stated that it supported a 4(d) rule that provides for open canopy conditions; abundant ground cover; and refugia habitat such as stumps, snags, and woody debris, and we believe our 4(d) rule in this final listing determination is consistent with that recommendation.

(36) Comment: One commenter questioned why the black pinesnake needed Federal listing as it occurs in the range of other listed species.

Our Response: The current range of the black pinesnake overlaps with several other longleaf pine endemics that are federally listed including the gopher tortoise, red-cockaded woodpecker, and dusky gopher frog. The black pinesnake likely receives benefit from longleaf pine restoration efforts and other recovery actions implemented for these listed species, as some threats to the black pinesnake are similar to other listed species in its range. However, there are aspects of black pinesnake habitat that are unique to them, specifically their use of and need for belowground habitat, such as stump holes, which are not required by these other listed species.

Any ongoing conservation actions and the manner in which they are helping to ameliorate threats to the subspecies were considered in our final listing determination for the black pinesnake (see ''Conservation Efforts to Reduce Habitat Destruction, Modification, or Curtailment of Its Range'' under *Factor A,* below). Our determination is guided by the Act and its implementing regulations, considering the five listing factors and using the best available scientific and commercial information. Our analysis supported our determination of threatened status for this subspecies.

(37) Comment: Several commenters questioned why the subspecies should be listed if the most important areas are already being protected and managed. Another commenter stated that the vast acres of public lands that exist within the range of the black pinesnake should be enough to ensure the subspecies continues to persist.

Our Response: Conservation of the black pinesnake will require collaboration between Federal, State, and local agencies wherever the subspecies occurs. About half of the known black pinesnake populations occur primarily on public lands that are typically managed to protect longleaf pine habitat, and management efforts are ongoing on these public lands that benefit the black pinesnake; however, these efforts do not always meet all of the ecological needs of the subspecies (see Comment 36, above). We consider the populations occupying the De Soto

NF in Mississippi as representing the core of the subspecies' range, and these public lands are very important for the conservation and recovery of the black pinesnake, but Federal lands alone are insufficient to conserve the subspecies. These areas represent only a small fraction of the current range of the subspecies. Populations on the periphery of the range have high conservation value as well in terms of maintaining the subspecies' genetic integrity, representing future conservation strongholds, providing future opportunities for population connectivity and augmentation, and contributing to important ecosystem functions in the ecological communities where they occur (see also ''Conservation Efforts to Reduce Habitat Destruction, Modification, or Curtailment of Its Range'' under *Factor A,* below).

(38) Comment: One individual commented that we should exempt activities conducted with cost-share funding sources under the 4(d) rule. This would include sources such as the Service's Partners for Fish and Wildlife Program (PFW) and the Natural Resource Conservation Service's Conservation Reserve Program (CRP), Environmental Quality Incentives Program (EQIP), and Wildlife Habitat Incentives Program (WHIP).

Our Response: The primary requirement for activities to qualify for exemption under section 4(d) of the Act is that they must be necessary and advisable to provide for the conservation of the species. These programs play an incredibly valuable role in conservation by providing assistance to private landowners to manage their lands. However, there is also a high level of variability among cost-share programs in terms of their primary conservation and management objectives, which makes it difficult to determine definitively which programs would always be beneficial to black pinesnakes. Therefore, we chose to concentrate on the forestry and management activities beneficial to pinesnakes for exemption, instead of the individual programs.

Summary of Changes From the Proposed Rule

Based upon our review of the public comments, comments from other Federal and State agencies, peer review comments, and other new relevant information that has become available since the publication of the proposal, we reevaluated our proposed rule and made changes as appropriate. During the comment periods, the Service received clarifications and additional information on habitat, threats, the subspecies' biology, and timber management practices, which have been incorporated into this final rule. We have removed our discussion relating to the development of a candidate conservation agreement (CCA) for the black pinesnake between the Service and the U.S. Forest Service, U.S. Department of Defense, the Mississippi Army National Guard (MSARNG), and the Mississippi Department of Wildlife, Fisheries, and Parks because it was never finalized. However, the conservation measures outlined in the draft CCA were incorporated into the MSARNG's 2014 updated integrated natural resources management plan (see ''Conservation Efforts to Reduce Habitat Destruction, Modification, or Curtailment of Its Range'' under **Summary of Factors Affecting the Species**). We have also made the following significant changes to the 4(d) rule:

- We have provided clarification to take exemptions regarding prescribed burning and invasive species and vegetation control.
- We have removed the take exemption for ''restoration along riparian areas and stream buffers'' as there is no need to exempt these activities because these areas are not considered habitat for the subspecies, and, therefore, activities associated with their restoration are unlikely to result in take or promote conservation of this subspecies. Any observations of black pinesnakes in riparian areas are incidental to individuals moving between areas of suitable habitat, typically uplands.
- We have broadened the scope of timber management activities exempted from take to include all forest management activities that maintain lands in a forested condition, except for conversion of longleaf-pine-dominated forests to other cover types or land uses, or those activities causing significant subsurface disturbance to the underground refugia for the black pinesnake.
- We have removed the requirement that silvicultural treatments exempted from take be performed under a management plan or prescription toward target conditions for optimal longleaf pine forest. Our revised 4(d) rule allows for the management of other open-canopied pine species.

We have modified the list of actions that may result in take under section 9 in light of modifications made to the exemptions in the 4(d) rule, with the focus on protecting this subspecies' underground refugia.

Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR part 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, we may list a species based on (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. Listing actions may be warranted based on any of the above threat factors, singly or in combination.

Factor A: The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Fire-maintained southern pine ecosystems, particularly the longleaf pine ecosystem, have declined dramatically across the South. Current estimates show that the longleaf pine forest type has declined 96 percent from the historical estimate of 88 million ac (35.6 million ha) to approximately 3.3 million ac (1.3 million ha) (Oswalt *et al.* 2012, p. 13). During the latter half of the 20th century, Louisiana, Alabama, and Mississippi lost between 60 and 90 percent of their longleaf acreage (Outcalt and Sheffield 1996, pp. 1–10). Recently, longleaf acreage has been trending upward in parts of the Southeast through restoration efforts; however, the footprint of the longleaf pine ecosystem across its historical range continues to contract, primarily due to conversion to loblolly pine (Oswalt *et al.* 2015, p. 504). Additionally, increases in longleaf pine acreage across the Southeast from longleaf restoration efforts do not overlap completely with the range of the black pinesnake (Ware 2014, pers. comm.); recent outlooks for the southern Gulf region still predict large percentage losses in longleaf pine in many of the areas currently occupied by the subspecies (Klepzig *et al.* 2014, p. 53). Southern forest futures models predict declines of forest land area between 2 and 10 percent in the next 50 years, with loss of private forest land to urbanization accounting for most of these declines (Wear and Greis 2013, p. 78).

Natural longleaf pine forests, which are characterized by a high, open canopy and shallow litter and duff layers, have evolved to be maintained by frequent, low-intensity fires, which

in turn restrict a woody midstory, and promote the flowering and seed production of fire-stimulated groundcover plants (Oswalt *et al.* 2012, pp. 2–3). Although there are records of black pinesnakes occurring in open-canopied forests with overstories of loblolly, slash, and other pines, they are historically associated with the natural longleaf pine forests, which have the abundant herbaceous groundcover (Duran 1998a, p. 11; Baxley *et* al. 2011, p. 161; Smith 2011, pp. 86, 100) necessary to support the black pinesnake's prey base (Miller and Miller 2005, p. 202).

The current and historical range of the black pinesnake is highly correlated with the current and historical range of these natural longleaf pine forests, leading to the hypothesis that black pinesnake populations, once contiguous throughout these forests in Alabama, Mississippi, and southeast Louisiana, have declined proportionately with the ecosystem (Duran and Givens 2001, pp. 2–3). In the range of the black pinesnake, longleaf pine is now largely confined to isolated patches on private land and larger parcels on public lands. Black pinesnake habitat has been eliminated through land use conversions, primarily conversion to agriculture and densely stocked pine plantations and development of urban areas. Most of the remaining patches of longleaf pine on private land within the range of the snake are fragmented, degraded, second-growth forests (see discussion under *Factor E: Other Natural or Manmade Factors Affecting Its Continued Existence*).

Conversion of longleaf pine forests to densely stocked pine plantations often reduces the quality and suitability of a site for black pinesnakes. Duran (1998b, p. 31) found that black pinesnakes prefer the typical characteristics of the longleaf pine ecosystem, such as open canopies, reduced mid-stories, and dense herbaceous understories. He also found that these snakes are frequently underground in rotting pine stumps. Some pine plantations have closed canopies and thick mid-stories with limited herbaceous understories during portions of the timber rotation. Site preparation for planting of pine plantations sometimes involves clearing of downed logs and stumps, thereby interfering with the natural development of stump holes and root channels through decay or from burning, and greatly reducing the availability of suitable refugia (Rudolph *et al.* 2007, p. 563). This could have negative consequences if the pinesnakes are no longer able to locate a previous year's refugium, and are subject to overexposure from thermal extremes or elevated predation risk while the snakes are above ground searching for suitable shelter. Black pinesnakes have persisted in those areas of pine forest, composed of both longleaf pine and other pine species, where the forest structure approximates that which occurred historically in longleaf pine forests, as described above. However, conservation of black pinesnakes requires the long-term availability of these forest structure habitat features, not just in the landscape, but within the subspecies' activity range. If they are required to move from area to area with the change in habitat conditions, as would likely occur on a pine plantation, their fitness and long-term survival will be in question (Yager *et al.* 2006, pp. 34–36).

When a site is converted to agriculture, all vegetation is cleared and underground refugia are destroyed during soil disking and compaction. Forest management strategies, such as fire suppression (see discussion under *Factor E: Other Natural or Manmade Factors Affecting Its Continued Existence*), increased stocking densities, densely planting off-site pine species (*i.e.,* slash and loblolly pines), bedding, and removal of whole trees during harvesting (including downed trees and stumps), all contribute to degradation of habitat attributes preferred by black pinesnakes. It is likely that the diminishing presence and distribution of decaying stump holes and their associated rotting root channels may be a feature that limits the abundance of black pinesnakes within their range (Baxley 2007, p. 44).

Baxley *et al.* (2011, pp. 162–163) compared habitat at recent (post-1987) and historical (pre-1987) black pinesnake localities. She found that sites recently occupied by black pinesnakes were characterized by significantly less canopy cover; lower basal area; less midstory cover; greater percentages of grass, bare soil, and forbs in the groundcover; less shrubs and litter in the groundcover; and a more recent burn history than currently unoccupied, historical sites. At the landscape level, black pinesnakes selected upland pine forests that lacked cultivated crops, pasture and hay fields, developed areas, and roads (Baxley *et al.* 2011, p. 154). Thus, areas historically occupied by black pinesnakes are becoming unsuitable at both the landscape and microhabitat (small-scale habitat component) levels (Baxley *et al.* 2011, p. 164).

Degradation and loss of longleaf pine habitat (*e.g.,* sandy, well-drained soils with an open-canopied overstory of longleaf pine, a reduced shrub layer, and a dense herbaceous ground cover) within the range of the black pinesnake is continuing. The coastal counties of southern Mississippi and Mobile County, Alabama, are being developed at a rapid rate due to increases in the human population. While forecast models show that Federal forest land will remain relatively unchanged overall in the next few decades, projected losses in forest land are highest in the South, with declines in private forest land from urbanization accounting for most of the loss (Wear 2011, p. 31).

Habitat fragmentation within the longleaf pine ecosystem threatens the continued existence of all black pinesnake populations, particularly those on private lands. This is frequently the result of urban development, conversion of longleaf pine sites to densely stocked pine plantations, and the associated increases in number of roads. When patches of available habitat become separated beyond the dispersal range of a species, populations are more sensitive to genetic, demographic, and environmental variability, and extinction becomes possible. This is likely a primary cause for the extirpation of the black pinesnake in Louisiana and the subspecies' contracted range in Alabama and Mississippi (Duran and Givens 2001, pp. 22–26).

Private landowners hold more than 86 percent of forests in the South and produce nearly all of the forest investment and timber harvesting in the region (Wear and Greis 2013, p. 103). Forecasts indicate a loss of 11 to 23 million ac (4.5 million to 9.3 million ha) of private forest land in the South by 2060. This loss, combined with expanding urbanization in many areas and ongoing splitting of land ownership as estates are divided, will result in increased fragmentation of remaining forest holdings (Wear and Greis 2013, p. 119). This assessment of continued future fragmentation throughout the range of the black pinesnake, coupled with the assumption that large home range size increases extinction vulnerability, emphasizes the importance of conserving and managing large tracts of contiguous habitat to protect the black pinesnake (Baxley 2007, p. 65). This is in agreement with other studies of large, wide-ranging snake species sensitive to landscape fragmentation (Hoss *et al.* 2010; Breininger *et al.* 2012). When factors influencing the home range sizes of the threatened eastern indigo snake (*Drymarchon corais couperi*) were analyzed, the results suggested that

maintaining populations of this subspecies will require large conservation areas with minimum fragmentation (Breininger *et al.* 2011, pp. 484–490).

Impacts from urbanization are not consistent throughout the Southeast, and some parts of Mississippi and Alabama may actually experience human population declines (Wear and Greis 2013, p. 21); however, the most recent assessment still predicts increased change in urban land use in the next 45 years in most of the counties occupied by the black pinesnake (Klepzig *et al.* 2014, p. 23). Urbanization appears to have reduced historical black pinesnake populations in Mobile County by approximately 50 percent (Duran 1998a, p. 17), to the point where pinesnakes are thought to be extirpated from some areas directly surrounding Mobile (Nelson and Bailey 2004, p. 44). Substantial population declines were noted throughout the 1970s and 1980s (Mount 1986, p. 35). Jennings and Fritts (1983, p. 8) reported that, in the 1980s, the black pinesnake was one of the most frequently encountered snakes on the Environmental Studies Center (Center) in Mobile County. Urban development has now engulfed lands adjacent to the Center, and black pinesnakes are thought to likely have been extirpated from the property (Duran 1998a, p. 10). Black pinesnakes were commonly seen in the 1970s on the campus of the University of South Alabama in western Mobile; however, there have not been any observations in at least the past 25 years (Nelson 2014, p. 1).

Populations on the periphery of the range have conservation value in terms of maintaining the subspecies' genetic integrity (*i.e.,* maintaining the existing genetic diversity still inherent in populations that have not interbred in hundreds or thousands of years), providing future opportunities for population connectivity and augmentation, and contributing to important ecosystem functions (such as maintaining rodent populations) in the ecological communities where they occur (Steen and Barrett 2015, p. 1). Many of the populations on the edge of the range are smaller, which increases their susceptibility to localized extinction from catastrophic and stochastic events, subsequently causing further restriction of the subspecies' range. Additionally, the footprint of longleaf pine in the Southeast has gone through substantial contraction recently (Oswalt *et al.* 2015, p. 504), creating even higher susceptibility for these peripheral populations. Although the black pinesnake was thought to be fairly common in parts of south Alabama as recently as 30 years ago, we believe many populations have disappeared or drastically declined due to continued habitat loss and fragmentation. For instance, several sites where snakes have been captured historically are now developed and no longer contain habitat.

Conservation Efforts To Reduce Habitat Destruction, Modification, or Curtailment of Its Range

When considering whether or not to list a species under the Act, we must identify existing conservation efforts and their effect on the species.

The largest known populations of black pinesnakes (5 of 11) occur in the De Soto NF, which is considered the core of the subspecies' known range. The black pinesnake likely receives benefit from longleaf pine restoration efforts, including prescribed fire, implemented by the U.S. Forest Service in accordance with its Forest Plan, in habitats for the federally listed gopher tortoise, dusky gopher frog, and red-cockaded woodpecker. (USDA 2014, pp. 60–65). Within the recently revised Forest Plan, black pinesnakes are included on lists of species dependent on fire to maintain habitat, species sensitive to recreational traffic, species that are stump and stump-hole associates, and species sensitive to soil disturbance (USDA 2014, Appendix G–85, G–92, G–100). The management strategies described within the Forest Plan provide general guidance that states project areas should be reviewed to determine if such species do occur and if so to develop mitigation measures to ensure sustainability of the species, such as, in general, not removing dead and downed logs or other woody debris from rare communities.

The MSARNG updated its INRMP in 2014, and outlined conservation measures to be implemented specifically for the black pinesnake on lands owned by the DoD and the State of Mississippi on Camp Shelby. Planned conservation measures include: Supporting research and surveys on the subspecies; habitat management specifically targeting the black pinesnake, such as retention of pine stumps and prescribed burning; and educational programs for users of the training center to minimize negative impacts of vehicular mortality on wildlife (MSARNG 2014, pp. 93–94). However, the INRMP addresses integrative management and conservation measures only on the lands owned and managed by DoD and the State of Mississippi (15,195 ac (6,149 ha)), which make up approximately 10 percent of the total acreage of Camp Shelby (132,195 ac (53,497 ha)). Most of this land is leased to DoD and owned by the Forest Service, which manages the land in accordance with its Forest Plan (see explanation above). Only 5,735 ac (2,321 ha) of the acreage covered by the INRMP provides habitat for the black pinesnake.

Longleaf pine habitat restoration projects have been conducted on selected private lands within the range historically occupied by the black pinesnake and likely provide benefits to the subspecies (U.S. Fish and Wildlife Service 2012, pp. 12–13). Additionally, restoration projects have been conducted on wildlife management areas (WMAs) (Marion County WMA in Mississippi; Scotch, Fred T. Stimpson, and the area formerly classified as the Boykin WMAs in Alabama) occupied by or within the range of the black pinesnake, and on three gopher tortoise relocation areas in Mobile County, Alabama. The gopher tortoise relocation areas are managed for the open-canopied, upland longleaf pine habitat used by both gopher tortoises and black pinesnakes, and there have been recent records of black pinesnakes on the properties; however, the managed areas are all less than 700 ac (283 ha) and primarily surrounded by urban areas with incompatible habitat. Therefore, we do not believe they would provide sufficient area to support a black pinesnake population long term. Furthermore, although there is beneficial habitat management occurring on some of these WMAs and on the tortoise relocation areas, these efforts do not currently target the retention or restoration of black pinesnake habitat, which would include management targeted to maintain larger, unfragmented tracts of open longleaf habitat. Stump removal still occurs within the range of the subspecies and is particularly problematic as it removes refugia habitat for the subspecies. We will continue to work with our State and private partners to encourage the incorporation of these practices, where appropriate.

Summary of Factor A

In summary, the loss and degradation of habitat was a significant historical threat, and remains a current threat, to the black pinesnake. The historical loss of habitat within the longleaf pine ecosystem occupied by black pinesnakes occurred primarily due to timber harvest and subsequent conversion of pine forests to agriculture, residential development, and intensively managed pine plantations. This loss of habitat has slowed

considerably in recent years, in part due to efforts to restore the longleaf pine ecosystem in the Southeast. However, habitat loss is continuing today due to due to incompatible forestry practices, conversion to agriculture, and urbanization, which result in increasing habitat fragmentation (see discussion under *Factor E: Other Natural or Manmade Factors Affecting Its Continued Existence*). While the use of prescribed fire for habitat management and more compatible site preparation has seen increased emphasis in recent years, expanded urbanization, fragmentation, and regulatory constraints will continue to restrict the use of fire and cause further habitat degradation (Wear and Greis 2013, p. 509). Conservation efforts are implemented or planned that should help maintain black pinesnake habitat on Camp Shelby and the De Soto NF; however, these areas represent a small fraction of the current range of the subspecies.

Impacts from urbanization are not consistent throughout the Southeast, and some parts of Mississippi and Alabama may actually experience human population declines (Wear and Greis 2013, p. 21); however, the most recent assessment still predicts increased change in urban land use in the next 45 years in most of the counties occupied by the subspecies (Klepzig *et al.* 2014, p. 23). Smaller populations on the edge of the range are more susceptible to localized extinction from catastrophic and stochastic events. Additionally, the footprint of longleaf pine in the Southeast has gone through substantial contraction recently (Oswalt *et al.* 2015, p. 504), creating even higher susceptibility for these peripheral populations. Thus, habitat loss and continuing degradation of the black pinesnake's habitat remains a significant threat to this subspecies' continued existence.

Factor B: Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Although there is some indication that collection for the pet trade may have been a problem (Duran 1998a, p. 15), and that localized accounts of a thriving pet trade for pinesnakes have been reported previously around Mobile, Alabama (Vandeventer and Young 1989, p. 34), direct take of black pinesnakes for recreational, scientific, or educational purposes is not currently considered to be a significant threat. This overutilization would be almost exclusively to meet the demand from snake enthusiasts and hobbyists; however, the pet trade is currently saturated with captive-bred black pinesnakes (Vandeventer *in litt.* 2014). The need for the collection of wild specimens is thought to have declined dramatically from the levels previously observed in the 1960s and 1970s (Vandeventer *in litt.* 2014). Though concern has been expressed that Federal listing may increase the demand for wild-caught animals (McNabb *in litt.* 2014), based on current information we have determined that overutilization for commercial, recreational, scientific, or educational purposes is not a threat to the black pinesnake at this time.

Factor C: Disease or Predation

Snake fungal disease (SFD) is an emerging disease in certain populations of wild snakes, though specific pathological criteria for the disease have not yet been established. The disease has been linked to mortality events for other species, but has not yet been documented in *Pituophis* or in any of the States within the range of the black pinesnake. While it is suspected of threatening small, isolated populations of susceptible snake species, we currently have no evidence it is affecting the black pinesnake. We know of no other diseases that are affecting the subspecies, and, therefore, disease is not presently considered a threat to the black pinesnake.

Red imported fire ants (*Solenopsis invicta*), an invasive species, have been implicated in trap mortalities of black pinesnakes during field studies (Baxley 2007, p. 17). They are also potential predators of black pinesnake eggs, especially in disturbed areas (Todd *et al.* 2008, p. 544), and have been documented predating snake eggs under experimental conditions (Diffie *et al.* 2010, p. 294). In 2010 and 2011, trapping for black pinesnakes was conducted in several areas that were expected to support the subspecies; no black pinesnakes were found, but high densities of fire ants were reported (Smith 2011, pp. 44–45). However, the severity and magnitude of effects, as well as the long-term effects, of fire ants on black pinesnake populations are currently unknown.

Other potential predators of pinesnakes include red-tailed hawks, raccoons, skunks, red foxes, and feral cats (Ernst and Ernst 2003, p. 284; Yager *et al.* 2006, p. 34). Lyman *et al.* (2007, p. 39) reported an attack on a black pinesnake by a stray domestic dog, which resulted in the snake's death. Several of these mammalian predators are anthropogenically enhanced (urban predators); that is, their numbers often increase with human development adjacent to natural areas (Fischer *et al.* 2012, pp. 810–811). However, the severity and magnitude of predation by these species are unknown.

In summary, disease is not considered to be a threat to the black pinesnake at this time. However, predation by fire ants and urban predators may represent a threat to the black pinesnake.

Factor D: The Inadequacy of Existing Regulatory Mechanisms

In Mississippi, the black pinesnake is classified as endangered by the Mississippi Department of Wildlife, Fisheries and Parks (Mississippi Museum of Natural Science 2001, p. 1). In Alabama, the pine snake (*Pituophis melanoleucus* spp.) is protected as a non-game animal (Alabama Department of Conservation and Natural Resources 2014, p. 1), and in the 2015 draft of the Alabama Comprehensive Wildlife Conservation Strategy, the black pinesnake is identified as a Priority 1, Species of Greatest Conservation Need (ADCNR 2015, p. 297). In Louisiana, the black pinesnake is considered extirpated (Louisiana Department of Wildlife and Fisheries (LDWF) 2014, p. 2; Anthony *in litt.* 2015); however, Louisiana Revised Statutes for Wildlife and Fisheries were recently amended to prohibit killing black pinesnakes or removing them from the wild without a permit from the LDWF (Louisiana Administrative Code, 2014, p. 186), should they be found in the State again. Both Mississippi and Alabama have regulations that restrict collecting, killing, or selling of the subspecies, but do not have regulations addressing habitat loss, which has been the primary cause of decline of this subspecies.

Where the subspecies co-occurs with species already listed under the Act, the black pinesnake likely receives ancillary benefits from the protective measures for the already listed species, including the gopher tortoise, dusky gopher frog, and red-cockaded woodpecker.

The largest known expanses of suitable habitat for the black pinesnake are in the De Soto NF in Mississippi. The black pinesnake's habitat is afforded some protection under the National Forest Management Act (NFMA; 16 U.S.C. 1600 *et seq.*) where it occurs on lands managed by the Forest Service that are occupied by federally listed species such as the gopher tortoise and red-cockaded woodpecker. Forest Service rules and guidelines implementing NFMA require land management plans that include provisions supporting recovery of endangered and threatened species. As a result, land managers on the De Soto NF have conducted management actions, such as prescribed burning and

longleaf pine restoration, which benefit gopher tortoises, red-cockaded woodpeckers, and black pinesnakes. Within the recently revised Forest Plan, black pinesnakes are included on lists of species dependent on fire to maintain habitat, species sensitive to recreational traffic, species that are stump and stump-hole associates, and species sensitive to soil disturbance (USDA 2014, Appendix G–85, G–92, G–100). The management strategies described within the Forest Plan provide general guidance that states project areas should be reviewed to determine if such species do occur and if so to develop mitigation measures to ensure sustainability of the subspecies, such as, in general, not removing dead and downed logs or other woody debris from rare communities.

As discussed under Factor A above, the MSARNG recently updated its INRMP for Camp Shelby, and outlined conservation measures to be implemented specifically for the black pinesnake on 5,735 ac (2,321 ha) of potential pinesnake habitat owned or managed by DoD. These measures will benefit black pinesnake populations, and include a monitoring protocol to help evaluate the population and appropriate guidelines for maintaining suitable habitat and microhabitats.

In summary, outside of the National Forest and the area covered by the INRMP, existing regulatory mechanisms provide little protection from the primary threat of habitat loss for the black pinesnake. Longleaf restoration activities on Forest Service lands in Mississippi conducted for other federally listed species do improve habitat for black pinesnake populations located in those areas, but could be improved by ensuring the protection of the belowground refugia critical to the snake. We will continue to work with the Forest Service to design and implement a more aggressive strategy for protecting and monitoring the black pinesnake.

Factor E: Other Natural or Manmade Factors Affecting Its Continued Existence

Fire is the preferred management technique to maintain the longleaf pine ecosystem, and fire suppression has been considered a primary reason for the degradation of the remaining longleaf pine forest. It is a contributing factor in reducing the quality and quantity of available habitat for the black pinesnake. According to Wear and Greis (2013, p. 509), southern forests are likely to see increasing challenges to prescribed burning in the future as land-use changes involving fuels management, increased urban interface, and revised safety and health regulations will continue to constrain prescribed fire efforts. Some of these constraints could be in the form of reduced fire intervals or reductions in average area burned per fire event (strategies often used in management of pine plantations), which may not provide adequate fire intensity or frequency to suppress the overgrown understory and mid-story conditions that black pinesnakes are known to avoid (Duran 1998b, p. 32). During a 2005 study using radio-telemetry to track black pinesnakes, a prescribed burn bisected the home range of one of the study animals. The snake spent significantly more time in the recently burned area than in the area that had not been burned in several years (Smith 2005, 5 pp.).

Roads surrounding and traversing the remaining black pinesnake habitat pose a direct threat to the subspecies. Dodd *et al.* (2004, p. 619) determined that roads fragment habitat for wildlife. Population viability analyses have shown that road mortality estimates in some snake species have greatly increased extinction probabilities (Row *et al.* 2007, p. 117). In an assessment of data from radio-tracked eastern indigo snakes, it was found that adult snakes have relatively high survival in conservation core areas, but greatly reduced survival in edges of these areas along highways, and in suburbs (Breininger *et al.* 2012, p. 361). Clark *et al.* (2010, pp. 1059–1069) studied the impacts of roads on population structure and connectivity in timber rattlesnakes (*Crotalus horridus*). They found that roads interrupted dispersal and negatively affected genetic diversity and gene flow among populations of this large snake (Clark *et al.* 2010, p. 1059). In a Texas snake study, an observed deficit of snake captures in traps near roads suggests that a substantial proportion of the total number of snakes may have been eliminated due to road-related mortality and that populations of large snakes may be depressed by 50 percent or more due to this mortality (Rudolph *et al.* 1999, p. 130).

Black pinesnakes frequent the sandy hilltops and ridges where roads are most frequently sited. Even on public lands, roads are a threat. During Duran's (1998b pp. 6, 34) study on Camp Shelby, Mississippi, 17 percent of the black pinesnakes with transmitters were killed while attempting to cross a road. In a larger study currently being conducted on Camp Shelby, 14 (38 percent) of the 37 pinesnakes found on the road between 2004 to 2012 were found dead, and these 14 individuals represent about 13 percent of all the pinesnakes found on Camp Shelby during that 8-year span (Lyman *et al.* 2012, p. 42). The majority of road crossings occurred between the last 2 weeks of May and the first 2 weeks of June (Lyman *et al.* 2011, p. 48), a time period when black pinesnakes are known to breed (Lyman *et al.* 2012, p. 42). In the study conducted by Baxley (2007, p. 83) on De Soto NF, 2 of the 8 snakes monitored with radio-transmitters were found dead on paved roads. This is an especially important issue on these public lands because the best remaining black pinesnake populations are concentrated there. It suggests that population declines may be due in part to adult mortality in excess of annual recruitment (Baxley and Qualls 2009, p. 290). Additional support for the threat of fragmentation by roads is presented by Steen *et al.* (2012, p. 1092) who suggested that their modelling study of habitat loss and degradation in snakes provided evidence that fragmentation by roads may be an impediment to maintaining viable populations of pinesnakes.

Exotic plant species degrade habitat for wildlife. In the Southeast, longleaf pine forest associations are susceptible to invasion by the exotic cogongrass (*Imperata cylindrica*), which may rapidly encroach into areas undergoing habitat restoration, and is very difficult to eradicate once it has become established, requiring aggressive control with herbicides (Yager *et al.* 2010, pp. 229–230). Cogongrass displaces native grasses, greatly reducing foraging areas, and forms thick mats so dense that ground-dwelling wildlife has difficulty traversing them (DeBerry and Pashley 2008, p. 74).

In many parts of Louisiana, Mississippi, and Alabama, there is a lack of understanding of the importance of snakes to a healthy ecosystem. Snakes are often killed intentionally when they are observed, and dead pinesnakes have been found that were shot (Duran 1998b, p. 34). Lyman *et al.* (2008, p. 34) and Duran (1998b, p. 34) both documented finding dead black pinesnakes that were intentionally run over, as evidenced by vehicle tracks that went off the road in vicinity of dead snakes. In addition, in one of these instances (Lyman *et al.* 2008, p. 34), footprints were observed going from the vicinity of the truck to the snake's head, which had been intentionally crushed. As development pressures mount on remaining black pinesnake habitat, human-snake interactions are expected to increase, which in turn is expected to increase mortality, especially of adults.

Questionnaires have shown that snakes are more likely to be intentionally run over than any other animal (Langley *et al.* 1989, p. 43), and black pinesnakes represent a large target as they attempt to cross roads, which may increase the frequency of deliberate killing (Whitaker and Shine 2000, p. 121).

On many construction project sites, erosion control blankets are used to lessen impacts from weathering, secure newly modified surfaces, and maintain water quality and ecosystem health. However, this polypropylene mesh netting (also often utilized for bird exclusion) has been documented as being an entanglement hazard for many snake species, causing lacerations and sometimes mortality (Stuart *et al.* 2001, pp. 162–163; Barton and Kinkead 2005, p. 34A; Kapfer and Paloski 2011, p. 1). This netting often takes years to decompose, creating a long-term hazard to snakes, even when the material has been discarded (Stuart *et al.* 2001, p. 163). Although no known instance of injury or death from this netting has been documented for black pinesnakes, it has been demonstrated to have negative impacts on other terrestrial snake species of all sizes and thus poses a potential threat to the black pinesnake when used in its habitat.

Duran (1998b, p. 36) suggested that reproductive rates of wild black pinesnakes may be low, based on failure to detect either nests or mating behaviors as observed during his studies. This observation has not been corroborated in the literature for other *Pituophis* species; however, if low reproductive rates were common, it would inhibit conservation and recovery.

Random environmental events may also play a part in the decline of the black pinesnake. Two black pinesnakes were found dead on the De Soto NF during drought conditions of mid-summer and may have succumbed due to drought-related stress (Baxley 2007, p.41).

In summary, a variety of natural or manmade factors currently threaten the black pinesnake. Fire suppression has been considered a primary reason for degradation of the longleaf pine ecosystem; however, invasive species such as cogongrass also greatly reduce the habitat quality for the black pinesnake. Isolation of populations beyond the dispersal range of the subspecies is a serious threat due to the fragmentation of available habitat. The high percentage of radio-tracked black pinesnakes killed while trying to cross roads supports our conclusion that this is a serious threat, while human attitudes towards snakes represent another source of mortality. Stochastic threats such as drought have the potential to threaten black pinesnake populations, especially considering the possibility of more drastic thermal extremes due to climate change, and the suspected low reproductive rate of the subspecies could exacerbate other threats and limit population viability. Overall, the threats under Factor E may act in combination with threats listed above under Factors A through D and increase their severity.

Determination

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the black pinesnake. The black pinesnake is considered extirpated from Louisiana and three counties in Mississippi. Threats to the remaining black pinesnake populations exist primarily from two of the five threat factors (Factors A and E); however, predation by fire ants and urban predators (Factor C), and limitations of existing laws and regulations (Factor D) also pose lower-magnitude threats to the subspecies. Potential threats such as snake fungal disease (Factor C) and entanglement in erosion control blankets (Factor E) represent documented sources of mortality in other snake species, but there is no evidence yet that these have caused mortality in black pinesnakes.

Threats also occur in combination, resulting in synergistically greater effects. Threats of habitat loss and degradation (Factor A) represent primary threats to the black pinesnake. While habitat restoration efforts are beginning to reverse the decline of the longleaf pine forest in parts of the southeastern United States, most of the black pinesnake's original habitat has been either converted from forests to other uses or is highly fragmented. Today, the longleaf pine ecosystem occupies less than 4 percent of its historical range, and the black pinesnake has been tied directly to this ecosystem. Much of the habitat outside of the De Soto National Forest in Mississippi (the core of the range) has become highly fragmented, and populations on these lands appear to be small and isolated on islands of suitable longleaf pine habitat (Duran 1998a, p. 17; Barbour 2009, pp. 6–13).

A habitat suitability study of all historical sites for the black pinesnake estimated that this subspecies likely no longer occurs in an estimated 60 percent of historical population segments. It is estimated that only 11 populations of black pinesnakes are extant today, of which about a third are located on isolated patches of longleaf pine habitat that continue to be degraded due to fire suppression and fragmentation (Factor E), incompatible forestry practices, and urbanization.

Threats under Factor E include fire suppression; roads; invasive plant species, such as cogongrass; random environmental events, such as droughts; and intentional killing by humans. Fire suppression and invasive plants result in habitat degradation. Roads surround and traverse the upland ridges, which are primary habitat for the black pinesnake, and these roads cause further fragmentation of the remaining habitat. In addition, roads also increase the rate of human-snake interactions, which likely result in the death of individual snakes. Vehicles travelling these roads cause the deaths of a substantial number of snakes. These threats in combination lead to an increased chance of local extirpations by making populations more sensitive to genetic, demographic, and environmental variability. This is especially true of populations on the periphery of the range, where smaller populations are considerably more vulnerable to the documented contraction of the longleaf pine ecosystem, and where stochastic events are more likely to cause further restrictions of the range of the black pinesnake.

Habitat loss has been extensive throughout the black pinesnake's range, and the remaining habitat has been fragmented into primarily small patches with barriers to dispersal between them, creating reproductively isolated individuals or populations. The inadequacy of laws and regulations protecting against habitat loss contributes to increases in urbanization and further fragmentation. Urbanization results in an increased density of roads, intensifying the potential for direct mortality of adult snakes and reductions in population sizes. Reductions in habitat quality and quantity have synergistic effects that may eventually cause localized extirpations. Threats to the black pinesnake, working individually or in combination, are ongoing and significant and have resulted in curtailment of the range of the subspecies.

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.'' We find that the black pinesnake meets the definition of a threatened species

based on the immediacy, severity, and scope of the threats described above.

We find that endangered status is not appropriate for the black pinesnake because, while we found the threats to the subspecies to be significant and rangewide, we believe it is unlikely that the threats will act on the subspecies in a way that place the subspecies in danger of extinction throughout all or a significant portion of its range. About half of the remaining black pinesnake populations occur primarily on public lands that are at least partially managed to protect remaining longleaf pine habitat. Management efforts on those lands specifically targeting listed longleaf pine specialists, such as the gopher tortoise and red-cockaded woodpecker, should benefit the black pinesnake as well, especially if measures are employed to protect belowground refugia. Additionally, the 5,735 ac (2,321 ha) of suitable pinesnake habitat covered by the Camp Shelby INRMP are under a conservation plan whose objectives include specifically protecting black pinesnake microhabitats and increasing awareness of the human impacts to rare wildlife. Thus, although there is a general decline in the overall range of the subspecies and its available habitat, range contraction is not severe enough to indicate imminent extinction because of these existing efforts on public land and other ongoing restoration activities. Therefore, on the basis of the best available scientific and commercial information, we are listing the black pinesnake as threatened 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. Because we have determined that black pinesnake is threatened throughout all of its range, no portion of its range can be ''significant'' for purposes of the definitions of ''endangered species'' and ''threatened species.'' See the Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species'' (79 FR 37578; July 1, 2014).

Available Conservation Measures

Other 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 requires that recovery actions be carried out for all 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 requires 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 identifies site-specific management actions that set a trigger for review of the five factors that control whether a species remains endangered or may be downlisted or delisted, 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. When completed, the 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 Mississippi 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.

Following publication of this final listing rule, 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 States of Alabama, Louisiana, and Mississippi would be eligible for Federal funds to implement management actions that promote the protection or recovery of the black pinesnake. Information on our grant programs that are available to aid species recovery can be found at *http://www.fws.gov/grants.*

Please let us know if you are interested in participating in recovery efforts for the black pinesnake. Additionally, we invite you to submit any new information on this subspecies 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 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. 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, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the subspecies' 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 Forest Service or on National Wildlife Refuges

managed by the Service; issuance of section 404 Clean Water Act (33 U.S.C. 1251 *et seq.*) permits by the U.S. Army Corps of Engineers; construction and maintenance 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; land management practices supported by programs administered by the U.S. Department of Agriculture; Environmental Protection Agency pesticide registration; and projects funded through Federal loan programs, which may include, but are not limited to, roads and bridges, utilities, recreation sites, and other forms of development.

4(d) Rule

Under section 4(d) of the Act, the Service has discretion to issue regulations that we find necessary and advisable to provide for the conservation of threatened wildlife. We may also prohibit by regulation with respect to threatened wildlife any act prohibited by section 9(a)(1) of the Act for endangered wildlife. For the black pinesnake, the Service has developed a 4(d) rule that is tailored to the specific threats and conservation needs of this subspecies. Exercising this discretion, the Service has developed a 4(d) rule containing all the general prohibitions and exceptions to those prohibitions; these are found at 50 CFR 17.31 and 50 CFR 17.32. However, as a means to promote conservation efforts on behalf of the black pinesnake, we are finalizing a 4(d) rule for this subspecies that modifies the standard protection for threatened wildlife found at 50 CFR 17.31. In the case of a 4(d) rule, the general regulations (50 CFR 17.31 and 17.71) applying most prohibitions under section 9 of the Act to threatened species do not apply to that species, and the 4(d) rule contains the prohibitions necessary and advisable to conserve that species.

As discussed in the Summary of Factors Affecting the Species section of this rule, the primary threat to this subspecies is the continuing loss and degradation of the open pine forests habitat (*e.g.,* the longleaf pine ecosystem), which requires active management to ensure appropriate habitat conditions are present. Therefore, for the black pinesnake, the Service has determined that exemptions authorized under section 4(d) of the Act are appropriate to promote conservation of this subspecies. Foremost in the degradation of this habitat is the decline or absence of prescribed fire, as fire is the primary source of historical disturbance and maintenance, reduces mid-story and understory hardwoods, and promotes abundant native herbaceous groundcover in the natural communities of the longleaf pine ecosystem where the black pinesnake normally occurs. We recognize that forest management activities such as thinning, reforestation and afforestation, mid-story and understory vegetation management, and final harvest (particularly in stands with undesirable conditions) are often needed to maintain and/or restore forests to the conditions that are preferable to black pinesnakes. The primary habitat features that require protection in this ecosystem are the burned-out or naturally decayed pine stump holes that are heavily utilized by black pinesnakes, in association with the development of the herbaceous plant community that provides habitat and forage for prey. Therefore, activities causing significant subsurface disturbance (like those listed below under 3(b)) will not be exempted as these actions are detrimental to maintenance and development of stump holes and root channels critical to this subspecies. Another factor affecting the integrity of this ecosystem is the infestation of invasive plants, particularly cogongrass. Activities such as prescribed burning and invasive weed control, as well as forest management activities associated with restoring and maintaining the natural habitat to meet the needs of the black pinesnake, positively affect pinesnake habitat and provide an overall conservation benefit to the subspecies.

Provisions of the 4(d) Rule

See Summary of Changes to the Proposed Rule, above, for changes to the 4(d) rule based on information we received during the public comment period.

This 4(d) rule exempts from the general prohibitions at 50 CFR 17.31 take incidental to the following activities when conducted within habitats currently or historically occupied by the black pinesnake:

(1) Prescribed burning, including all fire break establishment and maintenance actions, as well as actions taken to control wildfires.

(2) Herbicide application for invasive plant species control, site-preparation, and mid-story and understory woody vegetation control. All exempted herbicide applications must be conducted in a manner consistent with Federal law, including Environmental Protection Agency label restrictions; applicable State laws; and herbicide application guidelines as prescribed by herbicide manufacturers.

(3) All forest management activities that maintain lands in a forested condition, except for: (a) Conversion of longleaf-pine-dominated forests (>51 percent longleaf in the overstory) to other forest cover types or land uses; or (b) those activities causing significant subsurface disturbance, including, but not limited to, shearing, wind-rowing, stumping, disking (except during fire break creation or maintenance), root-raking, and bedding.

We believe these actions and activities, while they may have some minimal level of harm or temporary disturbance to the black pinesnake, are not expected to adversely affect the subspecies' conservation and recovery efforts. They will have a net beneficial effect on the subspecies. When practicable and to the extent possible, the Service encourages managers to conduct the activities listed above in a manner to: Maintain suitable black pinesnake habitat in large tracts; minimize ground and subsurface disturbance; promote a diverse, abundant native herbaceous groundcover; and allow for the natural decay or burning of pine stumps. It should be noted that harvest of longleaf pine (and other species) is included in the exemption, as long as the longleaf pine forests are not converted to other forest cover types. Should landowners undertake activities in these areas (*e.g.,* such as converting from longleaf to loblolly) that are not covered by the exemptions above and are likely to result in take (as described below), they would need to consult with the Service to find ways to minimize impacts to the subspecies before proceeding with the activity.

We may issue permits to carry out otherwise prohibited activities involving threatened wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.32. With regard to threatened wildlife, a permit may be issued for the following purposes: For scientific purposes, to enhance the propagation or survival of the subspecies, for economic hardship, for zoological exhibition, for educational purposes, and for incidental take in connection with otherwise lawful activities. There are also certain statutory exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

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 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 final listing on proposed and ongoing activities within the range of a listed species. Based on the best available information, the following activities may potentially result in a violation of section 9 the Act; this list is not comprehensive:

(1) Unauthorized collecting, handling, possessing, selling, delivering, carrying, or transporting of the black pinesnake, including import or export across State lines and international boundaries, except for properly documented antique specimens of these taxa at least 100 years old, as defined by section 10(h)(1) of the Act.

(2) Introduction of nonnative species that compete with or prey upon the black pinesnake.

(3) Unauthorized destruction or modification of occupied black pinesnake habitat (*e.g.,* stumping, root raking, bedding) that results in significant subsurface disturbance or the destruction of pine stump holes and their associated root systems used as refugia by the black pinesnake, or that impairs in other ways the subspecies' essential behaviors such as breeding, feeding, or sheltering; and conversion of occupied longleaf-pine-dominated forests (>51 percent of longleaf in the overstory) to other forest cover types or land uses.

(4) Unauthorized use of insecticides and rodenticides that could impact small mammal prey populations, through either unintended or direct impacts within habitat occupied by black pinesnakes.

(5) Actions, intentional or otherwise, that would result in the destruction of eggs or cause mortality or injury to hatchling, juvenile, or adult black pinesnakes.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Mississippi Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). We encourage any landowner who is concerned about potential take of the pinesnake on their property from an action that is not covered under the 4(d) rule to consult with the Service on conservation measures that would avoid take or the process for obtaining an incidental take permit under a safe harbor agreement or habitat conservation plan.

Required Determinations

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 Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes. There are no tribal lands located within the range of the subspecies.

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 Mississippi Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this final rule are the staff members of the Mississippi Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 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 § 17.11(h) by adding an entry for ''Pinesnake, black'' in alphabetical order under REPTILES to the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
REPTILES							
*	*	*	*	*	*		*
Pinesnake, black	*Pituophis melanoleucus lodingi.*	U.S.A. (AL, LA, MS).	Entire	T	861	NA	17.42(h)
*	*	*	*	*	*		*

■ 3. Amend § 17.42 by adding paragraph (h) to read as follows:

§ 17.42 Special rules—reptiles.

* * * * *

(h) Black pinesnake (*Pituophis melanoleucus lodingi*).

(1) *Prohibitions.* Except as noted in paragraph (h)(2) of this section, all prohibitions and provisions of §§ 17.31 and 17.32 apply to the black pinesnake.

(2) *Exemptions from prohibitions.* Incidental take of the black pinesnake will not be considered a violation of section 9 of the Act if the take results from:

(i) Prescribed burning, including all fire break establishment and maintenance actions, as well as actions taken to control wildfires.

(ii) Herbicide application for invasive plant species control, site-preparation, and mid-story and understory woody vegetation control. All exempted herbicide applications must be conducted in a manner consistent with Federal law, including Environmental Protection Agency label restrictions; applicable State laws; and herbicide application guidelines as prescribed by herbicide manufacturers.

(iii) All forest management activities that maintain lands in a forested condition, except for:

(A) Conversion of longleaf-pine-dominated forests (>51 percent longleaf in the overstory) to other forest cover types or land uses; and

(B) Those activities causing significant subsurface disturbance, including, but not limited to, shearing, wind-rowing, stumping, disking (except during fire break creation or maintenance), root-raking, and bedding.

* * * * *

Dated: September 28, 2015.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2015–25270 Filed 10–5–15; 8:45 am]

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Part IV

Department of Labor

Employee Benefits Security Administration

Exemptions From Certain Prohibited Transaction Restrictions; Notice

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Exemptions From Certain Prohibited Transaction Restrictions

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and/or the Internal Revenue Code of 1986 (the Code). This notice includes the following: 2015–16, Red Wing Shoe Company Pension Plan for Hourly Wage Employees, Red Wing Shoe Company Retirement Plan, and the S.B. Foot Tanning Company Employees' Pension Plan, D–11763, D–11764, D–11765; 2015–17, Frank Russell Company and Affiliates, D–11781; 2015–18, The Les Schwab Tire Centers of Washington, Inc. *et al,* D–11788 thru D–11792; 2015–19, New England Carpenters Training Fund, L–11795; 2015–20, Virginia Bankers Association Defined Contribution Plan for First Capital Bank, D–11818; 2015–21 Idaho Veneer Company/Ceda-Pine Veneer, Inc. Employees' Retirement Plan, D–11823; 2015–22, United States Steel and Carnegie Pension Fund, D–11825; and 2015–23, Roberts Supply, Inc. Profit Sharing Plan and Trust, D–11836.

SUPPLEMENTARY INFORMATION: A notice was published in the **Federal Register** of the pendency before the Department of a proposal to grant such exemption. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, DC. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicant has represented that it has complied with the requirements of the notification to interested persons. No requests for a hearing were received by the Department. Public comments were received by the Department as described in the granted exemption.

The notice of proposed exemption was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (76 FR 66637, 66644, October 27, 2011) [1] and based upon the entire record, the Department makes the following findings:

(a) The exemption is administratively feasible;

(b) The exemption is in the interests of the plan and its participants and beneficiaries; and

(c) The exemption is protective of the rights of the participants and beneficiaries of the plan.

Red Wing Shoe Company Pension Plan for Hourly Wage Employees, the Red Wing Shoe Company Retirement Plan and the S.B. Foot Tanning Company Employees' Pension Plan (collectively, the Plans) Located in Red Wing, MN, [Prohibited Transaction Exemption 2015–16; Application Nos. D–11763, D–11764, and D–11765]

Exemption

Section I. Covered Transactions

The restrictions of sections 406(a)(1)(A), 406(a)(1)(B), 406(a)(1)(D), 406(a)(1)(E), 406(a)(2), 406(b)(1), 406(b)(2), and 407(a) of the Employee Retirement Income Security Act of 1974, as amended (the Act), and the sanctions resulting from the application of section 4975(a) and (b) of the Internal Revenue Code of 1986, as amended (the Code), by reason of section 4975(c)(1)(A), (B), (D) and (E) of the Code,[2] shall not apply to: (1) The in-kind contribution (the Contribution) of shares (the Shares) in Red Wing International, Ltd. (RWI) to the Plans by Red Wing Shoe Company, Inc. (Red Wing or the Applicant), a party in interest with respect to the Plans; (2) the sale of the Shares by the Plans to Red Wing or an affiliate of Red Wing in connection with the exercise of the Terminal Put Option, the Call Option, or the Liquidity Put Option in accordance with the terms thereof; and (3) the deferred payment of: (i) The price of the Shares by Red Wing or its affiliate to the Plans in connection with the exercise of the Liquidity Put Option, the Terminal Put Option and the Call Option; and (ii) any Make-Whole Payments by Red Wing; provided that the conditions described in Section II below have been met.

Section II. Conditions for Relief

(a) The Plans acquire the Shares solely through one or more in-kind Contributions by Red Wing;

(b) An Independent Fiduciary acts on behalf of the Plans with respect to the acquisition, management and disposition of the Shares. Specifically, such Independent Fiduciary will: (1) Determine, prior to entering into any of the transactions described herein, that each such transaction, including the Contribution, is in the interest of the Plans; (2) negotiate and approve, on behalf of the Plans, the terms of the Contribution Agreements, and the terms of any of the transactions described herein; (3) manage the holding and sale of the Shares on behalf of the Plans, taking whatever actions it deems necessary to protect the rights of the Plans with respect to the Shares; and (4) ensure that all of the conditions of this exemption are met;

(c) An Independent Appraiser selected by the Independent Fiduciary determines the fair market value of the Shares contributed to each Plan as of the date of the Contribution, and for purposes of the Make-Whole Payments, the Terminal Put Option, the Liquidity Put Option, and the Call Option;

(d) Immediately after the Contribution, the aggregate fair market value of the Shares held by any Plan will represent no more than 10 percent (10%) of the fair market value of such Plan's assets;

(e) The Plans incur no fees, costs or other charges in connection with any of the transactions described herein;

(f) For as long as the Plans hold the Shares, Red Wing makes the Periodic Make-Whole Payments and, if applicable, a Terminal Make-Whole Payment to the Plans in accordance with the terms thereof;

(g) The Liquidity Put Option and the Terminal Put Option are exercisable by the Independent Fiduciary in its sole discretion in accordance with the terms thereof;

(h) Each year, Red Wing will make a cash contribution to each Plan that is the greater of: (1) The minimum required contribution, as determined by section 430 of the Code; or (2) the lesser of: (i) The minimum required

[1] The Department has considered exemption applications received prior to December 27, 2011 under the exemption procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990).

[2] For purposes of this exemption, references to the provisions of Title I of the Act, unless otherwise specified, refer to the corresponding provisions of the Code.

contribution, as determined by section 430 of the Code, as of the Plan's valuation date, except that the value of the assets will be reduced by an amount equal to the value of a Share, multiplied by the number of Shares in the Plan at the end of the Plan year, and (ii) the contribution that would result in the respective Plan attaining a 100% FTAP funded status (reflecting assets reduced by the credit balance) at the valuation date determining the contributions based on the value of all Plan assets, including the Shares. Any cash contributions in excess of the minimum required contribution described above will not be used to create additional prefunding credit balance;

(i) The terms of any transactions between the Plans and Red Wing are no less favorable to the Plans than terms negotiated at arm's-length under similar circumstances between unrelated third parties.

Section III. Definitions

(a) ''affiliate'' means:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner in any such person; or

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee. For the purposes of clause (a)(1) above, the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(b) ''Contribution Agreement'' means the written agreement governing the contribution of Shares to a Plan, by and between Red Wing and State Street Bank & Trust Company, to be executed prior to any Contribution to which such agreement relates.

(c) ''Commission Agreement'' means the written Sales Agent Contract between Red Wing and RWI, to be executed prior to the Contributions, that governs the relationship between the parties and obligates RWI to act as a sales agent for Red Wing with respect to sales of certain Red Wing products for a ten-year term.

(d) ''Make-Whole Payments'' means either Periodic Make-Whole Payments or Terminal Make-Whole Payments.

(e) ''Periodic Make-Whole Payments'' means periodic payments made to each Plan every five years as follows:

(1) Each periodic payment shall be made in an amount equal to the excess, if any, of:

(A) a presumed 7.5% annual return, compounded annually, on the value of the Shares calculated from the beginning of the Holding Period, less

(B) the sum of (i) the after-tax total return on such Shares (*i.e.,* appreciation of the Shares' fair market value (whether realized or unrealized) plus after-tax dividend income), plus (ii) any Periodic Make-Whole Payments previously made to each Plan over the Holding Period with respect to such Shares. For purposes of calculating this reduction, any realized gains on the Shares will be credited with a presumed 7.5% annual return, compounded annually, calculated from the date the cash was received by the Plan. The after-tax dividend amounts and any previously paid Periodic Make-Whole Payments will be credited at the Plan's actual rate of return on its investments, compounded annually, calculated from the date the cash was received by the Plan.

(2) A separate Periodic Make-Whole Payment will be calculated with respect to each Contribution to a Plan, every five years as of the anniversary date of such Contribution.

(3) Each Periodic Make-Whole Payment will be due and payable to each Plan 60 days after the five-year anniversary date of the Contribution to which it relates. During the 60-day period, any unpaid portion of a Periodic Make-Whole Payment will accrue interest, compounded annually, at the average of Red Wing's regular corporate borrowing rate (but at a rate no less than LIBOR plus 1%), to be confirmed by the Independent Fiduciary, over the period from the five-year anniversary date of the Contribution to which it relates to the date of payment.

(4) The amount of any Make-whole Payment otherwise payable at any five-year term will be reduced (but not below zero) to the extent all or any portion of the Make-Whole Payment then payable would cause a Plan's ''funding target attainment percentage,'' as determined under section 430 of the Code and as calculated by its enrolled actuary and confirmed by the Independent Fiduciary immediately following such Contribution, to exceed: (A) 110%; or (B) if an amendment is adopted to terminate the Plan pursuant to the Plan's governing document, that Plan's termination liability as determined by its enrolled actuary and confirmed by the Independent Fiduciary.

(f) ''Terminal Make-Whole Payment'' means a one-time cash contribution made to the Plans in the event of a Catastrophic Loss of Value of the Shares arising from a termination of the Commission Agreement between Red Wing and RWI, due and payable to each Plan 90 days after the date of a written demand by the Independent Fiduciary (the demand date) as follows:

(1) The Terminal Make-Whole Payment, if triggered, will terminate Red Wing's obligation to make Periodic Make-Whole Payments calculated as of any date that is after the Catastrophic Loss of Value.

(2) The amount of the Terminal Make-Whole Payment will be calculated as the excess, if any, of:

(A) the fair market value of the Shares as of the date of Contribution of such Shares to each Plan increased by a 7.5% annual growth rate, compounded annually, over the Holding Period, less

(B) the sum of (i) the amount of the after-tax dividends on the Shares received during such Shares' Holding Period, and (ii) any Periodic Make-Whole Payments made to each Plan with respect to the Shares, further subtracted by

(C) any previous realized gains on such Shares during their Holding Period.

For purposes of calculating this reduction, any realized gains on the Shares will be credited with a presumed 7.5% annual return, compounded annually, calculated from the date the cash was received by the Plan. The after-tax dividend amounts and any previously paid Periodic Make-Whole Payments will be credited at the Plan's actual rate of return on its investments, compounded annually, calculated from the date the cash was received by the Plan.

(3) The Terminal Make-Whole Payment will be further reduced by any remaining fair market value of the Shares after the Catastrophic Loss of Value.

(4) In the event of Catastrophic Loss of Value, the Shares held by a Plan will be subject to a put option (the Terminal Put Option) exercisable by the Independent Fiduciary to sell the Shares back to Red Wing at the Shares' fair market value as of the demand date as determined by the Independent Fiduciary; provided that, if the fair market value of the Shares is equal to $0.00 as a result of the Catastrophic Loss of Value, the Shares shall be transferred to Red Wing upon payment of the Terminal Make-Whole Payment.

(5) The Terminal Make-Whole Payment, as well as the exercise price on the Terminal Put Option (if any) subsequently exercised by the Independent Fiduciary, can be paid in five equal annual installments. Any unpaid portion of the Terminal Make-Whole Payment or exercise price of the Terminal Put Option will accrue interest (compounded annually as of the

anniversary of the demand date or the exercise date of the Terminal Put Option, as applicable) at the average of Red Wing's regular corporate borrowing rate (but at a rate no less than LIBOR plus 1%), to be confirmed by the Independent Fiduciary, over each 12-month period.

(6) The amount of any Terminal Make-Whole Payment will also be reduced (but not below zero) to the extent all or any portion of the Terminal Make-Whole Payment then payable would cause a Plan's ''funding target attainment percentage'' as determined under Code section 430, and as calculated by its enrolled actuary to exceed: (A) 110%; or (B) if an amendment is adopted to terminate the Plan pursuant to the Plan's governing document, that Plan's termination liability as determined by its enrolled actuary and confirmed by the Independent Fiduciary).

(g) ''Holding Period'' means, for purposes of calculating the Make-Whole Payments with respect to certain Shares, the period of time over which each Plan has held such Shares, beginning from the date such Shares were received by each Plan through the date of calculation of such Periodic Make-Whole Payment.

(h) ''Catastrophic Loss of Value'' means, for purposes of triggering the Terminal Make-Whole Payment, any diminution of the value of the Shares held by the Plans arising from a termination of the Commission Agreement.

(i) ''Liquidity Put Option'' means a put option granting each Plan the right to require Red Wing to purchase some or all of the Shares from the Plan at the Shares' fair market value as of the date of exercise, payable in cash no later than 60 days following the date of exercise. During this 60-day period, any unpaid portion of the purchase price for the Shares payable by Red Wing in connection with the exercise of the Liquidity Put Option will accrue interest, compounded annually, at the average of Red Wing's regular corporate borrowing rate (but at a rate no less than LIBOR plus 1%), to be confirmed by the Independent Fiduciary, over the period from the date of exercise of the Liquidity Put Option to the date of payment of such unpaid portion of the purchase price. The Liquidity Put Option is exercisable as follows:

(1) For a period of 60 days following a Change of Control, the Liquidity Put Option will be exercisable by the Independent Fiduciary on behalf of the Plans; and

(2) Upon a Plan becoming entitled to receive a Periodic Make-Whole Payment, the Independent Fiduciary may exercise the Liquidity Put Option on behalf of the Plan with respect to as much as 20% of the original number of Shares to which the Periodic Make-Whole Payment relates, no later than 45 days following the five-year anniversary date of the Contribution, as follows:

(A) If the Plan elects to exercise its Liquidity Put Option with respect to any of the Shares to which the Periodic Make-Whole Payment relates in the first year in which the Liquidity Put Option is exercisable, the Plan will be able to exercise a Liquidity Put Option for as much as an additional 20% of the original number of Shares to which the Periodic Make-Whole Payment relates upon each of the four succeeding anniversaries of the Contribution to the Plan, but no later than 45 days following each such anniversary; and

(B) The exercise of a Liquidity Put Option for any of the Shares to which the Periodic Make-Whole Payment applies in the first year that the Liquidity Put Option is exercisable will eliminate the Plan's right to that Periodic Make-Whole Payment with respect to all Shares to which the Periodic Make-Whole Payment in that year relates, but any Shares for which the Liquidity Put Option is not exercised will continue to be eligible for future Periodic Make-Whole Payments.

(3) Upon the occurrence of the tenth anniversary (the Anniversary Date) of a Contribution to a Plan, the Independent Fiduciary on behalf of the Plan will be able to exercise the Liquidity Put Option with respect to as much as 20% of the number of Shares to which such Contribution relates, in each year following the Anniversary Date.

(4) Upon the effective date of a Plan's termination and at any time until the final distribution date of the Plan's assets, the Plan will have the right to exercise the Liquidity Put Option for any or all Shares remaining in the Plan, and Red Wing will have the right to exercise the Call Option.

(j) ''Call Option'' means Red Wing's right to cause a Plan to sell any or all remaining Shares held in the Plan to Red Wing, exercisable upon the effective date of a Plan's termination, in exchange for cash at the Shares' fair market value on the date of exercise. The Plan will transfer its Shares to Red Wing and Red Wing will pay cash for such Shares no later than 60 days after Red Wing exercises the Call Option. During this 60-day period, any unpaid portion of the purchase price for the Shares payable by Red Wing in connection with its exercise of the Call Option will accrue interest, compounded annually, at the average of Red Wing's regular corporate borrowing rate (but at a rate no less than LIBOR plus 1%), to be confirmed by the Independent Fiduciary.

(k) ''Change of Control'' means, for purposes of triggering the Liquidity Put Option, the sale or other transfer for value of all or substantially all of Red Wing's assets in a transaction or series of related transactions to a Third Party purchaser, or a transaction or series of transactions in which a Third Party acquires more than 50% of the voting power of Red Wing's outstanding shares. A ''Third Party'' for this purpose is an individual or entity other than: (1) (i) A current shareholder of Red Wing, or a spouse or issue of such shareholder, (ii) a trust created for the shareholder, his spouse, or his issue, or (iii) a shareholder of a shareholder; or (2) an entity controlled by an individual or entity described in (1), or an entity under common control with such an entity.

(l) ''Independent Fiduciary'' means Gallagher Fiduciary Advisors, LLC (GFA) or another fiduciary of the Plans who: (1) Is independent of or unrelated to Red Wing and its affiliates, and has the appropriate training, experience, and facilities to act on behalf of the Plan regarding the covered transactions in accordance with the fiduciary duties and responsibilities prescribed by ERISA (including, if necessary, the responsibility to seek the counsel of knowledgeable advisors to assist in its compliance with ERISA); and (2) if relevant, succeeds GFA in its capacity as Independent Fiduciary to the Plans in connection with the transactions described herein. The Independent Fiduciary will not be deemed to be independent of and unrelated to Red Wing and its affiliates if: (i) Such Independent Fiduciary directly or indirectly controls, is controlled by or is under common control, with Red Wing and its affiliates; (ii) such Independent Fiduciary directly or indirectly receives any compensation or other consideration in connection with any transaction described in this exemption other than for acting as Independent Fiduciary in connection with the transactions described herein, provided that the amount or payment of such compensation is not contingent upon, or in any way affected by, the Independent Fiduciary's ultimate decision; and (iii) the annual gross revenue received by the Independent Fiduciary, during any year of its engagement, from Red Wing and its affiliates, exceeds two percent (2%) of the Independent Fiduciary's annual gross revenue from all sources (for federal income tax purposes) for is prior tax year.

(m) ''Independent Appraiser'' means an individual or entity meeting the definition of a ''Qualified Independent Appraiser'' under Department Regulation 25 CFR 2570.31(i) retained to determine, on behalf of the Plans, the fair market value of the Shares as of the date of the Contributions and while the Shares are held on behalf of the Plans, and may be the Independent Fiduciary, provided it satisfies the definition of Independent Appraiser herein.

Written Comments

The Department invited all interested persons to submit written comments and/or requests for a public hearing with respect to the notice of proposed exemption (the Notice), published on July 27, 2015, at 80 FR 44728. All comments and requests for hearing were due by September 15, 2015. During the comment period, the Department received two written comments in response to the Notice, one from GFA in its capacity as Independent Fiduciary, and the other from Red Wing. Furthermore, during the comment period, the Department received several phone inquiries that generally concerned matters outside the scope of the exemption. A summary of GFA's comment and Red Wing's comment follows below, although the Department has omitted certain of those comments which the Department believes are non-substantive. Any capitalized terms used herein that are not otherwise defined have the meanings ascribed to them in the Summary of Facts and Representations in the Notice (the Summary).

GFA's Comment

1. GFA's Duties With Respect to Valuation of the Shares

GFA seeks to clarify Paragraph 44 of the Summary, which provides that ''GFA has complete discretion to determine the valuation methodologies as well as the ultimate value of the Shares contributed to the Plans.'' GFA clarifies that, while it does retain the ultimate discretion to determine the value of the Shares contributed to the Plans, Lincoln or a successor Independent Appraiser engaged by GFA will determine the methodology or methodologies to be employed in the valuation and describe such methodology or methodologies in the valuation report. GFA, in turn, will ensure that the methodology or methodologies used by the Independent Appraiser is appropriate and adequately explained in the valuation report, and that the Independent Appraiser has justified its decision not to employ alternative valuation methods.

2. Lincoln's Appraisal of the Shares

Paragraph 55 of the Summary provides that any uncertainty with respect to the long-term outlook of RWI's tax treatment and potential volatility in international sales ''would be offset by the value protection provisions.'' According to GFA's comment, Lincoln notes that the aforementioned uncertainties may be ''partially offset'' by the value protection provision included in this exemption.

The Department takes note of the foregoing clarifications to the Summary.

Red Wing's Comment

1. Factual Updates to the Notice

Red Wing notes that Section III(b) of the proposed exemption, as well as Paragraphs 8, 11, 14, and 20 of the Summary, identify Vanguard as the Plans' trustee. Furthermore, Paragraph 8 of the Summary provides that Vanguard Institutional Advisory Services, which was engaged as the Plans' investment advisor, is one of the Plans' fiduciaries. Red Wing states that Vanguard has been replaced by State Street Bank & Trust Company (State Street) as the Plans' trustee, and Mercer Investment Management, Inc. has been engaged as the Plans' investment advisor in place of Vanguard Institutional Advisory Services.

The Department takes note of Red Wing's updates to Paragraphs 8, 11, 14, and 20 of the Summary and has modified Section III(b) of the exemption to reflect State Street's role as trustee.

2. Designation of the Shares as ''Employer Securities''

Paragraph 38 of the Summary provides that the Shares constitute ''employer securities,'' as defined in section 407(d)(1) of the Act, because RWI (although not an employer of employees covered by the Plans) can be considered an affiliate of Red Wing. The Summary notes that the stock ownership attribution rules set forth in section 1563(a) of the Code could cause the Sweasy family to own both RWI and Red Wing. In this regard, the largest percentages of Red Wing stock and RWI Shares, attributing Shares owned by Red Wing to Red Wing shareholders, are owned by five members of the Sweasy family or trusts established by or for the benefit of such individuals.

In its comment, Red Wing now states that the Shares may not constitute ''employer securities,'' as defined in section 407(d)(1) of the Act, because Red Wing and RWI are not currently affiliates. However, Red Wing represents that, due to the ownership of Red Wing and the Shares by members of the Sweasy family or trusts either controlled by, or benefiting, members of the Sweasy family, and application of certain ownership attribution rules that are based on circumstances subject to change (such as age), RWI may be an affiliate of Red Wing at the time of a Contribution. The Department takes note of the Applicant's clarification.

3. GFA's Duties as Qualified Independent Fiduciary

Paragraph 48 of the Summary provides that ''[t]he Applicant represents that GFA is. . . an ''investment manager'' within the meaning of section 3(38) of the Act and the Investment Advisers Act of 1940, and with respect to its duties, GFA will be a fiduciary as defined in section 3(21)(A) of the Act.'' Paragraph 48 provides further that, ''[t]he Applicant represents that GFA will take whatever actions it deems necessary to protect the rights of the Plans with respect to the Shares and will act prudently and for the exclusive benefit and in the sole interest of the Plans and their participants and beneficiaries.'' In its comment, Red Wing states that the representations in Paragraph 48 described above, that were attributed to the Applicant, were actually made by GFA. The Department takes note of Red Wing's clarification to Paragraph 48 of the Summary.

4. Exercise of the Liquidity Put Option

Red Wing seeks to modify Section III(i)(1) of the proposed exemption, which provides that, ''[for] a period of 60 days leading up to a Change of Control, the Liquidity Put Option will be exercisable by the Independent Fiduciary on behalf of the Plans.'' Red Wing states that, in actuality, the Liquidity Put Option will be exercisable for a period of 60 days *following* a Change of Control. The Department concurs with the requested change has modified Section III(i)(1) of this exemption accordingly.

5. Name of the Hourly Plan

Red Wing notes that the proper name for the Hourly Plan is the ''Red Wing Shoe Company Pension Plan for Hourly Wage Employees.'' The Department concurs and has modified the title of this final exemption accordingly.

Accordingly, after giving full consideration to the entire record, the Department has decided to grant the exemption subject to the modifications described above. The complete application file (Application Nos. D–

11763, D–11764, and D–11765), including all supplemental submissions received by the Department, is available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1515, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice published on July 27, 2015, at 80 FR 44728.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Ness of the Department, telephone (202) 693–8561. (This is not a toll-free number.)

Frank Russell Company and Affiliates, (Russell or the Applicants), Located in Seattle, WA, [Prohibited Transaction Exemption 2015–17; Exemption Application No. D–11781]

Exemption

Section I. Transactions

The restrictions of sections 406(a)(1)(D) and 406(b) of the Act (or ERISA) and the taxes resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1)(D) through (F) of the Code,[3] shall not apply, effective June 1, 2014, to:

(a) The receipt of a fee by Russell, as Russell is defined below in Section IV(a), from an open-end investment company or open-end investment companies (Affiliated Fund(s)), as defined below in Section IV(e), in connection with the direct investment in shares of any such Affiliated Fund, by an employee benefit plan or by employee benefit plans (Client Plan(s)), as defined below in Section IV(b), where Russell serves as a fiduciary with respect to such Client Plan, and where Russell:

(1) Provides investment advisory services, or similar services to any such Affiliated Fund; and

(2) Provides to any such Affiliated Fund other services (Secondary Service(s)), as defined below in Section IV(i); and

(b) In connection with the indirect investment by a Client Plan in shares of an Affiliated Fund through investment in a pooled investment vehicle or pooled investment vehicles (Collective Fund(s))[4], as defined below in Section IV(j), where Russell serves as a fiduciary with respect to such Client Plan, the receipt of fees by Russell from:

(1) An Affiliated Fund for the provision of investment advisory services, or similar services by Russell to any such Affiliated Fund; and

(2) An Affiliated Fund for the provision of Secondary Services by Russell to any such Affiliated Fund; provided that the conditions, as set forth below in Section II and Section III, are satisfied, as of June 1, 2014 and thereafter.

Section II. Specific Conditions

(a)(1) Each Client Plan which is invested directly in shares of an Affiliated Fund *either:*

(i) Does not pay to Russell for the entire period of such investment any investment management fee, or any investment advisory fee, or any similar fee at the plan-level (the Plan-Level Management Fee), as defined below in Section IV(m), with respect to any of the assets of such Client Plan which are invested directly in shares of such Affiliated Fund; *or*

(ii) Pays to Russell a Plan-Level Management Fee, based on total assets of such Client Plan under management by Russell at the plan-level, from which a credit has been subtracted from such Plan-Level Management Fee, where the amount subtracted represents such Client Plan's *pro rata share* of any investment advisory fee and any similar fee (the Affiliated Fund Level Advisory Fee), as defined below in Section IV(o), paid by such Affiliated Fund to Russell.

If, during any fee period, in the case of a Client Plan invested directly in shares of an Affiliated Fund, such Client Plan has prepaid its Plan Level Management Fee, and such Client Plan purchases shares of an Affiliated Fund directly, the requirement of this Section II(a)(1)(ii) shall be deemed met with respect to such prepaid Plan-Level Management Fee, if, by a method reasonably designed to accomplish the same, the amount of the prepaid Plan-Level Management Fee that constitutes the fee with respect to the assets of such Client Plan invested directly in shares of an Affiliated Fund:

(A) Is anticipated and subtracted from the prepaid Plan-Level Management Fee at the time of the payment of such fee; *or*

(B) Is returned to such Client Plan, no later than during the immediately following fee period; *or*

(C) Is offset against the Plan-Level Management Fee for the immediately following fee period or for the fee period immediately following thereafter.

For purposes of Section II(a)(1)(ii), a Plan-Level Management Fee shall be deemed to be prepaid for any fee period, if the amount of such Plan-Level Management Fee is calculated as of a date not later than the first day of such period.

(2) Each Client Plan invested in a Collective Fund the assets of which are not invested in shares of an Affiliated Fund:

(i) Does not pay to Russell for the entire period of such investment any Plan-Level Management Fee with respect to any assets of such Client Plan invested in such Collective Fund.

The requirements of this Section II(a)(2)(i) do not preclude the payment of a Collective Fund-Level Management Fee by such Collective Fund to Russell, based on the assets of such Client Plan invested in such Collective Fund; *or*

(ii) Does not pay to Russell for the entire period of such investment any Collective Fund-Level Management Fee with respect to any assets of such Client Plan invested in such Collective Fund.

The requirements of this Section II(a)(2)(ii) do not preclude the payment of a Plan-Level Management Fee by such Client Plan to Russell, based on total assets of such Client Plan under management by Russell at the plan-level; *or*

(iii) Such Client Plan pays to Russell a Plan-Level Management Fee, based on total assets of such Client Plan under management by Russell at the plan-level, from which a credit has been subtracted from such Plan-Level Management Fee (the ''Net'' Plan-Level Management Fee), where the amount subtracted represents such Client Plan's *pro rata share* of any Collective Fund-Level Management Fee paid by such Collective Fund to Russell.

The requirements of this Section II(a)(2)(iii) do not preclude the payment of a Collective Fund-Level Management Fee by such Collective Fund to Russell, based on the assets of such Client Plan invested in such Collective Fund.

(3) Each Client Plan invested in a Collective Fund, the assets of which are invested in shares of an Affiliated Fund:

(i) Does not pay to Russell for the entire period of such investment any Plan-Level Management Fee (including

[3] For purposes of this exemption reference to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

[4] The Department, herein, is expressing no opinion in this exemption regarding the reliance of the Applicants on the relief provided by section 408(b)(8) of the Act with regard to the purchase and with regard to the sale by a Client Plan of an interest in a Collective Fund and the receipt by Russell, thereby, of any investment management fee, any investment advisory fee, and any similar fee (a Collective Fund-Level Management Fee), as defined below in Section IV(n)), where Russell serves as an investment manager or investment adviser with respect to such Collective Fund and also serves as a fiduciary with respect to such Client Plan, nor is the Department offering any view as to whether the Applicants satisfy the conditions, as set forth in section 408(b)(8) of the Act.

any ''Net'' Plan-Level Management Fee, as described, above, in Section II(a)(2)(ii)), and does not pay directly to Russell or indirectly to Russell through the Collective Fund for the entire period of such investment any Collective Fund-Level Management Fee with respect to the assets of such Client Plan which are invested in such Affiliated Fund; *or*

(ii) Pays indirectly to Russell a Collective Fund-Level Management Fee, in accordance with Section II(a)(2)(i) above, based on the total assets of such Client Plan invested in such Collective Fund, from which a credit has been subtracted from such Collective Fund-Level Management Fee, where the amount subtracted represents such Client Plan's *pro rata share* of any Affiliated Fund-Level Advisory Fee paid to Russell by such Affiliated Fund; and does not pay to Russell for the entire period of such investment any Plan-Level Management Fee with respect to any assets of such Client Plan invested in such Collective Fund; *or*

(iii) Pays to Russell a Plan-Level Management Fee, in accordance with Section II(a)(2)(ii) above, based on the total assets of such Client Plan under management by Russell at the plan-level, from which a credit has been subtracted from such Plan-Level Management Fee, where the amount subtracted represents such Client Plan's *pro rata share* of any Affiliated Fund-Level Advisory Fee paid to Russell by such Affiliated Fund; and does not pay directly to Russell or indirectly to Russell through the Collective Fund for the entire period of such investment any Collective Fund-Level Management Fee with respect to any assets of such Client Plan invested in such Collective Fund; *or*

(iv) Pays to Russell a ''Net'' Plan-Level Management Fee, in accordance with Section II(a)(2)(iii) above, from which a *further credit* has been subtracted from such ''Net'' Plan-Level Management Fee, where the amount of such *further credit* which is subtracted represents such Client Plan's *pro rata share* of any Affiliated Fund-Level Advisory Fee paid to Russell by such Affiliated Fund.

Provided that the conditions of this proposed exemption are satisfied, the requirements of Section II(a)(1)(i)–(ii) and Section II(a)(3)(i)–(iv) do not preclude the payment of an Affiliated Fund-Level Advisory Fee by an Affiliated Fund to Russell under the terms of an investment advisory agreement adopted in accordance with section 15 of the Investment Company Act of 1940 (the Investment Company Act). Further, the requirements of Section II(a)(1)(i)–(ii) and Section II(a)(3)(i)–(iv) do not preclude the payment of a fee by an Affiliated Fund to Russell for the provision by Russell of Secondary Services to such Affiliated Fund under the terms of a duly adopted agreement between Russell and such Affiliated Fund.

For the purpose of Section II(a)(1)(ii) and Section II(a)(3)(ii)–(iv), in calculating a Client Plan's *pro rata share* of an Affiliated Fund-Level Advisory Fee, Russell must use an amount representing the ''gross'' advisory fee paid to Russell by such Affiliated Fund. For purposes of this paragraph, the ''gross'' advisory fee is the amount paid to Russell by such Affiliated Fund, including the amount paid by such Affiliated Fund to sub-advisers.

(b) The purchase price paid and the sales price received by a Client Plan for shares in an Affiliated Fund purchased or sold directly, and the purchase price paid and the sales price received by a Client Plan for shares in an Affiliated Fund purchased or sold indirectly through a Collective Fund, is the net asset value per share (NAV), as defined below in Section IV(f), at the time of the transaction, and is the same purchase price that would have been paid and the same sales price that would have been received for such shares by any other shareholder of the same class of shares in such Affiliated Fund at that time.[5]

(c) Russell, including any officer and any director of Russell, does not purchase any shares of an Affiliated Fund from, and does not sell any shares of an Affiliated Fund to, any Client Plan which invests directly in such Affiliated Fund, and Russell, including any officer and director of Russell, does not purchase any shares of any Affiliated Fund from, and does not sell any shares of an Affiliated Fund to, any Collective Fund in which a Client Plan invests indirectly in shares of such Affiliated Fund.

(d) No sales commissions, no redemption fees, and no other similar fees are paid in connection with any purchase and in connection with any sale by a Client Plan directly in shares of an Affiliated Fund, and no sales commissions, no redemption fees, and no other similar fees are paid by a Collective Fund in connection with any purchase, and in connection with any sale, of shares in an Affiliated Fund by a Client Plan indirectly through such Collective Fund. However, this Section II(d) does not prohibit the payment of a redemption fee, if:

(1) Such redemption fee is paid only to an Affiliated Fund; and

(2) The existence of such redemption fee is disclosed in the summary prospectus for such Affiliated Fund in effect both at the time of any purchase of shares in such Affiliated Fund and at the time of any sale of such shares.

(e) The combined total of all fees received by Russell is not in excess of reasonable compensation within the meaning of section 408(b)(2) of the Act, for services provided:

(1) By Russell to each Client Plan;

(2) By Russell to each Collective Fund in which a Client Plan invests;

(3) By Russell to each Affiliated Fund in which a Client Plan invests directly in shares of such Affiliated Fund; and

(4) By Russell to each Affiliated Fund in which a Client Plan invests indirectly in shares of such Affiliated Fund through a Collective Fund.

(f) Russell does not receive any fees payable pursuant to Rule 12b–1 under the Investment Company Act in connection with the transactions covered by this proposed exemption;

(g) No Client Plan is an employee benefit plan sponsored or maintained by Russell.

(h)(1) In the case of a Client Plan investing directly in shares of an Affiliated Fund, a second fiduciary (the Second Fiduciary), as defined below in Section IV(h), acting on behalf of such Client Plan, receives, in writing, in advance of any investment by such Client Plan directly in shares of such Affiliated Fund, a full and detailed disclosure via first class mail or via personal delivery of (or, if the Second Fiduciary consents to such means of delivery, through electronic email, in accordance with Section II(q), as set forth below) information concerning such Affiliated Fund, including but not limited to the items listed below:

(i) A current summary prospectus issued by each such Affiliated Fund;

(ii) A statement describing the fees, including the nature and extent of any differential between the rates of such fees for:

(A) Investment advisory and similar services to be paid to Russell by each Affiliated Fund;

(B) Secondary Services to be paid to Russell by each such Affiliated Fund; and

(C) All other fees to be charged by Russell to such Client Plan and to each such Affiliated Fund and all other fees to be paid to Russell by each such Client Plan and by each such Affiliated Fund;

(iii) The reasons why Russell may consider investment directly in shares of such Affiliated Fund by such Client

[5] The selection of a particular class of shares of an Affiliated Fund as an investment for a Client Plan indirectly through a Collective Fund is a fiduciary decision that must be made in accordance with the provisions of section 404(a) of the Act.

Plan to be appropriate for such Client Plan;

(iv) A statement describing whether there are any limitations applicable to Russell with respect to which assets of such Client Plan may be invested directly in shares of such Affiliated Fund, and if so, the nature of such limitations; and

(v) Upon the request of the Second Fiduciary acting on behalf of such Client Plan, a copy of the Notice of Proposed Exemption (the Notice), a copy of the final exemption, if granted, and any other reasonably available information regarding the transactions which are the subject of this proposed exemption.

(2) In the case of a Client Plan whose assets are proposed to be invested in a Collective Fund *after* such Collective Fund has begun investing in shares of an Affiliated Fund, a Second Fiduciary, acting on behalf of such Client Plan, receives, in writing, in advance of any investment by such Client Plan in such Collective Fund, a full and detailed disclosure via first class mail or via personal delivery (or, if the Second Fiduciary consents to such means of delivery, through electronic email, in accordance with Section II(q), as set forth below) of information concerning such Collective Fund and information concerning each such Affiliated Fund in which such Collective Fund is invested, including but not limited to the items listed, below:

(i) A current summary prospectus issued by each such Affiliated Fund;

(ii) A statement describing the fees, including the nature and extent of any differential between the rates of such fees for:

(A) Investment advisory and similar services to be paid to Russell by each Affiliated Fund;

(B) Secondary Services to be paid to Russell by each such Affiliated Fund; and

(C) All other fees to be charged by Russell to such Client Plan, to such Collective Fund, and to each such Affiliated Fund and all other fees to be paid to Russell by such Client Plan, by such Collective Fund, and by each such Affiliated Fund;

(iii) The reasons why Russell may consider investment by such Client Plan in shares of each such Affiliated Fund indirectly through such Collective Fund to be appropriate for such Client Plan;

(iv) A statement describing whether there are any limitations applicable to Russell with respect to which assets of such Client Plan may be invested indirectly in shares of each such Affiliated Fund through such Collective Fund, and if so, the nature of such limitations;

(v) Upon the request of the Second Fiduciary, acting on behalf of such Client Plan, a copy of the Notice, a copy of the final exemption, if granted, and any other reasonably available information regarding the transactions which are the subject of this proposed exemption; and

(vi) A copy of the organizational documents of such Collective Fund which expressly provide for the addition of one or more Affiliated Funds to the portfolio of such Collective Fund.

(3) In the case of a Client Plan whose assets are proposed to be invested in a Collective Fund *before* such Collective Fund has begun investing in shares of any Affiliated Fund, a Second Fiduciary, acting on behalf of such Client Plan, receives, in writing, in advance of any investment by such Client Plan in such Collective Fund, a full and detailed disclosure via first class mail or via personal delivery (or, if the Second Fiduciary consents to such means of delivery through electronic email, in accordance with Section II(q), as set forth below) of information, concerning such Collective Fund, including but not limited to, the items listed below:

(i) A statement describing the fees, including the nature and extent of any differential between the rates of such fees for all fees to be charged by Russell to such Client Plan and to such Collective Fund and all other fees to be paid to Russell by such Client Plan, and by such Collective Fund;

(ii) Upon the request of the Second Fiduciary, acting on behalf of such Client Plan, a copy of the Notice, a copy of the final exemption, if granted, and any other reasonably available information regarding the transactions which are the subject of this proposed exemption; and

(iii) A copy of the organizational documents of such Collective Fund which expressly provide for the addition of one or more Affiliated Funds to the portfolio of such Collective Fund.

(i) On the basis of the information, described above in Section II(h), a Second Fiduciary, acting on behalf of a Client Plan:

(1) Authorizes in writing the investment of the assets of such Client Plan, as applicable:

(i) Directly in shares of an Affiliated Fund;

(ii) Indirectly in shares of an Affiliated Fund through a Collective Fund where such Collective Fund has already invested in shares of an Affiliated Fund; and

(iii) In a Collective Fund which is not yet invested in shares of an Affiliated Fund but whose organizational document expressly provides for the addition of one or more Affiliated Funds to the portfolio of such Collective Fund; and

(2) Authorizes in writing, as applicable:

(i) The Affiliated Fund-Level Advisory Fee received by Russell for investment advisory services and similar services provided by Russell to such Affiliated Fund;

(ii) The fee received by Russell for Secondary Services provided by Russell to such Affiliated Fund;

(iii) The Collective Fund-Level Management Fee received by Russell for investment management, investment advisory, and similar services provided by Russell to such Collective Fund in which such Client Plan invests;

(iv) The Plan-Level Management Fee received by Russell for investment management and similar services provided by Russell to such Client Plan at the plan-level; and

(v) The selection by Russell of the applicable fee method, as described, above, in Section II(a)(1)–(3).

All authorizations made by a Second Fiduciary pursuant to this Section II(i) must be consistent with the responsibilities, obligations, and duties imposed on fiduciaries by Part 4 of Title I of the Act;

(j)(1) Any authorization, described above in Section II(i), and any authorization made pursuant to negative consent, as described below in Section II(k) and in Section II(l), made by a Second Fiduciary, acting on behalf of a Client Plan, shall be terminable at will by such Second Fiduciary, without penalty to such Client Plan (including any fee or charge related to such penalty), upon receipt by Russell via first class mail, via personal delivery, or via electronic email of a written notification of the intent of such Second Fiduciary to terminate any such authorization.

(2) A form (the Termination Form), expressly providing an election to terminate any authorization, described above in Section II(i), or to terminate any authorization made pursuant to negative consent, as described below in Section II(k) and in Section II(l), with instructions on the use of such Termination Form, must be provided to such Second Fiduciary at least annually, either in writing via first class mail or via personal delivery (or if such Second Fiduciary consents to such means of delivery through electronic email, in accordance with Section II(q), as set forth below). However, if a Termination

Form has been provided to such Second Fiduciary pursuant to Section II(k) or pursuant to Section II(l) below, then a Termination Form need not be provided pursuant to this Section II(j), until at least six (6) months, but no more than twelve (12) months, have elapsed, since the prior Termination Form was provided;

(3) The instructions for the Termination Form must include the following statements:

(i) Any authorization, described above in Section II(i), and any authorization made pursuant to negative consent, as described below in Section II(k) or in Section II(l), is terminable at will by a Second Fiduciary, acting on behalf of a Client Plan, without penalty to such Client Plan, upon receipt by Russell via first class mail or via personal delivery or via electronic email of the Termination Form, or some other written notification of the intent of such Second Fiduciary to terminate such authorization;

(ii) Within 30 days from the date the Termination Form is sent to such Second Fiduciary by Russell, the failure by such Second Fiduciary to return such Termination Form or the failure by such Second Fiduciary to provide some other written notification of the Client Plan's intent to terminate any authorization, described in Section II(i), or intent to terminate any authorization made pursuant to negative consent, as described below in Section II(k) or in Section II(l), will be deemed to be an approval by such Second Fiduciary;

(4) In the event that a Second Fiduciary, acting on behalf of a Client Plan, at any time returns a Termination Form or returns some other written notification of intent to terminate any authorization, as described above in Section II(i), or intent to terminate any authorization made pursuant to negative consent, as described below in Section II(k) or in Section II(l);

(i)(A) In the case of a Client Plan which invests directly in shares of an Affiliated Fund, the termination will be implemented by the withdrawal of all investments made by such Client Plan in the affected Affiliated Fund, and such withdrawal will be effected by Russell within one (1) business day of the date that Russell receives such Termination Form or receives from the Second Fiduciary, acting on behalf of such Client Plan, some other written notification of intent to terminate any such authorization;

(B) From the date a Second Fiduciary, acting on behalf of a Client Plan that invests directly in shares of an Affiliated Fund, returns a Termination Form or returns some other written notification of intent to terminate such Client Plan's investment in such Affiliated Fund, such Client Plan will not be subject to pay a *pro rata share* of any Affiliated Fund-Level Advisory Fee and will not be subject to pay any fees for Secondary Services paid to Russell by such Affiliated Fund, or any other fees or charges;

(ii)(A) In the case of a Client Plan which invests in a Collective Fund, the termination will be implemented by the withdrawal of such Client Plan from all investments in such affected Collective, and such withdrawal will be implemented by Russell within such time as may be necessary for withdrawal in an orderly manner that is equitable to the affected withdrawing Client Plan and to all non-withdrawing Client Plans, but in no event shall such withdrawal be implemented by Russell more than five business (5) days after the day Russell receives from the Second Fiduciary, acting on behalf of such withdrawing Client Plan, a Termination Form or receives some other written notification of intent to terminate the investment of such Client Plan in such Collective Fund, unless such withdrawal is otherwise prohibited by a governmental entity with jurisdiction over the Collective Fund, or the Second Fiduciary fails to instruct Russell as to where to reinvest or send the withdrawal proceeds; and

(B) From the date Russell receives from a Second Fiduciary, acting on behalf of a Client Plan, that invests in a Collective Fund, a Termination Form or receives some other written notification of intent to terminate such Client Plan's investment in such Collective Fund, such Client Plan will not be subject to pay a *pro rata share* of any fees arising from the investment by such Client Plan in such Collective Fund, including any Collective Fund-Level Management Fee, nor will such Client Plan be subject to any other charges to the portfolio of such Collective Fund, including a *pro rata share* of any Affiliated Fund-Level Advisory Fee and any fee for Secondary Services arising from the investment by such Collective Fund in an Affiliated Fund.

(k)(1) Russell, at least thirty (30) days in advance of the implementation of each fee increase (Fee Increase(s)), as defined below in Section IV(l), must provide in writing via first class mail or via personal delivery (or if the Second Fiduciary consents to such means of delivery through electronic email, in accordance with Section II(q), as set forth below), a notice of change in fees (the Notice of Change in Fees) (which may take the form of a proxy statement, letter, or similar communication which is separate from the summary prospectus of such Affiliated Fund) and which explains the nature and the amount of such Fee Increase to the Second Fiduciary of each affected Client Plan. Such Notice of Change in Fees shall be accompanied by a Termination Form and by instructions on the use of such Termination Form, as described above in Section II(j)(3);

(2) Subject to the crediting, interest-payback, and other requirements below, for each Client Plan affected by a Fee Increase, Russell may implement such Fee Increase without waiting for the expiration of the 30-day period, described above in Section II(k)(1), provided Russell does not begin implementation of such Fee Increase before the first day of the 30-day period, described above in Section II(k)(1), and provided further that the following conditions are satisfied:

(i) Russell delivers, in the manner described in Section II(k)(1), to the Second Fiduciary for each affected Client Plan, the Notice of Change of Fees, as described in Section II(k)(1), accompanied by the Termination Form and by instructions on the use of such Termination Form, as described above in Section II(j)(3);

(ii) Each affected Client Plan receives from Russell a credit in cash equal to each such Client Plan's *pro rata* share of such Fee Increase to be received by Russell for the period from the date of the implementation of such Fee Increase to the *earlier of:*

(A) The date when an affected Client Plan, pursuant to Section II(j), terminates any authorization, as described above in Section II(i), or, terminates any negative consent authorization, as described in Section II(k) or in Section II(l); or

(B) The 30th day after the day that Russell delivers to the Second Fiduciary of each affected Client Plan the Notice of Change of Fees, described in Section II(k)(1), accompanied by the Termination Form and by the instructions on the use of such Termination Form, as described above in Section II(j)(3).

(iii) Russell pays to each affected Client Plan the cash credit, described above in Section II(k)(2)(ii), with interest thereon, no later than five (5) business days following the *earlier of:* (A) The date such affected Client Plan, pursuant to Section II(j), terminates any authorization, as described above in Section II(i), or terminates, any negative consent authorization, as described in Section II(k) or in Section II(l); or

(B) The 30th day after the day that Russell delivers to the Second Fiduciary

of each affected Client Plan, the Notice of Change of Fees, described in Section II(k)(1), accompanied by the Termination Form and instructions on the use of such Termination Form, as described above in Section II(j)(3);

(iv) Interest on the credit in cash is calculated at the prevailing Federal funds rate plus two percent (2%) for the period from the day Russell first implements the Fee Increase to the date Russell pays such credit in cash, with interest thereon, to each affected Client Plan;

(v) An independent accounting firm (the Auditor) at least annually audits the payments made by Russell to each affected Client Plan, audits the amount of each cash credit, plus the interest thereon, paid to each affected Client Plan, and verifies that each affected Client Plan received the correct amount of cash credit and the correct amount of interest thereon;

(vi) Such Auditor issues an audit report of its findings no later than six (6) months after the period to which such audit report relates, and provides a copy of such audit report to the Second Fiduciary of each affected Client Plan; and

(3) Within 30 days from the date Russell sends to the Second Fiduciary of each affected Client Plan, the Notice of Change of Fees and the Termination Form, the failure by such Second Fiduciary to return such Termination Form and the failure by such Second Fiduciary to provide some other written notification of the Client Plan's intent to terminate the authorization, described in Section II(i), or to terminate the negative consent authorization, as described in Section II(k) or in Section II(l), will be deemed to be an approval by such Second Fiduciary of such Fee Increase.

(l) Effective upon the date that the final exemption is granted, in the case of (a) a Client Plan which has received the disclosures detailed in Section II(h)(2)(i), II(h)(2)(ii)(A), II(h)(2)(ii)(B), II(h)(2)(ii)(C), II(h)(2)(iii), II(h)(2)(iv), II(h)(2)(v), and II(h)(2)(vi), and which has authorized the investment by such Client Plan in a Collective Fund in accordance with Section II(i)(1)(ii) above, and (b) a Client Plan which has received the disclosures detailed in Section II(h)(3)(i), II(h)(3)(ii), and II(h)(3)(iii), and which has authorized investment by such Client Plan in a Collective Fund, in accordance with Section II(i)(1)(iii) above, the authorization pursuant to negative consent in accordance with this Section II(l), applies to:

(1) The purchase, as an addition to the portfolio of such Collective Fund, of shares of an Affiliated Fund (a New Affiliated Fund) where such New Affiliated Fund has not been previously authorized pursuant to Section II(i)(1)(ii), or, as applicable, Section II(i)(1)(iii), and such Collective Fund may commence investing in such New Affiliated Fund without further written authorization from the Second Fiduciary of each Client Plan invested in such Collective Fund, provided that:

(i) The organizational documents of such Collective Fund expressly provide for the addition of one or more Affiliated Funds to the portfolio of such Collective Fund, and such documents were disclosed in writing via first class mail or via personal delivery (or, if the Second Fiduciary consents to such means of delivery, through electronic email, in accordance with Section II(q)) to the Second Fiduciary of each such Client Plan invested in such Collective Fund, in advance of any investment by such Client Plan in such Collective Fund;

(ii) At least thirty (30) days in advance of the purchase by a Client Plan of shares of such New Affiliated Fund indirectly through a Collective Fund, Russell provides, either in writing via first class or via personal delivery (or if the Second Fiduciary consents to such means of delivery through electronic email, in accordance with Section II(q)) to the Second Fiduciary of each Client Plan having an interest in such Collective Fund, full and detailed disclosures about such New Affiliated Fund, including but not limited to:

(A) A notice of Russell's intent to add a New Affiliated Fund to the portfolio of such Collective Fund. Such notice may take the form of a proxy statement, letter, or similar communication that is separate from the summary prospectus of such New Affiliated Fund to the Second Fiduciary of each affected Client Plan;

(B) Such notice of Russell's intent to add a New Affiliated Fund to the portfolio of such Collective Fund shall be accompanied by the information described in Section II(h)(2)(i), II(h)(2)(ii)(A), II(h)(2)(ii)(B), II(h)(2)(ii)(C), II(h)(2)(iii), II(h)(2)(iv), and II(2)(v) with respect to each such New Affiliated Fund proposed to be added to the portfolio of such Collective Fund; and

(C) A Termination Form and instructions on the use of such Termination Form, as described in Section II(j)(3); and

(2) Within 30 days from the date Russell sends to the Second Fiduciary of each affected Client Plan, the information described above in Section II(l)(1)(ii), the failure by such Second Fiduciary to return the Termination Form or to provide some other written notification of the Client Plan's intent to terminate the authorization described in Section II(i)(1)(ii), or, as appropriate, to terminate the authorization, described in Section II(i)(1)(iii), or to terminate any authorization, pursuant to negative consent, as described in this Section II(l), will be deemed to be an approval by such Second Fiduciary of the addition of a New Affiliated Fund to the portfolio of such Collective Fund in which such Client Plan invests, and will result in the continuation of the authorization of Russell to engage in the transactions which are the subject of this proposed exemption with respect to such New Affiliated Fund.

(m) Russell is subject to the requirement to provide within a reasonable period of time any reasonably available information regarding the covered transactions that the Second Fiduciary of such Client Plan requests Russell to provide.

(n) All dealings between a Client Plan and an Affiliated Fund, including all such dealings when such Client Plan is invested directly in shares of such Affiliated Fund and when such Client Plan is invested indirectly in such shares of such Affiliated Fund through a Collective Fund, are on a basis no less favorable to such Client Plan, than dealings between such Affiliated Fund and other shareholders of the same class of shares in such Affiliated Fund.

(o) In the event a Client Plan invests directly in shares of an Affiliated Fund, and, as applicable, in the event a Client Plan invests indirectly in shares of an Affiliated Fund through a Collective Fund, if such Affiliated Fund places brokerage transactions with Russell, Russell will provide to the Second Fiduciary of each such Client Plan, so invested, at least annually a statement specifying:

(1) The total, expressed in dollars of brokerage commissions that are paid to Russell by each such Affiliated Fund;

(2) The total, expressed in dollars, of brokerage commissions that are paid by each such Affiliated Fund to brokerage firms unrelated to Russell;

(3) The average brokerage commissions per share, expressed as cents per share, paid to Russell by each such Affiliated Fund; and

(4) The average brokerage commissions per share, expressed as cents per share, paid by each such Affiliated Fund to brokerage firms unrelated to Russell.

(p)(1) Russell provides to the Second Fiduciary of each Client Plan invested directly in shares of an Affiliated Fund with the disclosures, as set forth below,

and at the times set forth below in Section II(p)(1)(i), II(p)(1)(ii), II(p)(1)(iii), II(p)(1)(iv), and II(p)(1)(v), either in writing via first class mail or via personal delivery (or if the Second Fiduciary consents to such means of delivery, through electronic email, in accordance with Section II(q) as set forth below);

(i) Annually, with a copy of the current summary prospectus for each Affiliated Fund in which such Client Plan invests directly in shares of such Affiliated Fund;

(ii) Upon the request of such Second Fiduciary, a copy of the statement of additional information for each Affiliated Fund in which such Client Plan invests directly in shares of such Affiliated Fund which contains a description of all fees paid by such Affiliated Fund to Russell;

(iii) With regard to any Fee Increase received by Russell pursuant to Section II(k)(2), a copy of the audit report referred to in Section II(k)(2)(v) within sixty (60) days of the completion of such audit report;

(iv) Oral or written responses to the inquiries posed by the Second Fiduciary of such Client Plan, as such inquiries arise; and

(v) Annually, with a Termination form, as described in Section II(j)(1), and instructions on the use of such form, as described in Section II(j)(3), except that if a Termination Form has been provided to such Second Fiduciary, pursuant to Section II(k) or pursuant to Section II(l), then a Termination Form need not be provided again pursuant to this Section II(p)(1)(v) until at least six (6) months but no more than twelve (12) months have elapsed since a Termination Form was provided.

(2) Russell provides to the Second Fiduciary of each Client Plan invested in a Collective Fund, with the disclosures, as set forth below, and at the times set forth below in Section II(p)(2)(i), II(p)(2)(ii), II(p)(2)(iii), II(p)(2)(iv), II(p)(2)(v), II(p)(2)(vi), II(p)(2)(vii), and II(p)(2)(viii), either in writing via first class mail or via personal delivery (or if the Second Fiduciary consents to such means of delivery, through electronic email, in accordance with Section II(q);

(i) Annually, with a copy of the current summary prospectus for each Affiliated Fund in which such Client Plan invests indirectly in shares of such Affiliated Fund through each such Collective Fund;

(ii) Upon the request of such Second Fiduciary, a copy of the statement of additional information for each Affiliated Fund in which such Client Plan invests indirectly in shares of such Affiliated Fund through each such Collective Fund which contains a description of all fees paid by such Affiliated Fund to Russell;

(iii) Annually, with a statement of the Collective Fund-Level Management Fee for investment management, investment advisory or similar services paid to Russell by each such Collective Fund, regardless of whether such Client Plan invests in shares of an Affiliated Fund through such Collective Fund;

(iv) A copy of the annual financial statement of each such Collective Fund in which such Client Plan invests, regardless of whether such Client Plan invests in shares of an Affiliated Fund through such Collective Fund, within sixty (60) days of the completion of such financial statement;

(v) With regard to any Fee Increase received by Russell pursuant to Section II(k)(2), a copy of the audit report referred to in Section II(k)(2)(v) within sixty (60) days of the completion of such audit report;

(vi) Oral or written responses to the inquiries posed by the Second Fiduciary of such Client Plan as such inquiries arise;

(vii) For each Client Plan invested indirectly in shares of an Affiliated Fund through a Collective Fund, a statement of the approximate percentage (which may be in the form of a range) on an annual basis of the assets of such Collective Fund that was invested in Affiliated Funds during the applicable year; and

(viii) Annually, with a Termination Form, as described in Section II(j)(1), and instructions on the use of such form, as described in Section II(j)(3), except that if a Termination Form has been provided to such Second Fiduciary, pursuant to Section II(k) or pursuant to Section II(l), then a Termination Form need not be provided again pursuant to this Section II(p)(2)(viii) until at least six (6) months but no more than twelve (12) months have elapsed since a Termination Form was provided.

(q) Any disclosure required herein to be made by Russell to a Second Fiduciary may be delivered by electronic email containing direct hyperlinks to the location of each such document required to be disclosed, which are maintained on a Web site by Russell, provided:

(1) Russell obtains from such Second Fiduciary prior consent in writing to the receipt by such Second Fiduciary of such disclosure via electronic email;

(2) Such Second Fiduciary has provided to Russell a valid email address; and

(3) The delivery of such electronic email to such Second Fiduciary is provided by Russell in a manner consistent with the relevant provisions of the Department's regulations at 29 CFR 2520.104b–1(c) (substituting the word ''Russell'' for the word ''administrator'' as set forth therein, and substituting the phrase ''Second Fiduciary'' for the phrase ''the participant, beneficiary or other individual'' as set forth therein).

(r) The authorizations described in paragraphs II(k) or II(l) may be made affirmatively, in writing, by a Second Fiduciary, in a manner that is otherwise consistent with the requirements of those paragraphs.

(s) All of the conditions of Prohibited Transaction Exemption (PTE) 77–4 (42 FR 18732, April 8, 1977), as amended and/or restated, are met. Notwithstanding this, if PTE 77–4 is amended and/or restated, the requirements of paragraph (e) therein will be deemed to be met with respect to authorizations described in section II(l) above, but only to the extent the requirements of section II(l) are met. Similarly, if PTE 77–4 is amended and/or restated, the requirements of paragraph (f) therein will be deemed to be met with respect to authorizations described in section II(k) above, if the requirements of section II(k) are met.

(t) *Standards of Impartial Conduct.* If Russell is a fiduciary within the meaning of section 3(21)(A)(i) or (ii) of the Act, or section 4975(e)(3)(A) or (B) of the Code, with respect to the assets of a Client Plan involved in the transaction, Russell must comply with the following conditions with respect to the transaction: (1) Russell acts in the Best Interest of the Client Plan; (2) all compensation received by Russell in connection with the transaction is reasonable in relation to the total services the fiduciary provides to the Client Plan; and (3) Russell's statements about recommended investments, fees, material conflicts of interest,[6] and any other matters relevant to a Client Plan's investment decisions are not misleading.

For purposes of this section, Russell acts in the ''Best Interest'' of the Client Plan when Frank Russell acts with the care, skill, prudence, and diligence under the circumstances then prevailing

[6] A ''material conflict of interest'' exists when a fiduciary has a financial interest that could affect the exercise of its best judgment as a fiduciary in rendering advice to a Client Plan. For this purpose, Russell's failure to disclose a material conflict of interest relevant to the services it is providing to a Client Plan Plan, or other actions it is taking in relation to a Client Plan's investment decisions, is deemed to be a misleading statement.

that a prudent person would exercise based on the investment objectives, risk tolerance, financial circumstances, and needs of the plan or IRA, without regard to the financial or other interests of the fiduciary, any affiliate or other party.

Section III. General Conditions

(a) Russell maintains for a period of six (6) years the records necessary to enable the persons, described below in Section III(b), to determine whether the conditions of this proposed exemption have been met, except that:

(1) A prohibited transaction will not be considered to have occurred, if solely because of circumstances beyond the control of Russell, the records are lost or destroyed prior to the end of the six-year period; and

(2) No party in interest other than Russell shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained or are not available for examination, as required below by Section III(b).

(b)(1) Except as provided in Section III(b)(2) and notwithstanding any provisions of section 504(a)(2) of the Act, the records referred to in Section III(a) are unconditionally available at their customary location for examination during normal business hours by—

(i) Any duly authorized employee or representative of the Department or the Internal Revenue Service, or the Securities & Exchange Commission;

(ii) Any fiduciary of a Client Plan invested directly in shares of an Affiliated Fund, any fiduciary of a Client Plan who has the authority to acquire or to dispose of the interest in a Collective Fund in which a Client Plan invests, any fiduciary of a Client Plan invested indirectly in an Affiliated Fund through a Collective Fund where such fiduciary has the authority to acquire or to dispose of the interest in such Collective Fund, and any duly authorized employee or representative of such fiduciary; and

(iii) Any participant or beneficiary of a Client Plan invested directly in shares of an Affiliated Fund or invested in a Collective Fund, and any participant or beneficiary of a Client Plan invested indirectly in shares of an Affiliated Fund through a Collective Fund, and any representative of such participant or beneficiary; and

(2) None of the persons described in Section III(b)(1)(ii) and (iii) shall be authorized to examine trade secrets of Russell, or commercial or financial information which is privileged or confidential.

Section IV. Definitions

For purposes of this exemption:

(a) The term ''Russell'' means Frank Russell Company and any affiliate thereof, as defined below in Section IV(c).

(b) The term ''Client Plan(s)'' means a 401(k) plan(s), an individual retirement account(s), other tax-qualified plan(s), and other plan(s) as defined in the Act and Code, but does not include any employee benefit plan sponsored or maintained by Russell.

(c) An ''affiliate'' of a person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(d) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(e) The term ''Affiliated Fund(s)'' means any diversified open-end investment company or companies registered with the Securities and Exchange Commission under the Investment Company Act, as amended, established and maintained by Russell now or in the future for which Russell serves as an investment adviser.

(f) The term ''net asset value per share'' and the term ''NAV'' mean the amount for purposes of pricing all purchases and sales of shares of an Affiliated Fund, calculated by dividing the value of all securities, determined by a method as set forth in the summary prospectus for such Affiliated Fund and in the statement of additional information, and other assets belonging to such Affiliated Fund or portfolio of such Affiliated Fund, less the liabilities charged to each such portfolio or each such Affiliated Fund, by the number of outstanding shares.

(g) The term ''relative'' means a relative as that term is defined in section 3(15) of the Act (or a member of the family as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(h) The term ''Second Fiduciary'' means the fiduciary of a Client Plan who is independent of and unrelated to Russell. For purposes of this proposed exemption, the Second Fiduciary will not be deemed to be independent of and unrelated to Russell if:

(1) Such Second Fiduciary, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with Russell;

(2) Such Second Fiduciary, or any officer, director, partner, employee, or relative of such Second Fiduciary, is an officer, director, partner, or employee of Russell (or is a relative of such person); or

(3) Such Second Fiduciary, directly or indirectly, receives any compensation or other consideration for his or her personal account in connection with any transaction described in this proposed exemption.

If an officer, director, partner, or employee of Russell (or relative of such person) is a director of such Second Fiduciary, and if he or she abstains from participation in:

(i) The decision of a Client Plan to invest in and to remain invested in shares of an Affiliated Fund directly, the decision of a Client Plan to invest in shares of an Affiliated Fund indirectly through a Collective Fund, and the decision of a Client Plan to invest in a Collective Fund that may in the future invest in shares of an Affiliated Fund;

(ii) Any authorization in accordance with Section II(i), and any authorization, pursuant to negative consent, as described in Section II(k) or in Section II(l); and

(iii) The choice of such Client Plan's investment adviser, then Section IV(h)(2) above shall not apply.

(i) The term ''Secondary Service(s)'' means a service or services other than an investment management service, investment advisory service, and any similar service which is provided by Russell to an Affiliated Fund, including but not limited to custodial, accounting, administrative services, and brokerage services. Russell may also serve as a dividend disbursing agent, shareholder servicing agent, transfer agent, fund accountant, or provider of some other Secondary Service, as defined in this Section IV(i).

(j) The term ''Collective Fund(s)'' means a separate account of an insurance company, as defined in section 2510.3–101(h)(1)(iii) of the Department's plan assets regulations,[7] maintained by Russell, and a bank-maintained common or collective investment trust maintained by Russell.

(k) The term ''business day'' means any day that

(1) Russell is open for conducting all or substantially all of its business; and

[7] 51 FR 41262 (November 13, 1986).

(2) The New York Stock Exchange (or any successor exchange) is open for trading.

(l) The term ''Fee Increase(s)'' includes any increase by Russell in a rate of a fee previously authorized in writing by the Second Fiduciary of each affected Client Plan pursuant to Section II(i)(2)(i)–(iv) above, and in addition includes, but is not limited to:

(1) Any increase in any fee that results from the addition of a service for which a fee is charged;

(2) Any increase in any fee that results from a decrease in the number of services and any increase in any fee that results from a decrease in the kind of service(s) performed by Russell for such fee over an existing rate of fee for each such service previously authorized by the Second Fiduciary, in accordance with Section II(i)(2)(i)–(iv) above; and

(3) Any increase in any fee that results from Russell changing from one of the fee methods, as described above in Section II(a)(1)–(3), to using another of the fee methods, as described above in Section II(a)(1)–(3).

(m) The term ''Plan-Level Management Fee'' includes any investment management fee, investment advisory fee, and any similar fee paid by a Client Plan to Russell for any investment management services, investment advisory services, and similar services provided by Russell to such Client Plan at the plan-level. The term ''Plan-Level Management Fee'' does not include a separate fee paid by a Client Plan to Russell for asset allocation service(s) (Asset Allocation Service(s)), as defined below in Section IV(p), provided by Russell to such Client Plan at the plan-level.

(n) The term ''Collective Fund-Level Management Fee'' includes any investment management fee, investment advisory fee, and any similar fee paid by a Collective Fund to Russell for any investment management services, investment advisory services, and any similar services provided by Russell to such Collective Fund at the collective fund level.

(o) The term ''Affiliated Fund-Level Advisory Fee'' includes any investment advisory fee and any similar fee paid by an Affiliated Fund to Russell under the terms of an investment advisory agreement adopted in accordance with section 15 of the Investment Company Act.

(p) The term ''Asset Allocation Service(s)'' means a service or services to a Client Plan relating to the selection of appropriate asset classes or target-date ''glidepath'' and the allocation or reallocation (including rebalancing) of the assets of a Client Plan among the selected asset classes. Such services do not include the management of the underlying assets of a Client Plan, the selection of specific funds or manager, and the management of the selected Affiliated Funds or Collective Funds.

Effective Date: If granted, this exemption will be effective as of June 1, 2014.

Written Comments

In the Notice of Proposed Exemption (the Notice), published in the **Federal Register** on July 27, 2015 at 80 FR 44738, the Department invited all interested persons to submit written comments and requests for a hearing within forty-five (45) days of the date of the publication. All comments and requests for a hearing were due by September 10, 2015.

During the comment period, the Department received one comment and no requests for a public hearing. The comment, which was submitted by the Applicants in an email message dated August 5, 2015, requests clarifications to page 44750 of the Notice in the ''Notice to Interested Persons'' section. The Applicants cite the first sentence of this section, which states: ''Those persons who may be interested in the publication in the **Federal Register** of the Notice include each Client Plan invested directly in shares of an Affiliated Fund, each Client Plan invested indirectly in shares of an Affiliated Fund through a Collective Fund, and each plan for which Russell provides discretionary management services at the time the proposed exemption is published in the **Federal Register**.''

The Applicants believe that an inclusion of ''all plans to which Russell provides discretionary management services'' may be overly-broad in this context. The Applicants explain that they have numerous discretionary advisory clients, some of which are subject to ERISA, and state that they only intend to rely upon the exemption with respect to a subset of these clients, specifically those clients which have engaged Russell to provide ''Asset Allocation Services'' for a fee, as described in the Notice. With respect to their other discretionary clients, the Applicants explain that they either (1) do not need exemptive relief, or (2) will continue to rely upon other exemptions, such as PTE 77–4. In the event that Applicants determine to rely upon this exemption for their other discretionary clients, or with respect to new clients, the Applicants will provide a copy of the Notice and the final exemption, to such clients, and will amend the applicable client contract to anticipate the requirements of this exemption.

The Department notes this clarification to the Notice, and concurs that the notification requirements will be deemed to be satisfied if performed in the manner described herein by the Applicants.

Accordingly, after full consideration and review of the entire record, including the comment letter filed by the Applicants, the Department has determined to grant the exemption, as set forth above. The Applicants' comment email has been included as part of the public record of the exemption application. The complete application file (D–11781) is available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1515, U.S. Department of Labor, 200 Constitution Avenue NW., Washington DC 20210.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice published on July 27, 2015 at 80 FR 44738.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Brennan of the Department, telephone (202) 693–8456. (This is not a toll-free number.)

The Les Schwab Tire Centers of Washington, Inc. (Les Schwab Washington), the Les Schwab Tire Centers of Idaho, Inc. (Les Schwab Idaho), and the Les Schwab Tire Centers of Portland, Inc. (Les Schwab Portland), (collectively, with their Affiliates, Les Schwab or the Applicant), Located in Bothell, Washington; Lacey, Washington; Renton, Washington; Twin Falls, Idaho; and Sandy, Oregon, [Prohibited Transaction Exemption 2015–18; Exemption Application Nos. D–11788, D–11789, D–11790, D–11791, and D–11792]

Exemption

Section I. Transactions

The restrictions of sections 406(a)(1)(A), 406(a)(1)(D), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974, as amended (ERISA or the Act), and the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1986, as amended (the Code), by reason of sections 4975(c)(1)(A), 4975(c)(1)(D) and 4975(c)(1)(E) of the Code, shall not apply to the sales (the Sales) by the Les Schwab Profit Sharing Retirement Plan (the Plan) of the following parcels of real property (each, a ''Parcel'' and together, ''the Parcels'') to the Applicant:

(a) The Parcel located at 19401 Bothell Everett Highway in Bothell, Washington;

(b) The Parcel located at 150 Marvin Road, SE Lacey, Washington;

(c) The Parcel located at 354 Union Ave. NE., Renton, Washington;

(d) The Parcel located at 21 Blue Lakes Boulevard North Twin Falls, Idaho; and

(e) The Parcel located at 37895 Highway 26, Sandy, Oregon; where the Applicant is a party in interest with respect to the Plan, provided that the conditions set forth in Section II of this exemption are met.

Section II. General Conditions

(a) The price paid by Les Schwab to the Plan for each Parcel no less than the fair market value of each Parcel (exclusive of the buildings or other improvements paid for by Les Schwab, to which Les Schwab retains title), as determined by qualified independent appraisers (the Appraisers), working for CBRE, Inc., in separate appraisal reports (the Appraisals) that are updated on the date of the Sale.

(b) Each Sale is a one-time transaction for cash.

(c) The Plan does not pay any costs, including brokerage commissions, fees, appraisal costs, or any other expenses associated with each Sale.

(d) The Appraisers determine the fair market value of their assigned Parcel, on the date of the Sale, using commercially accepted methods of valuation for unrelated third-party transactions, taking into account the following considerations:

(1) The fact that a lease between Les Schwab and the Plan is a ground lease and not a standard commercial lease;

(2) The assemblage value of the Parcel, where applicable;

(3) Any special or unique value the Parcel holds for Les Schwab; and

(4) Any instructions from the qualified independent fiduciary (the Independent Fiduciary) regarding the terms of the Sale, including the extent to which the Appraiser should consider the effect that Les Schwab's option to purchase a Parcel would have on the fair market value of the Parcel.

(e) The Independent Fiduciary represents the interests of the Plan with respect to each Sale, and in doing so:

(1) Determines that it is prudent to go forward with each Sale;

(2) Approves the terms and conditions of each Sale;

(3) Reviews and approves the methodology used by the Appraiser and ensures that such methodology is properly applied in determining the Parcel's fair market value on the date of each Sale;

(4) Reviews and approves the determination of the Purchase Price; and

(5) Monitors each Sale throughout its duration on behalf of the Plan for compliance with the general terms of the transaction and with the conditions of this exemption, if granted, and takes any appropriate actions to safeguard the interests of the Plan and its participants and beneficiaries.

(f) The terms and conditions of each Sale are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

Effective Date: This exemption is effective as of the publication of the grant notice in the Federal Register.

Written Comments

The Department invited all interested persons to submit written comments and/or requests for a public hearing with respect to the notice of proposed exemption (the Notice) that was published in the **Federal Register** on July 27, 2015, at 80 FR 44702. All comments and requests for hearing were due on or before September 10, 2015.

During the comment period, the Department received 38 telephone inquiries from Plan participants, concerning matters that were outside the scope of the exemption, but no written comments or requests for a public hearing from such participants.

The Department also received a written comment from the Applicant. The Applicant notes that the application numbers cited in the proposed exemption refer to the prior exemption request, which was subsequently withdrawn. The Exemption Application Numbers now read as follows: ''Application Nos. D–11788, D–11789, D–11790, and D–11791.'' In the comment letter, the Applicant made comments which the Department has determined to be non-substantive.

Accordingly, after giving full consideration to the entire record, the Department has decided to grant the exemption. The complete application file (Application Nos. D–17888, D–11789, D–11790, D–11791, and D–11792), including the Applicant's comment, is available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1515, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice published in the **Federal Register** on July 27, 2015, at 80 FR 44702.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Erin Brown or Mr. Joseph Brennan of the Department at (202) 693–8352 or (202) 693–8456, respectively. (These are not toll-free numbers.)

New England Carpenters Training Fund (the Plan or the Applicant), Located in Millbury, Massachusetts, [Prohibited Transaction 2015–19; Exemption Application No. L–11795]

Exemption

The restrictions of section 406(a)(1)(A) and (D) of the Act shall not apply to the purchase (the Purchase), by the Plan, of a parcel of improved real property (the Property) from the Connecticut Carpenters Local 24 (Local 24), a party in interest with respect to the Plan; provided that the following conditions are satisfied:

(1) The Purchase price paid by the Plan for the Property is the lesser of $1,280,000 or the fair market value of such Property, as determined by an independent, qualified appraiser (the Appraiser), as of the date of the Purchase;

(2) The Purchase is a one-time transaction for cash;

(3) The terms and conditions of the Purchase are no less favorable to the Plan than those obtainable by the Plan under similar circumstances when negotiated at arm's-length with unrelated third parties;

(4) Prior to entering into the Purchase, an independent, qualified fiduciary (the I/F) determines that the Purchase is in the interest of, and protective of the Plan and of its participants and beneficiaries;

(5) The I/F: (a) Has negotiated, reviewed, and approved the terms of the Purchase prior to the consummation of such transaction; (b) has reviewed and approved the methodology used by the Appraiser; (c) ensures that such methodology is properly applied in determining the fair market value of the Property at the time the transaction occurs, and determines whether it is prudent to go forward with the proposed transaction; and (d) represents the interests of the Plan at the time the proposed transaction is consummated;

(6) Immediately following the Purchase, the fair market value of the Property does not exceed 3 percent (3%) of the fair market value of the total assets of the Plan; and

(7) The Plan does not incur any fees, costs, commissions, or other charges as a result of engaging in the Purchase, other than the necessary and reasonable fees payable to the I/F and to the Appraiser, respectively.

Written Comments

In the notice of proposed exemption (the Notice), the Department invited all interested persons to submit written comments within thirty-seven (37) days of the date of the publication of the Notice in the **Federal Register** on July 27, 2015. All comments were due by September 2, 2015. During the comment period, the Department received no comments from interested persons.

Accordingly, after giving full consideration to the entire record, the Department has decided to grant the exemption. The complete application file (Exemption Application No. L–11795) is available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1515, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice published in the **Federal Register** on July 27, 2015 at 80 FR 44709.

FOR FURTHER INFORMATION CONTACT: Blessed Chuksorji-Keefe of the Department at (202) 693–8567. (This is not a toll-free number).

Virginia Bankers Association Defined Contribution Plan for First Capital Bank (the Plan), Located in Glen Allen, VA, [Prohibited Transaction Exemption 2015–20; Application No. D–11818]

Exemption

Section I. Covered Transactions

The restrictions of sections 406(a)(1)(A), 406(a)(1)(E), 406(a)(2), 406(b)(1), 406(b)(2), and 407(a)(1)(A) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1)(A) and 4975(c)(1)(E) of the Code,[8] shall not apply to: (1) The acquisition of certain warrants (the Warrants) to purchase a half-share of common stock (the Stock) of First Capital Bancorp, Inc. (First Capital) by the participant-directed accounts (the Accounts) of certain participants in the Plan (the Participants) in connection with a rights offering (the Rights Offering) of shares of Stock by First Capital, a party in interest with respect to the Plan; and (2) the holding of the Warrants received by the Accounts, provided that the conditions set forth in Section II below were satisfied for the duration of the acquisition and holding.

Section II. Conditions for Relief

(a) The acquisition of the Warrants by the Accounts of the Participants occurred in connection with the exercise of subscription rights to purchase Stock and Warrants (the Subscription Rights) pursuant to the Rights Offering, which was made available by First Capital to all shareholders of Stock, including the Plan;

(b) The acquisition of the Warrants by the Accounts of the Participants resulted from their participation in the Rights Offering, an independent corporate act of First Capital;

(c) Each shareholder of Stock, including each of the Accounts of the Participants, was entitled to receive the same proportionate number of Warrants, and this proportionate number of Warrants was based on the number of shares of Stock held by each such shareholder on the record date of the Rights Offering;

(d) The Warrants were acquired pursuant to, and in accordance with, provisions under the Plan for individually-directed investments of the Accounts by the individual participants in the Plan, a portion of whose Accounts in the Plan held the Stock;

(e) The decisions with regard to the acquisition, holding, and disposition of the Warrants by an Account have been made, and will continue to be made, by the individual Participant whose Account received the Subscription Right in respect of which such Warrants were acquired;

(f) The trustee of the Plan's fund maintained to hold Stock, the First Capital Stock Fund, will not allow Participants to exercise the Warrants unless the fair market value of the Stock exceeds the exercise price of the Warrants on the date of exercise; and

(g) No brokerage fees, commissions, or other fees or expenses were paid or will be paid by the Plan in connection with the acquisition, holding and/or exercise of the Subscription Right or the Warrants.

Effective Date: This exemption is effective for the period beginning on April 30, 2012, until the date the Warrants are exercised or expire.

Written Comments

The Department invited all interested persons to submit written comments and/or requests for a public hearing with respect to the notice of proposed exemption, published on July 27, 2015, at 80 FR 44712. All comments and requests for hearing were due by September 10, 2015. During the comment period, the Department received one telephone inquiry that generally concerned matters outside the scope of the exemption. Furthermore, the Department received no comments and no requests for a hearing from interested persons. Accordingly, after giving full consideration to the entire record, the Department has decided to grant the exemption. The complete application file (Application No. D–11818), including all supplemental submissions received by the Department, is available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1515, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on July 27, 2015, at 80 FR 44712.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Ness of the Department, telephone (202) 693–8561. (This is not a toll-free number.)

Idaho Veneer Company/Ceda-Pine Veneer, Inc. Employees' Retirement Plan, Located in Post Falls, ID, [Prohibited Transaction Exemption 2015–21; Application No. D–11823]

Exemption

Section I. Covered Transactions

The restrictions of sections 406(a)(1)(A), 406(a)(1)(D), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A), (D) and (E) of the Code, shall not apply to the in-kind contribution (the Contribution) by Idaho Veneer Company (Idaho Veneer or the Applicant) of unimproved real property (the Property) to the Idaho Veneer Company/Ceda-Pine Veneer, Inc. Employees' Retirement Plan (the Plan), provided that the conditions in Section II have been met.

Section II. Conditions for Relief

(a) The Property is contributed to the Plan at the greater of either: (1) $1,249,000; or (2) the fair market value of the Property, as determined by a qualified independent appraiser, in an appraisal (the Appraisal) that is updated on the date of the Contribution;

(b) A qualified independent fiduciary (the Independent Fiduciary), acting on behalf of the Plan, represents the interests of the Plan and its participants and beneficiaries with respect to the Contribution, and in doing so: (1)

[8] For purposes of this exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

Determines that the Contribution is in the interests of the Plan and of its participants and beneficiaries and is protective of the rights of participants and beneficiaries of the Plan; (2) reviews the Appraisal to approve of the methodology used by the appraiser and to verify that the appraiser's methodology was properly applied; and (3) ensures compliance with the terms of the Contribution and the conditions for the exemption;

(c) All rights exercisable in connection with any existing third-party lease for billboard space (the Lease) on the Property are transferred to the Plan along with the Property;

(d) The Plan does not incur any expenses with respect to the Contribution;

(e) As of the date of the Contribution, there are no adverse claims, liens or debts to be levied against the Property, and Idaho Veneer is not aware of any pending adverse claims, liens or debts to be levied against the Property;

(f) On the date of the Contribution, and to the extent that the value of the Property as of the date of the Contribution is less than the cumulative cash contributions Idaho Veneer would have been required to make to the Plan in the absence of the Contribution, Idaho Veneer will make a cash contribution to the Plan equal to the difference between the value of the Property at the date of the Contribution and the outstanding required cash contributions;

(g) The Property represents no more than 20% of the fair market value of the total assets of the Plan at the time it is contributed to the Plan; and

(h) The terms and conditions of the Contribution are no less favorable to the Plan than those the Plan could negotiate in an arms-length transaction with an unrelated third party.

Effective Date: This exemption is effective as of September 15, 2015.

Written Comments

The Department invited all interested persons to submit written comments and/or requests for a public hearing with respect to the notice of proposed exemption, published on July 27, 2015, at 80 FR 44715. All comments and requests for hearing were due by September 10, 2015. During the comment period, the Department received several phone inquiries that generally concerned matters outside the scope of the exemption. Furthermore, the Department received no written comments and no requests for a hearing from interested persons. Accordingly, after giving full consideration to the entire record, the Department has decided to grant the exemption, with one minor modification. The Department has modified the effective date in the proposed exemption to provide that the final exemption is effective as of September 15, 2015.

The complete application file (Application No. D–11823), including all supplemental submissions received by the Department, is available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1515, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on July 27, 2015, at 80 FR 44715.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Ness of the Department, telephone (202) 693–8561. (This is not a toll-free number.)

United States Steel and Carnegie Pension Fund, (UCF or the Applicant), Located in New York, New York, [Prohibited Transaction Exemption 2015–22; [Exemption Application No. D–11835]

Exemption

Section I. Covered Transactions

If the exemption is granted, the restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code,[9] shall not apply, effective from January 1, 2015, through December 31, 2016, to a transaction between a party in interest with respect to Former U.S. Steel Related Plan(s), as defined in Section II(e), and an investment fund, as defined in Section II(k), in which such plans have an interest (the Fund), provided that UCF has discretionary authority or control with respect to the plan assets involved in the transaction, and the following conditions are satisfied:

(a) UCF is an investment adviser registered under the Investment Advisers Act of 1940 (the 1940 Act) that has, as of the last day of its most recent fiscal year, total client assets, including in-house plan assets (the In-House Plan Assets), as defined in Section II(g), under its management and control in excess of $100,000,000 and equity, as defined in Section II(j), in excess of $1,000,000 (as measured yearly on UCF's most recent balance sheet prepared in accordance with generally accepted accounting principles); and provided UCF has acknowledged in a written management agreement that it is a fiduciary with respect to each Former U.S. Steel Related Plan that has retained it;

(b) At the time of the transaction, as defined in Section II(m), the party in interest, as defined in Section II(h), or its affiliate, as defined in Section II(a), does not have the authority to—

(1) Appoint or terminate UCF as a manager of any of the plan assets of the Former U.S. Steel Related Plans, or

(2) Negotiate the terms of the management agreement with UCF (including renewals or modifications thereof) on behalf of the Former U.S. Steel Related Plans.

(c) The transaction is not described in—

(1) Prohibited Transaction Exemption 2006–16 (PTE 2006–16),[10] relating to securities lending arrangements (as amended or superseded);

(2) Prohibited Transaction Exemption 83–1 (PTE 83–1),[11] relating to acquisitions by plans of interests in mortgage pools (as amended or superseded), or

(3) Prohibited Transaction Exemption 88–59 (PTE 88–59),[12] relating to certain mortgage financing arrangements (as amended or superseded);

(d) The terms of the transaction are negotiated on behalf of the Fund by, or under the authority and general direction of, UCF, and either UCF, or (so long as UCF retains full fiduciary responsibility with respect to the transaction) a property manager acting in accordance with written guidelines established and administered by UCF, makes the decision on behalf of the Fund to enter into the transaction;

(e) At the time the transaction is entered into, and at the time of any subsequent renewal or modification thereof that requires the consent of UCF, the terms of the transaction are at least as favorable to the Fund as the terms generally available in arm's-length transactions between unrelated parties;

(f) Neither UCF nor any affiliate thereof, as defined in Section II(b), nor any owner, direct or indirect, of a 5 percent (5%) or more interest in UCF is a person who, within the ten (10) years immediately preceding the transaction has been either convicted or released from imprisonment, whichever is later, as a result of:

(1) Any felony involving abuse or misuses of such person's employee

[9] For purposes of this exemption references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

[10] 71 FR 63786, October 31, 2006.

[11] 48 FR 895, January 7, 1983.

[12] 53 FR 24811, June 30, 1988.

benefit plan position or employment, or position or employment with a labor organization;

(2) Any felony arising out of the conduct of the business of a broker, dealer, investment adviser, bank, insurance company, or fiduciary;

(3) Income tax evasion;

(4) Any felony involving the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds or securities; conspiracy or attempt to commit any such crimes or a crime in which any of the foregoing crimes is an element; or

(5) Any other crimes described in section 411 of the Act.

For purposes of this Section I(f), a person shall be deemed to have been ''convicted'' from the date of the judgment of the trial court, regardless of whether the judgment remains under appeal;

(g) The transaction is not part of an agreement, arrangement, or understanding designed to benefit a party in interest;

(h) The party in interest dealing with the Fund:

(1) Is a party in interest with respect to the Former U.S. Steel Related Plans (including a fiduciary) solely by reason of providing services to the Former U.S. Steel Related Plans, or solely by reason of a relationship to a service provider described in section 3(14)(F), (G), (H), or (I) of the Act;

(2) Does not have discretionary authority or control with respect to the investment of plan assets involved in the transaction and does not render investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets; and

(3) Is neither UCF nor a person related to UCF, as defined, in Section II(i).

(i) UCF adopts written policies and procedures that are designed to assure compliance with the conditions of this exemption;

(j) An independent auditor, who has appropriate technical training or experience and proficiency with the fiduciary responsibility provisions of the Act, and who so represents in writing, conducts an exemption audit, as defined in Section II(f) of this exemption, on an annual basis. Following completion of each such exemption audit, the independent auditor must issue a written report to the Former U.S. Steel Related Plans that engaged in such transactions, presenting its specific findings with respect to the audited sample regarding the level of compliance with the policies and procedures adopted by UCF, pursuant to Section I(i) of this exemption, and with the objective requirements of this exemption. The written report also shall contain the auditor's overall opinion regarding whether UCF's program as a whole complies with the policies and procedures adopted by UCF and the objective requirements of this exemption. The independent auditor must complete each such exemption audit and must issue such written report to the administrators, or other appropriate fiduciary of the Former U.S. Steel Related Plans, within six (6) months following the end of the year to which each such exemption audit and report relates; and

(k)(1) UCF or an affiliate maintains or causes to be maintained within the United States, for a period of six (6) years from the date of each transaction, the records necessary to enable the persons described in Section I(k)(2) to determine whether the conditions of this exemption have been met, except that (A) a separate prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of UCF and/or its affiliates, the records are lost or destroyed prior to the end of the six (6) year period, and (B) no party in interest or disqualified person other than UCF shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by Section I(k)(2), of this exemption;

(2) Except as provided in Section I(k)(3), and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in Section I(k)(1), of this exemption are unconditionally available for examination at their customary location during normal business hours by:

(A) Any duly authorized employee or representative of the Department of Labor (the Department) or of the Internal Revenue Service;

(B) Any fiduciary of any of the Former U.S. Steel Related Plans investing in the Fund or any duly authorized representative of such fiduciary;

(C) Any contributing employer to any of the Former U.S. Steel Related Plans investing in the Fund or any duly authorized employee representative of such employer;

(D) Any participant or beneficiary of any of the Former U.S. Steel Related Plans investing in the Fund, or any duly authorized representative of such participant or beneficiary; and

(E) Any employee organization whose members are covered by such Former U.S. Steel Related Plans;

(3) None of the persons described in Section I(k)(2)(B) through (E), of this exemption shall be authorized to examine trade secrets of UCF or its affiliates or commercial or financial information which is privileged or confidential.

Section II. Definitions

(a) For purposes of Section I(b) of this exemption, an ''affiliate'' of a person means—

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any corporation, partnership, trust, or unincorporated enterprise of which such person is an officer, director, five percent (5%) or more partner, or employee (but only if the employer of such employee is the plan sponsor), and

(3) Any director of the person or any employee of the person who is a highly compensated employee, as defined in section 4975(e)(2)(H) of the Code, or who has direct or indirect authority, responsibility, or control regarding the custody, management, or disposition of plan assets.

A named fiduciary (within the meaning of section 402(a)(2) of the Act) or a plan, with respect to the plan assets and an employer any of whose employees are covered by the plan will also be considered affiliates with respect to each other for purposes of Section I(b), if such employer or an affiliate of such employer has the authority, alone or shared with others, to appoint or terminate the named fiduciary or otherwise negotiate the terms of the named fiduciary's employment agreement.

(b) For purposes of Section I(f), of this exemption, an ''affiliate'' of a person means—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any director of, relative of, or partner in, any such person,

(3) Any corporation, partnership, trust, or unincorporated enterprise of which such person is an officer, director, or a 5 percent (5%) or more partner or owner, and

(4) Any employee or officer of the person who—

(A) Is a highly compensated employee (as defined in section 4975(e)(2)(H) of the Code) or officer (earning 10 percent (10%) or more of the yearly wages of such person) or

(B) Has direct or indirect authority, responsibility or control regarding the custody, management, or disposition of plan assets.

(c) For purposes of Section II(e) and (g), of this exemption, an ''affiliate'' of UCF includes a member of either:

(1) A controlled group of corporations, as defined in section 414(b) of the Code, of which United States Steel Corporation (U.S. Steel) is a member, or

(2) A group of trades or business under common control, as defined in section 414(c) of the Code of which U.S. Steel is a member; provided that ''50 percent'' shall be substituted for ''80 percent'' wherever ''80 percent'' appears in section 414(b) or 414(c) or the rules thereunder.

(d) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(e) ''Former U.S. Steel Related Plan(s)'' mean:

(1) The Marathon Petroleum Retirement Plan and the Speedway Retirement Plan (the Marathon Plans);

(2) The Pension Plan of RMI Titanium Company, the Pension Plan of Eligible Employees of RMI Titanium Company, the Pension Plan for Eligible Salaried Employees of RMI Titanium Company, and the TRADCO Pension Plan;

(3) Any plan the assets of which include or have included assets that were managed by UCF as an in-house asset manager, pursuant to Prohibited Transaction Class Exemption 96–23 (PTE 96–23) [13] but as to which PTE 96–23 is no longer available because such assets are not held under a plan maintained by an affiliate of UCF (as defined in Section II(c) of this exemption); and

(4) Any plan (an Add-On Plan) that is sponsored or becomes sponsored by an entity that was, but has ceased to be, an affiliate of UCF (as defined in Section II(c), of this exemption; provided that:

(A) The assets of the Add-On Plan are invested in a commingled fund (the Comingled Fund), as defined in Section II(n) of this exemption, with the assets of a plan or plans, described in Section II(e)(1)–(3) of this exemption and

(B) The assets of the Add-On Plan in the Commingled Fund do not comprise more than 25 percent (25%) of the value of the aggregate assets of such fund, as measured on the day immediately following the initial commingling of their assets (the 25% Test). For purposes of the 25% Test, as set forth in Section II(e)(4);

(i) In the event that less than all of the assets of an Add-On Plan are invested in a Commingled Fund on the date of the initial transfer of such Add-On Plan's assets to such fund, and if such Add-On Plan subsequently transfers to such Commingled Fund some or all of the assets that remain in such plan, then for purposes of compliance with the 25% Test, the sum of the value of the initial and each additional transfer of assets of such Add-On Plan shall not exceed 25 percent (25%) of the value of the aggregate assets in such Commingled Fund, as measured on the day immediately following the addition of each subsequent transfer of such Add-On Plan's assets to such Commingled Fund;

(ii) Where the assets of more than one Add-On Plan are invested in a Commingled Fund with the assets of plans described in Section II(e)(1)–(3) of this exemption, the 25% Test will be satisfied, if the aggregate amount of the assets of such Add-On Plans invested in such Commingled Fund do not represent more than 25 percent (25%) of the value of all of the assets of such Commingled Fund, as measured on the day immediately following each addition of Add-On Plan assets to such Commingled Fund;

(iii) If the 25% Test is satisfied at the time of the initial and any subsequent transfer of an Add-On Plan's assets to a Commingled Fund, as provided in Section II(e), this requirement shall continue to be satisfied notwithstanding that the assets of such Add-On Plan in the Commingled Fund exceed 25 percent (25%) of the value of the aggregate assets of such fund solely as a result of:

(AA) A distribution to a participant in a Former U.S. Steel Related Plan;

(BB) Periodic employer or employee contributions made in accordance with the terms of the governing plan documents;

(CC) The exercise of discretion by a Former U.S. Steel Related Plan participant to re-allocate an existing account balance in a Commingled Fund managed by UCF or to withdraw assets from a Commingled Fund; or

(DD) An increase in the value of the assets of the Add-On Plan held in such Commingled Fund due to investment earnings or appreciation;

(iv) If, as a result of a decision by an employer or a sponsor of a plan, described in Section II(e)(1)–(3) of this exemption, to withdraw some or all of the assets of such plan from a Commingled Fund, the 25% Test is no longer satisfied with respect to any Add-On Plan in such Commingled Fund, then the exemption will immediately cease to apply to all of the Add-On Plans invested in such Commingled Fund; and

(v) Where the assets of a Commingled Fund include assets of plans other than Former U.S. Steel Related Plans, as defined in Section II(e) of this exemption, the 25% Test will be determined without regard to the assets of such other plans in such Commingled Fund.

(f) An ''Exemption Audit'' of any of the Former U.S. Steel Related Plans must consist of the following:

(1) A review by an independent auditor of the written policies and procedures adopted by UCF, pursuant to Section I(i), for consistency with each of the objective requirements of this exemption (as described in Section II(f)(5)).

(2) A test of a representative sample of the subject transactions during the audit period that is sufficient in size and nature to afford the auditor a reasonable basis:

(A) To make specific findings regarding whether UCF is in compliance with

(i) The written policies and procedures adopted by UCF pursuant to Section I(i) of the exemption and

(ii) The objective requirements of the exemption; and

(B) To render an overall opinion regarding the level of compliance of UCF's program with this Section II(f)(2)(A)(i) and (ii) of the exemption;

(3) A determination as to whether UCF has satisfied the requirements of Section I(a), of this exemption;

(4) Issuance of a written report describing the steps performed by the auditor during the course of its review and the auditor's findings; and

(5) For purposes of Section II(f) of this exemption, the written policies and procedures must describe the following objective requirements of the exemption and the steps adopted by UCF to assure compliance with each of these requirements:

(A) The requirements of Section I(a) of this exemption regarding registration under the 1940 Act, total assets under management, and equity;

(B) The requirements of Section I(d) of this exemption regarding the discretionary authority or control of UCF with respect to the assets of the Former U.S. Steel Related Plans involved in the transaction, in negotiating the terms of the transaction, and with regard to the decision on behalf of the Former U.S. Steel Related Plans to enter into the transaction;

(C) That any procedure for approval of the transaction meets the requirements of Section I(d);

[13] 61 FR 15975, April 10, 1996.

(D) The transaction is not entered into with any person who is excluded from relief under Section I(h)(1) of this exemption or Section I(h)(2), to the extent that such person has discretionary authority or control over the plan assets involved in the transaction, or Section I(h)(3); and

(E) The transaction is not described in any of the class exemptions listed in Section I(c) of this exemption.

(g) ''In-house Plan Assets'' mean the assets of any plan maintained by an affiliate of UCF, as defined in Section II(c) of this exemption, and with respect to which UCF has discretionary authority of control.

(h) The term ''party in interest'' means a person described in section 3(14) of the Act and includes a ''disqualified person,'' as defined in section 4975(e)(2) of the Code.

(i) UCF is ''related'' to a party in interest for purposes of Section I(h)(3) of this exemption, if the party in interest (or a person controlling, or controlled by, the party in interest) owns a 5 percent (5%) or more interest in U.S. Steel, or if UCF (or a person controlling, or controlled by UCF) owns a 5 percent (5%) or more interest in the party in interest.

For purposes of this definition:

(1) The term ''interest'' means with respect to ownership of an entity—

(A) The combined voting power of all classes of stock entitled to vote or the total value of the shares of all classes of stock of the entity if the entity is a corporation;

(B) The capital interest or the profits interest of the entity if the entity is a partnership; or

(C) The beneficial interest of the entity if the entity is a trust or unincorporated enterprise; and

(2) A person is considered to own an interest held in any capacity if the person has or shares the authority—

(A) To exercise any voting rights or to direct some other person to exercise the voting rights relating to such interest, or

(B) To dispose or to direct the disposition of such interest.

(j) For purposes of Section I(a) of this exemption, the term ''equity'' means the equity shown on the most recent balance sheet prepared within the two (2) years immediately preceding a transaction undertaken pursuant to this exemption, in accordance with generally accepted accounting principles.

(k) ''Investment Fund'' includes single customer and pooled separate accounts maintained by an insurance company, individual trust and common collective or group trusts maintained by a bank, and any other account or fund to the extent that the disposition of its assets (whether or not in the custody of UCF) is subject to the discretionary authority of UCF.

(l) The term ''relative'' means a relative as that term is defined in section 3(15) of the Act, or a brother, sister, or a spouse of a brother or sister.

(m) The ''time of the transaction'' is the date upon which the transaction is entered into. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into on or after the effective date of this Final Exemption or a renewal that requires the consent of UCF occurs on or after such effective date and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, the requirements will continue to be satisfied thereafter with respect to the transaction. Nothing in this subsection shall be construed as authorizing a transaction entered into by an Investment Fund which becomes a transaction described in section 406(a) of the Act or section 4975(c)(1)(A) through (D) of the Code while the transaction is continuing, unless the conditions of this exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption. In determining compliance with the conditions of this exemption at the time that the transaction was entered into for purposes of the preceding sentence, Section I(h) of this exemption will be deemed satisfied if the transaction was entered into between a plan and a person who was not then a party in interest.

(n) ''Commingled Fund'' means a trust fund managed by UCF containing assets of some or all of the plans described in Section II(e)(1)–(3) of this exemption, plans other than Former U.S. Steel Related Plans, and if applicable, any Add-On Plan, as to which the 25% Test provided in Section II(e)(4) of this exemption has been satisfied; provided that:

(1) Where UCF manages a single sub-fund or investment portfolio within such trust, the sub-Fund or portfolio will be treated as a single Commingled Fund; and

(2) Where UCF manages more than one sub-fund or investment portfolio within such trust, the aggregate value of the assets of such sub-funds or portfolios managed by UCF within such trust will be treated as though such aggregate assets were invested in a single Commingled Fund.

Effective Date: This exemption will be effective for the period beginning on January 1, 2015, and ending on the day which is two (2) years from the effective date.

Written Comments

In the Notice of Proposed Exemption (the Notice), published in the **Federal Register** on July 27, 2015 at 80 FR 44720, the Department invited all interested persons to submit written comments and requests for a hearing within forty-five (45) days of the date of the publication. All comments and requests for a hearing were due by September 10, 2015. During the comment period, the Department received no comments and no requests for a hearing from interested persons.

For the purpose of consistency, the Department has amended Section I with respect to the effective dates of the exemption. The Department has changed the end date of the effective period from December 31, 2017, as stated in the exemption, to December 31, 2016. This change accurately reflects the intended 24 month effective period, as set out in the exemption.

Accordingly, after full consideration and review of the entire record, the Department has determined to grant the exemption, as set forth above. The complete application file (D–11835) is available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1515, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice published on July 27, 2015 at 80 FR 44720.

FOR FURTHER INFORMATION CONTACT: Joseph Brennan of the Department telephone (202) 693–8456. (This is not a toll-free number.)

Roberts Supply, Inc. Profit Sharing Plan and Trust (the Plan) Located in Winter Park, FL [Prohibited Transaction Exemption 2015–23; Exemption Application No. D–11836]

Exemption

The restrictions of sections 406(a)(1)(A), 406(a)(1)(D), 406(b)(1), and 406(b)(2) of the Employee Retirement Income Security Act of 1974, as amended (the Act),[14] shall not apply to the cash sale (the Sale) by the Plan of

[14] For purposes of this exemption, references to Section 406 of the Act should be read to refer as well to the corresponding provisions of Section 4975 of the Internal Revenue Code of 1986, as amended.

a parcel of improved real property located at 7457 Aloma Avenue, Winter Park, Florida (the Property) to Roberts Brothers Development, LLC (Roberts Development), a party in interest with respect to the Plan, provided that the following conditions are satisfied:

(a) The Sale is a one-time transaction for cash;

(b) The Plan receives an amount of cash in exchange for the Property, equal to the greater of $900,000, or the current fair market value of the Property as determined by a qualified independent appraiser in a written appraisal that is updated on the date the Sale is consummated;

(c) The Plan incurs no real estate fees, commissions, or other expenses in connection with the Sale, aside from the appraisals; and

(d) The terms and conditions of the Sale are at least as favorable to the Plan as those obtainable in an arms-length transaction with an unrelated third party.

Written Comments

The Department invited all interested persons to submit written comments and/or requests for a public hearing with respect to the notice of proposed exemption, published on July 27, 2015, at 80 FR 44726. All comments and requests for a hearing were due by September 10, 2015. During the comment period, the Department received no comments and no requests for a hearing from interested persons.

Accordingly, after giving full consideration to the entire record, the Department has decided to grant the exemption. The complete application file (Application No. D–11836), including all supplemental submissions received by the Department, is available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1515, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

For a complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on July 27, 2015 in the **Federal Register** at 80 FR 44726.

FOR FURTHER INFORMATION CONTACT: Ms. Erica R. Knox of the Department, telephone (202) 693–8644. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 29th day of September, 2015.

Lyssa E. Hall,

Director of Exemption, Determinations Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2015–25254 Filed 10–5–15; 8:45 am]

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