FEDERAL REGISTER

Vol. 80 Thursday,
No. 199 October 15, 2015

Pages 61975–62428

OFFICE OF THE FEDERAL REGISTER

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. FAA–2015–3031]

Final Primary Category Airworthiness Design Standards; AutoGyro USA, LLC (AutoGyro) Model Calidus Gyroplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Issuance of final Airworthiness Design Standards.

SUMMARY: These airworthiness design standards are issued to AutoGyro for certification of the Model Calidus gyroplane under the regulations for primary category aircraft.

DATES: These airworthiness design standards are effective November 16, 2015.

FOR FURTHER INFORMATION CONTACT: Gary Roach, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy., Fort Worth, Texas 76177; telephone (817) 222–5110; email *gary.b.roach@faa.gov.*

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this information by contacting the person named above under **FOR FURTHER INFORMATION CONTACT**.

Background

The ''primary'' category for aircraft was created specifically for the simple, low performance personal aircraft. Section 21.17(f) provides a means for applicants to propose airworthiness standards for their particular primary category aircraft. The FAA procedure establishing appropriate airworthiness standards includes reviewing and possibly revising the applicant's proposal, publication of the submittal in the **Federal Register** for public review and comment, and addressing the comments. After all necessary revisions, the standards are published as approved FAA airworthiness standards.

Comments

Proposed Primary Category Airworthiness Design Standards; AutoGyro USA, LLC (AutoGyro) Model Calidus Gyroplanes was published in the **Federal Register** on July 24, 2015 (80 FR 43969). One supportive comment was received, and the airworthiness design standards are adopted as proposed.

Applicability

These airworthiness design standards under the primary category rule are applicable to the Autogyro Model Calidus gyroplane. Should Autogyro wish to apply these airworthiness design standards to other gyroplane models, Autogyro must submit a new airworthiness design standard application under the primary rule category.

Conclusion

This action affects only certain airworthiness design standards on the Autogyro Model Calidus gyroplane. It is not a standard of general applicability and it affects only the applicant who applied to the FAA for approval of these features on the gyroplane.

Citation

The authority citation for these airworthiness standards is as follows:

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

Final Airworthiness Standards for Acceptance Under the Primary Category Rule

For Aircraft Certification and the Powerplant Installation:

Section T Light Gyroplanes, of the British Civil Airworthiness Requirements (BCAR), Issue 3, dated August 12, 2005.

14 CFR 27.853(a) and (c)(1) Amdt 27–37 Compartment Interior; §§ 23.735(a) through (c) Amdt 23–62 Brakes except that the reference to § 23.75 is replaced with Section T75 of BCAR Section T, Issue 3; §§ 27.735(a) and (c)(1) Amdt 27–21 Brakes; §§ 27.1365(b) and (c) Amdt 27–35 Electrical Cables; and § 27.1561(a) Safety Equipment, as applicable to these aircraft.

For Engine Assembly Certification:

ASTM F2339–06 (2009), ''Standard Practice for Design and Manufacture of Reciprocating Spark Ignition Engines for Light Sport Aircraft,'' except paragraph A1.1.3.

For Propeller Certification:

Section T Light Gyroplanes, of the BCAR, Issue 3, dated August 12, 2005; ASTM F2506–10 (2009), ''Standard Specification for Design and Testing of Fixed-Pitch or Ground Adjustable Light Sport Aircraft Propellers,'' paragraph 5.5 Propeller Strength and Endurance and Section 6 Tests and Inspections.

Issued in Fort Worth, Texas, on October 8, 2015.

Lance T. Gant,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2015–26269 Filed 10–14–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31038; Amdt. No. 3662]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective October 15, 2015. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 15, 2015.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE., West Bldg., Ground Floor, Washington, DC, 20590–0001;

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420) Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION:

This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary.

This amendment provides the affected CFRs, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and/or ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

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. For the same reason, the FAA certifies that this amendment will 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 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

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

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, (14 CFR part 97), is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

EFFECTIVE UPON PUBLICATION

* * *

AIRAC Date	State	City	Airport	FDC No.	FDC Date	Subject
15–Oct–15 ...	OH	Bluffton	Bluffton	5/1402	08/31/15	Takeoff Minimums and (Obstacle) DP, Amdt 1.
15–Oct–15 ...	ND	Minot	Minot Intl	5/1800	9/1/2015	RNAV (GPS) RWY 8, Orig.
15–Oct–15 ...	OK	Sallisaw	Sallisaw Muni	5/2106	08/31/15	RNAV (GPS) RWY 35, Orig.
15–Oct–15 ...	MN	Paynesville	Paynesville Muni	5/2266	9/1/2015	RNAV (GPS) RWY 11, Amdt 1A.
15–Oct–15 ...	MN	Paynesville	Paynesville Muni	5/2267	9/1/2015	RNAV (GPS) RWY 29, Amdt 1A.
15–Oct–15 ...	GA	Baxley	Baxley Muni	5/3147	9/2/2015	RNAV (GPS) RWY 26, Amdt 1A.
15–Oct–15 ...	GA	Baxley	Baxley Muni	5/3149	9/2/2015	NDB RWY 8, Amdt 2A.
15–Oct–15 ...	GA	Baxley	Baxley Muni	5/3150	9/2/2015	RNAV (GPS) RWY 8, Amdt 1A.
15–Oct–15 ...	SC	Beaufort	Beaufort County	5/3154	9/2/2015	RNAV (GPS) RWY 7, Amdt 1A.
15–Oct–15 ...	MI	Niles	Jerry Tyler Memorial	5/3886	08/20/15	RNAV (GPS) RWY 15, Orig-B.
15–Oct–15 ...	OH	Mansfield	Mansfield Lahm Rgnl	5/5015	08/06/15	RNAV (GPS) RWY 5, Orig-A.
15–Oct–15 ...	IA	Creston	Creston Muni	5/5543	08/31/15	RNAV (GPS) RWY 34, Amdt 1A.
15–Oct–15 ...	TX	Dallas	Collin County Rgnl At Mc Kinney.	5/5837	08/31/15	RNAV (GPS) RWY 36, Amdt 3.
15–Oct–15 ...	FL	Tallahassee	Tallahassee Intl	5/5956	08/31/15	RNAV (GPS) RWY 18, Amdt 1B.
15–Oct–15 ...	NJ	Wildwood	Cape May County	5/5964	08/26/15	RNAV (GPS) RWY 10, Orig-C.
15–Oct–15 ...	NJ	Wildwood	Cape May County	5/5967	08/26/15	RNAV (GPS) RWY 19, Orig-D.
15–Oct–15 ...	NJ	Wildwood	Cape May County	5/5968	08/26/15	LOC RWY 19, Amdt 6E.
15–Oct–15 ...	NJ	Wildwood	Cape May County	5/5969	08/26/15	VOR–A, Amdt 3D.
15–Oct–15 ...	WI	Appleton	Outagamie County Rgnl ..	5/6209	08/24/15	RNAV (GPS) RWY 21, Amdt 2.
15–Oct–15 ...	WI	Appleton	Outagamie County Rgnl ..	5/6214	08/24/15	VOR/DME RWY 21, Amdt 1A.
15–Oct–15 ...	MN	Jackson	Jackson Muni	5/6400	08/26/15	RNAV (GPS) RWY 31, Amdt 1.
15–Oct–15 ...	MN	Jackson	Jackson Muni	5/6402	08/26/15	RNAV (GPS) RWY 13, Amdt 1.
15–Oct–15 ...	CA	Palo Alto	Palo Alto Arpt Of Santa Clara Co.	5/7436	08/26/15	GPS RWY 31, Amdt 1B.
15-Oct-15	DE	Georgetown	Sussex County	5/7607	08/26/15	RNAV (GPS) RWY 22, Amdt 2A.
15–Oct–15 ...	DE	Georgetown	Sussex County	5/7608	08/26/15	RNAV (GPS) RWY 4, Amdt 2.
15–Oct–15 ...	DE	Georgetown	Sussex County	5/7609	08/26/15	VOR RWY 22, Amdt 7.
15–Oct–15 ...	DE	Georgetown	Sussex County	5/7610	08/26/15	Takeoff Minimums and (Obstacle) DP, Amdt 4.
15–Oct–15 ...	MI	Detroit	Detroit Metropolitan Wayne County.	5/7669	08/31/15	ILS PRM RWY 22L, (SIMULTANEOUS CLOSE PARALLEL), Orig-E.
15–Oct–15 ...	TX	Midland	Midland Intl	5/7670	08/31/15	ILS OR LOC RWY 10, Amdt 16A.
15–Oct–15 ...	AR	Decatur	Crystal Lake	5/7804	09/01/15	Takeoff Minimums and (Obstacle) DP, Amdt 1.
15–Oct–15 ...	KS	Phillipsburg	Phillipsburg Muni	5/7811	08/31/15	Takeoff Minimums and (Obstacle) DP, Orig.
15–Oct–15 ...	TX	Palacios	Palacios Muni	5/7819	08/31/15	VOR RWY 13, Amdt 10C.
15–Oct–15 ...	SD	Brookings	Brookings Rgnl	5/7822	08/31/15	ILS OR LOC RWY 12, Orig.
15–Oct–15 ...	TX	Cleveland	Cleveland Muni	5/7827	08/31/15	VOR–A, Amdt 4C.
15–Oct–15 ...	TX	Cleveland	Cleveland Muni	5/7830	08/31/15	RNAV (GPS) RWY 16, Orig-A.
15–Oct–15 ...	MN	Glenwood	Glenwood Muni	5/7835	08/26/15	RNAV (GPS) RWY 15, Orig-A.
15–Oct–15 ...	MN	Glenwood	Glenwood Muni	5/7837	08/26/15	VOR RWY 33, Amdt 2A.
15–Oct–15 ...	MN	Glenwood	Glenwood Muni	5/7838	08/26/15	RNAV (GPS) RWY 33, Amdt 1A.
15–Oct–15 ...	KS	Colby	Shalz Field	5/8100	08/31/15	RNAV (GPS) RWY 35, Amdt 1.
15–Oct–15 ...	LA	Shreveport	Shreveport Downtown	5/8422	08/31/15	LOC RWY 14, Amdt 4E.
15–Oct–15 ...	LA	Shreveport	Shreveport Downtown	5/8423	08/31/15	RNAV (GPS) RWY 14, Orig-B.
15–Oct–15 ...	TX	Port Lavaca	Calhoun County	5/8426	9/2/2015	VOR/DME–A, Amdt 4B.
15–Oct–15 ...	MN	Windom	Windom Muni	5/8568	08/31/15	RNAV (GPS) RWY 17, Orig.
15–Oct–15 ...	WI	Prairie Du Chien	Prairie Du Chien Muni	5/8874	08/26/15	RNAV (GPS) RWY 32, Orig-B.
15–Oct–15 ...	WI	Prairie Du Chien	Prairie Du Chien Muni	5/8875	08/26/15	RNAV (GPS) RWY 29, Orig-B.
15–Oct–15 ...	LA	Lafayette	Lafayette Rgnl/Paul Fournet Field.	5/8917	08/31/15	ILS OR LOC/DME RWY 4R, Amdt 2B.
15–Oct–15 ...	LA	Lafayette	Lafayette Rgnl/Paul Fournet Field.	5/8928	08/31/15	ILS OR LOC RWY 22L, Amdt 5B.
15–Oct–15 ...	AL	Dothan	Dothan Rgnl	5/9171	08/12/15	COPTER VOR RWY 36, Amdt 1A.
15–Oct–15 ...	NC	Burlington	Burlington-Alamance Rgnl	5/9539	09/01/15	ILS Y OR LOC/NDB Y RWY 6, Orig.
15–Oct–15 ...	NC	Burlington	Burlington-Alamance Rgnl	5/9543	09/01/15	ILS Z OR LOC/NDB Z RWY 6, Amdt 2A.

[FR Doc. 2015–25561 Filed 10–14–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31037; Amdt. No. 3661]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective October 15, 2015. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of October 15, 2015.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE., West Bldg., Ground Floor, Washington, DC 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part § 97.20. The applicable FAA forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFRs and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPS as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as Amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C 553(d), good cause exists for making some SIAPs effective in less than 30 days.

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. For the same reason, the FAA certifies that this amendment will 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 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

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

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—Standard Instrument Approach Procedures

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 15 OCTOBER 2015

Demopolis, AL, Demopolis Rgnl, RNAV (GPS) RWY 4, Amdt 1
Demopolis, AL, Demopolis Rgnl, RNAV (GPS) RWY 22, Amdt 1
Oakland, CA, Metropolitan Oakland Intl, ILS OR LOC RWY 30, ILS RWY 30 (CAT II), ILS RWY 30 (CAT III), ILS RWY 30 (SA CAT I), Amdt 29
Oakland, CA, Metropolitan Oakland Intl, RNAV (GPS) Y RWY 30, Amdt 5
Oakland, CA, Metropolitan Oakland Intl, RNAV (RNP) Z RWY 30, Amdt 3
Hayden, CO, Yampa Valley, ILS OR LOC/DME RWY 10, Orig
Hayden, CO, Yampa Valley, ILS OR LOC/DME Y RWY 10, Amdt 3, CANCELED
Hayden, CO, Yampa Valley, RNAV (GPS) RWY 28, Amdt 3
Hayden, CO, Yampa Valley, RNAV (GPS) Y RWY 10, Amdt 3
Hayden, CO, Yampa Valley, RNAV (RNP) Z RWY 10, Amdt 2
Telluride, CO, Telluride Rgnl, Takeoff Minimums and Obstacle DP, Amdt 3
Athens, GA, Athens/Ben Epps, ILS OR LOC/DME RWY 27, Amdt 2
Athens, GA, Athens/Ben Epps, NDB RWY 27, Amdt 1A, CANCELED
Athens, GA, Athens/Ben Epps, RNAV (GPS) RWY 2, Amdt 1
Athens, GA, Athens/Ben Epps, RNAV (GPS) RWY 9, Amdt 1
Athens, GA, Athens/Ben Epps, RNAV (GPS) RWY 20, Amdt 1
Athens, GA, Athens/Ben Epps, RNAV (GPS) RWY 27, Amdt 1
Athens, GA, Athens/Ben Epps, Takeoff Minimums and Obstacle DP, Amdt 2
Athens, GA, Athens/Ben Epps, VOR RWY 27, Amdt 13
Atlanta, GA, Hartsfield-Jackson Atlanta Intl, ILS OR LOC RWY 27L, ILS RWY 27L (SA CAT I), ILS RWY 27L (CAT II), Amdt 18A
Atlanta, GA, Hartsfield-Jackson Atlanta Intl, ILS PRM RWY 27L, ILS PRM RWY 27L (SA CAT I), ILS PRM RWY 27L (CAT II) (SIMULTANEOUS CLOSE PARALLEL), Amdt 3A
Bloomington/Normal, IL, Central IL Rgnl Arpt At Bloomington-Normal, ILS OR LOC RWY 20, ILS RWY 20 (CAT II), Amdt 3A
Bloomington/Normal, IL, Central IL Rgnl Arpt At Bloomington-Normal, ILS OR LOC RWY 29, Amdt 11
Bloomington/Normal, IL, Central IL Rgnl Arpt At Bloomington-Normal, ILS OR LOC/DME RWY 2, Orig-B
Bloomington/Normal, IL, Central IL Rgnl Arpt At Bloomington-Normal, LOC BC RWY 11, Amdt 11
Bloomington/Normal, IL, Central IL Rgnl Arpt At Bloomington-Normal, RNAV (GPS) RWY 2, Orig-B
Bloomington/Normal, IL, Central IL Rgnl Arpt At Bloomington-Normal, RNAV (GPS) RWY 11, Amdt 1A
Bloomington/Normal, IL, Central IL Rgnl Arpt At Bloomington-Normal, RNAV (GPS) RWY 20, Amdt 1A
Bloomington/Normal, IL, Central IL Rgnl Arpt At Bloomington-Normal, RNAV (GPS) RWY 29, Amdt 1A
Bloomington/Normal, IL, Central IL Rgnl Arpt At Bloomington-Normal, Takeoff Minimums and Obstacle DP, Orig-A
Peru, IL, Illinois Valley Rgnl-Walter A Duncan Field, LOC RWY 36, Amdt 4
Peru, IL, Illinois Valley Rgnl-Walter A Duncan Field, RNAV (GPS) RWY 18, Amdt 1
Peru, IL, Illinois Valley Rgnl-Walter A Duncan Field, RNAV (GPS) RWY 36, Amdt 1
Peru, IL, Illinois Valley Rgnl-Walter A Duncan Field, Takeoff Minimums and Obstacle DP, Amdt 1
Oberlin, KS, Oberlin Muni, NDB RWY 35, Amdt 1
Oberlin, KS, Oberlin Muni, RNAV (GPS) RWY 17, Orig
Oberlin, KS, Oberlin Muni, RNAV (GPS) RWY 35, Orig
Frankfort, KY, Capital City, RNAV (GPS) RWY 7, Amdt 3
Frankfort, KY, Capital City, RNAV (GPS) RWY 25, Amdt 4
New Orleans, LA, Louis Armstrong New Orleans Intl, ILS OR LOC RWY 2, Amdt 18
New Orleans, LA, Louis Armstrong New Orleans Intl, ILS OR LOC RWY 11, ILS RWY 11 (SA CAT I), ILS RWY 11 (CAT II), ILS RWY 11 (CAT III), Amdt 3
New Orleans, LA, Louis Armstrong New Orleans Intl, ILS OR LOC RWY 29, Amdt 10
New Orleans, LA, Louis Armstrong New Orleans Intl, LOC RWY 20, Amdt 3
New Orleans, LA, Louis Armstrong New Orleans Intl, RNAV (GPS) RWY 2, Amdt 2
New Orleans, LA, Louis Armstrong New Orleans Intl, RNAV (GPS) Y RWY 11, Amdt 2
New Orleans, LA, Louis Armstrong New Orleans Intl, RNAV (GPS) Y RWY 20, Amdt 3
New Orleans, LA, Louis Armstrong New Orleans Intl, RNAV (GPS) Y RWY 29, Amdt 4
New Orleans, LA, Louis Armstrong New Orleans Intl, RNAV (RNP) Z RWY 11, Amdt 1
New Orleans, LA, Louis Armstrong New Orleans Intl, RNAV (RNP) Z RWY 20, Amdt 1
New Orleans, LA, Louis Armstrong New Orleans Intl, RNAV (RNP) Z RWY 29, Amdt 2
New Orleans, LA, Louis Armstrong New Orleans Intl, Takeoff Minimums and Obstacle DP, Amdt 2
New Orleans, LA, Louis Armstrong New Orleans Intl, VOR/DME RWY 11, Amdt 1
Reserve, LA, St John The Baptist Parish, RNAV (GPS) RWY 17, Amdt 1
Reserve, LA, St John The Baptist Parish, RNAV (GPS) RWY 35, Amdt 1
Reserve, LA, St John The Baptist Parish, Takeoff Minimums and Obstacle DP, Amdt 1
Reserve, LA, St John The Baptist Parish, VOR RWY 35, Amdt 1
Houlton, ME, Houlton Intl, RNAV (GPS) RWY 5, Orig-B
Oxford, ME, Oxford County Rgnl, RNAV (GPS) RWY 15, Orig-B
Oxford, ME, Oxford County Rgnl, RNAV (GPS) RWY 33, Orig-B
Ludington, MI, Mason County, NDB RWY 26, Orig-A, CANCELED
Minneapolis, MN, Minneapolis-St Paul Intl/Wold-Chamberlain, ILS Z OR LOC RWY 30L, ILS Z RWY 30L (CAT II), Amdt 46A
Festus, MO, Festus Memorial, NDB OR GPS RWY 36, Amdt 2A, CANCELED
Festus, MO, Festus Memorial, RNAV (GPS)-A, Orig
Festus, MO, Festus Memorial, Takeoff Minimums and Obstacle DP, Amdt 4
Bowman, ND, Bowman Muni, GPS RWY 29, Orig, CANCELED
Bowman, ND, Bowman Muni, NDB RWY 29, Amdt 3, CANCELED
Bowman, ND, Bowman Muni, Takeoff Minimums and Obstacle DP, Orig, CANCELED
Norwich, NY, Lt Warren Eaton, RNAV (GPS) RWY 1, Amdt 1
Norwich, NY, Lt Warren Eaton, RNAV (GPS) RWY 19, Amdt 1
Norwich, NY, Lt Warren Eaton, Takeoff Minimums and Obstacle DP, Amdt 4
Schenectady, NY, Schenectady County, RNAV (GPS) RWY 10, Orig-D
San Juan, PR, Fernando Luis Ribas Dominicci, Takeoff Minimums and Obstacle DP, Amdt 1
Lexington-Parsons, TN, Beech River Rgnl, RNAV (GPS) RWY 1, Amdt 1
Lexington-Parsons, TN, Beech River Rgnl, RNAV (GPS) RWY 19, Amdt 1
Lexington-Parsons, TN, Beech River Rgnl, VOR–A, Orig-A, CANCELED
Nashville, TN, John C Tune, ILS OR LOC/DME RWY 20, Amdt 2

Nashville, TN, John C Tune, RNAV (GPS) RWY 2, Amdt 2
Nashville, TN, John C Tune, RNAV (GPS) RWY 20, Amdt 2
Nashville, TN, John C Tune, Takeoff Minimums and Obstacle DP, Amdt 2
Austin, TX, Austin-Bergstrom Intl, RNAV (GPS) Y RWY 35R, Amdt 1B
Austin, TX, Austin-Bergstrom Intl, RNAV (RNP) Z RWY 35L, Orig
Austin, TX, Austin-Bergstrom Intl, RNAV (RNP) Z RWY 35R, Orig
Castroville, TX, Castroville Muni, RNAV (GPS) RWY 16, Amdt 1
Castroville, TX, Castroville Muni, RNAV (GPS) RWY 34, Amdt 1
Castroville, TX, Castroville Muni, Takeoff Minimums and Obstacle DP, Orig
Eastland, TX, Eastland Muni, NDB RWY 35, Amdt 3A, CANCELED
Mosinee, WI, Central Wisconsin, VOR/DME RWY 35, Amdt 9B, CANCELED
Stevens Point, WI, Stevens Point Muni, VOR/DME RWY 3, Amdt 15, CANCELED
Stevens Point, WI, Stevens Point Muni, VOR/DME RWY 21, Amdt 19, CANCELED
Stevens Point, WI, Stevens Point Muni, VOR/DME RWY 30, Amdt 18, CANCELED
Wisconsin Rapids, WI, Alexander Field South Wood County, VOR/DME OR GPS–A, Amdt 9A, CANCELED

[FR Doc. 2015–25566 Filed 10–14–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 203

[Docket No. FR–5823–IA–01]

Federal Housing Administration (FHA): Court of Competent Jurisdiction To Foreclose Liens on FHA-Owned Properties

AGENCY: Office of the General Counsel, HUD.

ACTION: Interpretive rule.

SUMMARY: The Federal Housing Administration (FHA) generally acquires title to single family properties when it pays mortgage insurance benefits to approved mortgagees. FHA's activities in managing and marketing the properties it acquires include paying real estate taxes referred to as *ad valorem* taxes (a tax based on the value of the property) and special assessments. For properties in condominiums or planned unit developments, FHA also pays homeowners' association or condominium association fees. During the period over which an insured lender forecloses and FHA becomes the owner of the property, taxes or other fees may become due and payable. With lenders conveying close to 100,000 properties annually to FHA, bills for taxes and fees may be past due and payable at the time of FHA's acquisition and suits are brought for payment of taxes and fees. This rule provides HUD's interpretation of the ''sue and be sued'' clause contained in section 1, Title I of the National Housing Act. This rule provides that, in the case of an action brought against HUD to foreclose on a lien arising out of unpaid taxes or fees, the term ''court of competent jurisdiction'' as used in section 1 of the National Housing Act refers to a United States District Court. In conjunction with this interpretive rule, HUD is providing, by separate notices published in today's **Federal Register**, direction to taxing authorities and other entities owed money as to the proper Point of Contact (POC) at HUD for seeking payment. In the unlikely event that payment is not timely made, the entity can bring an action under the Quiet Title Act in the appropriate United States District Court to foreclose on its lien interest in the property.

DATES: *Effective Date:* October 15, 2015.

FOR FURTHER INFORMATION CONTACT: Bruce S. Albright, Senior Trial Attorney and Litigation Risk Advisor, Office of Litigation, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10258, Washington, DC 20410–8000; telephone number 202–708–0300 (this is not a toll-free number). Persons with hearing or speech challenges may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

Under FHA's single family mortgage insurance program, FHA took title to approximately 94,500 properties in Fiscal Year (FY) 2012 by paying insurance claims to approved mortgagees. In recouping its losses to the Mutual Mortgage Insurance Fund (MMIF), FHA manages and markets these properties through contractors.

There is a time lag between a mortgagee initiating and completing the foreclosure of a defaulted insured mortgage and FHA acquiring and managing the property. Taxes or Homeowners Association (HOA) or Condominium Association (CA) fees, or fees for special assessments may come due and payable at the time when the property is being conveyed to FHA (or shortly thereafter) for the insurance benefits. HUD issued Mortgagee Letter 2013–18 on May 31, 2013, addressing unpaid tax and association fees.[1] This Mortgagee Letter may reduce, but not entirely eliminate, problems FHA has faced with unpaid taxes and fees when FHA takes title to single family properties. Correspondence regarding tax and other property charges and assessments are presently sent to a myriad of addresses—either to FHA's headquarters and field offices across the nation, or to the contractors handling the management of the FHA properties.

If a taxing authority, HOA, CA, or special assessment entity is unable to obtain payment of the amounts due after sending out notices and contacting FHA offices and contractors, its alternative has been to perfect a lien under applicable local law and then attempt to enforce the lien against the HUD owned property by foreclosing the lien on the property. Normally, absent the involvement of a Federal agency, this is accomplished under a state court procedure, which varies greatly from jurisdiction to jurisdiction as to the time period in which to respond to the summons and complaint, as well as upon who service is required to be made. HUD's involvement as a Federal government agency, however, means that the proper venue should be in Federal District Court. On occasion, when actions are brought in state court, the government's interest cannot be determined quickly enough for a U.S. Attorney's Office to timely respond to a complaint that seeks to foreclose FHA's ownership interest in a property. If the property is taken by the taxing authority or other entity, FHA must expend time and resources to recover the property, and may even lose its ability to recoup its insurance losses to the Mutual Mortgage Insurance Fund (MMIF).

II. This Interpretive Rule

A. Introduction

This interpretive rule clarifies HUD's longstanding position on the question of what is meant by the term ''court of competent jurisdiction'' in the ''sue and be sued'' clause contained in section 1, Title I of the National Housing Act (NHA) (12 U.S.C. 1702). The purpose of this clarification is to assist FHA to efficiently manage its real estate owned (REO) inventory and ensure prompt payment for taxes and other fees and assessments. The purpose is also to protect FHA's MMIF assets, which include acquired single family properties.[2] By accompanying notices in

[1] See *http://portal.hud.gov/hudportal/documents/huddoc?id=13-18ml.pdf.*

[2] Section 202(a)(3) of the National Housing Act (12 U.S.C. 1708(a)(3)) imposes a fiduciary duty on the Secretary to protect the Mutual Mortgage Insurance Fund. Section 4(b) of the Department of HUD Act (42 U.S.C. 3533(b)) requires the Secretary to hold FHA managers responsible for protecting federal assets and performing risk management.

today's **Federal Register**, HUD provides specific POCs at HUD's Home Ownership Centers (HOCs) that holders of liens on HUD single family property may use to present requests for payment. The publication and use of these POCs by the public should help obviate the need for litigation to enforce non-payment of liens against FHA properties. This interpretive rule provides the process for initiating suit against FHA if for some reason payment is not made and the taxing authority or other entity has a lien that it seeks to foreclose.

B. HOC POCs

Ancillary to the interpretive rule, HUD is providing POCs in each of its four HOCs to receive tax bills and similar billings. Each HOC oversees on average 13 states/jurisdictions for FHA activities and has an REO division that handles the day-to-day oversight of FHA's acquired properties. In most cases, having a known POC to send billings should obviate the need to have to bring suit against HUD to levy on a property.

C. Jurisdiction

In the unlikely event it becomes necessary for a taxing authority or HOA, CA or special assessment entity to proceed against HUD's property, this interpretive rule explains the exclusive federal jurisdiction for such an action. Section 1 title I, of the NHA provides a limited waiver of sovereign immunity. Under that provision: ''[T]he Secretary shall, in carrying out the functions of this title and titles II, III . . . be authorized, in his official capacity, to sue and be sued *in any court of competent jurisdiction,* State or Federal.'' (Underlining is provided for emphasis). This section was added to the NHA by the Banking Act of 1935, sec. 334, Title III, Public Law 74–305, 49 Stat. 684, approved August 23, 1935). In 1972, Congress passed the Quiet Title Act (QTA) (Pub. L. 92–562, 86 Stat. 1176). The QTA made two changes to Title 28 of the United States Code, which title of the code governs the federal judicial system and judiciary procedures. First, the QTA created a new 28 U.S.C. 2409a, entitled ''Real Property Quiet Title Actions.'' Paragraph (a) of section 2409a states, ''The United States may be named as a party defendant in a civil action under this section to adjudicate a disputed title to real property in which the United States claims an interest.'' Second, QTA amended 28 U.S.C. 1346, entitled ''United States as defendant'' by adding a new paragraph (f), which states, ''The district courts shall have exclusive original jurisdiction of civil actions under section 2409a to quiet title to an estate or interest in property in which an interest is claimed by the United States.''

The Supreme Court succinctly explained the lack of jurisdiction in state courts and the exclusivity of federal court jurisdiction in QTA actions in *California* v. *Arizona,* 440 U.S. 59 (1979):

> [T]he intent of Congress seems reasonably clear. The congressional purpose was simply to confine jurisdiction to the federal courts and to exclude the courts of the States, which otherwise might be presumed to have jurisdiction over quiet-title suits against the United States, once its sovereign immunity had been waived. . . . We find, therefore, that section 1346(f), by vesting 'exclusive original jurisdiction' of quiet title actions against the United States in the federal district courts did no more than assure that such jurisdiction was not conferred upon the courts of any State.

Federal courts have consistently held that 28 U.S.C. 2409a authorizes owners of an interest in real property in which an agency such as HUD holds an interest, including an ownership interest, to bring suit to foreclose the government's interest in the property. The QTA applies to lawsuits involving interests that could cloud title, not just traditional quiet title actions, as the terminology of the QTA by its terms includes any adjudication of a ''disputed title'' to real property. *See, United States* v. *Bedford Associates,* 657 F. 2d 1300, 1316 (2d Cir. 1981), *cert. den.* 456 U.S. 914 (1982); *Robinson* v. *United States,* 586 F. 3d 683, 687 (9th Cir. 2009); *Delta Sav. & Loan Ass'n.* v. *I.R.S.,* 847 F. 2d 248, 249 n. 1 (5th Cir. 1988); *George* v. *United States,* 672 F. 3d 942 (10th Cir. 2012), *cert. den.* 133 S. Ct. 432, __ U.S. __, 2012 U.S. LEXIS 7933 (2012).

III. This Interpretive Rule

In order to have a uniform process that both the public and HUD can use, and which will ensure that HUD can act in a timely, accurate, and consistent manner to protect properties that are assets of the MMIF, it is HUD's interpretation that the sue and be sued clause in 12 U.S.C. 1702, specifically the words ''court of competent jurisdiction'' means, for purposes of foreclosing tax, HOA, CA, special assessment (*i.e.,* for sidewalks, septic or water systems and the like), or similar fees and assessments that result in liens on HUD properties, the United States District Court in the jurisdiction where the HUD property that is to be the subject of the lien foreclosure is situated or in Washington, DC. This interpretation is based on the provisions of the QTA, and the Supreme Court's analysis of the same in *California* v. *Arizona* and similar cases.

As the exclusive venue for foreclosing a lien on HUD-owned property is a United States District Court, the Federal Rules of Civil Procedure (FRCP) must be followed. Rule 4(i) sets out the procedures to serve Federal agencies. Under that rule, the head of the agency or his or her designee must be served, as well as the United States Attorney General and the United States Attorney in the applicable district. HUD, by separate notice in today's **Federal Register**, pursuant to previously published delegations of authority, authorizes Regional Counsel in each of HUD's 10 Regional Counsel Offices to redelegate to staff within their operational jurisdictions the authority to accept service of process in those cases where FHA owns a property, a taxing authority, HOA, CA, or other entity purports to bring suit due to a nonpayment of taxes or other fees and assessments, and the entity seeks to foreclose its lien in order to obtain title to the property.

IV. Conclusion

Accordingly, HUD interprets the ''sue and be sued'' clause of section 1 of title 1 of the NHA as requiring suit to be brought exclusively in the Federal District Court where the property is located (or in the Federal District Court for the District of Columbia) if a lienholder wishes to enforce a lien against a single family property owned by HUD as the result of the payment of a mortgage insurance claim.

Dated: October 7, 2015.

Helen R. Kanovsky,

General Counsel.

[FR Doc. 2015–26160 Filed 10–14–15; 8:45 am]

BILLING CODE 4210–67–P

This interpretive rule is issued pursuant to these statutory mandates.

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4022

Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulation on Benefits Payable in

Terminated Single-Employer Plans to prescribe interest assumptions under the regulation for valuation dates in November 2015. The interest assumptions are used for paying benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

DATES: Effective November 1, 2015.

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

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

PBGC uses the interest assumptions in appendix B to part 4022 to determine whether a benefit is payable as a lump sum and to determine the amount to pay. Appendix C to part 4022 contains interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using PBGC's historical methodology. Currently, the rates in appendices B and C of the benefit payment regulation are the same.

The interest assumptions are intended to reflect current conditions in the financial and annuity markets. Assumptions under the benefit payments regulation are updated monthly. This final rule updates the benefit payments interest assumptions for November 2015.[1]

The November 2015 interest assumptions under the benefit payments regulation will be 1.25 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. In comparison with the interest assumptions in effect for October 2015, these interest assumptions are unchanged.

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

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

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

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

List of Subjects in 29 CFR Part 4022

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

In consideration of the foregoing, 29 CFR part 4022 is amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

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

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

■ 2. In appendix B to part 4022, Rate Set 265 is added to the table to read as follows:

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

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*		*
265	11–1–15	12–1–15	1.25	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 265 is added to the table to read as follows:

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

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*		*
265	11–1–15	12–1–15	1.25	4.00	4.00	4.00	7	8

[1] Appendix B to PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes interest assumptions for valuing benefits under terminating covered single-employer plans for purposes of allocation of assets under ERISA section 4044. Those assumptions are updated quarterly.

Issued in Washington, DC, on this 7th day of October 2015.

Judith Starr,

General Counsel, Pension Benefit Guaranty Corporation.

[FR Doc. 2015–26241 Filed 10–14–15; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2015–0809]

RIN 1625–AA00

Safety Zone, Atlantic Intracoastal Waterway; Oak Island, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of the Atlantic Intracoastal Waterway near Oak Island, North Carolina. This action is necessary to provide the safety of mariners on navigable waters due to the transfer of power cables across the Atlantic Intracoastal Waterway. Entry into or movement within the safety zone during the enforcement period is prohibited without approval of the Captain of the Port.

DATES: This rule is effective without actual notice from October 15, 2015 until October 20, 2015. For the purposes of enforcement, actual notice will be used from October 12, 2015 until October 15, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2015–0809]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Derek J. Burrill, Waterways Management Division Chief, Sector North Carolina, Coast Guard; telephone (910) 772–2230, email *Derek.J.Burrill@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because final project details were not submitted to the Coast Guard until September 4, 2015. As such, it's impractical to provide a full comment period due to lack of time. Delaying the effective date for comment would be contrary to the public interest, since immediate action is needed to ensure protection of persons and vessels transiting the area.

For similar reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Due to the need for immediate action, the restriction of vessel traffic is necessary to protect life, property and the environment. Therefore, a 30-day notice is impracticable. The Coast Guard will provide advance notifications to users via marine information broadcasts and local notice to mariners.

B. Basis and Purpose

The legal basis for this rule is 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Public Law 107–295, 116 Stat. 2064; and DHS Delegation No. 0170.1. Under these authorities the Coast Guard may establish a safety zone in defined water areas that are determined to have hazardous conditions and in which vessel traffic can be regulated in the interest of safety.

On October 12, 13, 19, and 20, 2015 Coastal Power will be installing power cables that will run across the Atlantic Intracoastal Waterway at latitude 33°55′11″ N, longitude 078°03′24″ W in Oak Island, North Carolina. To facilitate the safety of mariners and the public, the U.S Coast Guard will require temporary closures of the channel on October 12, 13, 19, 20, 2015.

C. Discussion of the Final Rule

The Coast Guard is establishing a temporary safety zone on the navigable waters of the Atlantic Intracoastal Waterway within a 100 yard radius of latitude 33°55′11″ N, longitude 078°03′24″ W in Oak Island, North Carolina. This safety zone will be established in the interest of public safety due to the transfer of power cables across the Atlantic Intracoastal Waterway. The regulated area for this safety zone includes all the water of the Atlantic Intracoastal Waterway within a 100 yard radius of latitude 33°55′11″ N, longitude 078°03′24″ W, a position located north of the Oak Island Fixed Bridge in Oak Island, North Carolina. This rule will be enforced on October 12, 13, 19, 20, 2015 during the times of 09:00 a.m. to 12:00 p.m. and 01:00 p.m. to 04:00 p.m. Vessels authorized by the Captain of the Port or his/her Representative to enter or remain in the safety zone during the above listed time frame must have a height clearance of 30 feet and greater and are required to notify on scene Coastal Power and Electric work boats at a minimum of 40 minutes prior to transiting the area on VHF marine radio channels 13 or 16 or via phone at 910–512–1645.

Except for vessels authorized by the Captain of the Port or his/her Representative, no person or vessel may enter or remain in the safety zone during the time frame listed. The Captain of the Port will give notice of the enforcement of the safety zone by all appropriate means to provide the widest dissemination of notice among the affected segments of the public. This will include publication in the Local Notice to Mariners and Marine Information Broadcasts.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under

section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The primary impact of these regulations will be on limiting all vessels wishing to transit the affected waterways during enforcement of the safety zone on the Atlantic Intracoastal Waterway within a 100 yard radius of latitude 33°55′11″ N., longitude 078°03′24″ W. in Oak Island, North Carolina on October 12, 13, 19, and 20, 2015. Although these regulations prevent traffic from transiting a portion of the Atlantic Intracoastal Waterway during this incident, that restriction is limited in duration, affects only a limited area, and will be well publicized to allow mariners to make alternative plans for transiting the affected area.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in waters of the Atlantic Intracoastal Waterway within a 100 yard radius of latitude 33°55′11″ N., longitude 078°03′24″ W. position during the outlined timeframe.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) The safety zone will only be in place for a limited duration, and (ii) before the enforcement period, maritime advisories will be issued allowing mariners to adjust their plans accordingly.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone to protect life, property and the environment. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. We seek any comments or information that may lead to the

discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–809 to read as follows:

§ 165.T05–809 Safety Zone, Atlantic Intracoastal Waterway; Oak Island, North Carolina.

(a) *Definitions.* For the purposes of this section, *Captain of the Port* means the Commander, Sector North Carolina. *Representative* means any Coast Guard commissioned, warrant or petty officer who has been authorized to act on the behalf of the Captain of the Port.

(b) *Location.* The following area is a safety zone: Specified waters of the Captain of the Port Sector North Carolina zone, as defined in 33 CFR 3.25–10, all waters of the Atlantic Intracoastal Waterway within a 100 yard radius of latitude 33°55′11″ N., longitude 078°03′24″ W. in Oak Island, North Carolina.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into this zone is prohibited unless authorized by the Captain of the Port, North Carolina or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) If on scene proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(ii) [Reserved]

(3) The Captain of the Port, North Carolina can be reached through the Sector North Carolina Command Duty Officer at Sector North Carolina in Wilmington, North Carolina at telephone number (910) 343–3882.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF–FM marine band radio channel 13 (165.65 Mhz) and channel 16 (156.8 Mhz).

(d) *Enforcement period.* This section will be enforced on October 12, 13, 19, and 20, 2015, between 9:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m.

Dated: September 23, 2015.

S.R. Murtagh,

Captain, U.S. Coast Guard, Captain of the Port North Carolina.

[FR Doc. 2015–26193 Filed 10–14–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2013–0369; FRL–9935–69–OAR]

RIN 2060–AS44

Protection of Stratospheric Ozone: The 2016 Critical Use Exemption From the Phaseout of Methyl Bromide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is authorizing uses that qualify for the critical use exemption and the amount of methyl bromide that may be produced or imported for those uses for the 2016 control period. EPA is issuing this action under the authority of the Clean Air Act to reflect consensus decisions of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer at the Twenty-Sixth Meeting of the Parties in November 2014.

DATES: This rule is effective on January 1, 2016.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2013–0369. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and is publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Jeremy Arling, Stratospheric Protection Division, Office of Atmospheric Programs, Mail Code 6205T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number (202) 343–9055; email address *arling.jeremy@epa.gov.* You may also visit the methyl bromide section of the Ozone Depletion Web site of EPA's Stratospheric Protection Division at *www.epa.gov/ozone/mbr* for further information about the methyl bromide critical use exemption, other Stratospheric Ozone Protection regulations, the science of ozone layer depletion, and related topics.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

This rule concerns Clean Air Act (CAA) restrictions on the consumption, production, and use of methyl bromide (a Class I, Group VI controlled substance) for critical uses. Under the Clean Air Act, methyl bromide consumption (consumption is defined under section 601 of the CAA as production plus imports minus exports) and production were phased out on January 1, 2005, apart from allowable exemptions, such as the critical use and the quarantine and preshipment (QPS) exemptions. With this action, EPA is authorizing the uses that will qualify for the critical use exemption as well as specific amounts of methyl bromide that may be produced and imported for those critical uses for 2016.

II. General Information

A. Does this action apply to me?

Entities and categories of entities potentially regulated by this action include producers, importers, and exporters of methyl bromide; applicators and distributors of methyl bromide; and users of methyl bromide that applied for the 2016 critical use exemption including growers of vegetable crops, ornamentals, fruits, and nursery stock, and owners of stored food commodities. This list is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility, company, business, or organization could be regulated by this action, you should carefully examine the regulations promulgated at 40 CFR part 82, subpart A. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding section.

III. What is Methyl Bromide?

Methyl bromide is an odorless, colorless, toxic gas which is used as a broad-spectrum pesticide and is controlled under the CAA as a Class I ozone-depleting substance (ODS). Methyl bromide was once widely used as a fumigant to control a variety of pests such as insects, weeds, rodents, pathogens, and nematodes.

Methyl bromide is also regulated by EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and other statutes and regulatory authorities, as well as by States under their own statutes and regulatory authority. Under FIFRA, methyl bromide is a restricted use pesticide. Restricted use pesticides are subject to Federal and State requirements governing their sale, distribution, and use. Nothing in this rule implementing Title VI of the Clean Air Act is intended to derogate from provisions in any other Federal, State, or local laws or regulations governing actions including, but not limited to, the sale, distribution, transfer, and use of methyl bromide. Entities affected by this action must comply with FIFRA and other pertinent statutory and regulatory requirements for pesticides (including, but not limited to, requirements pertaining to restricted use pesticides) when producing, importing, exporting, acquiring, selling, distributing, transferring, or using methyl bromide. The provisions in this action are intended only to implement the CAA restrictions on the production, consumption, and use of methyl bromide for critical uses exempted from the phaseout of methyl bromide.

IV. What is the background to the Phaseout Regulations for Ozone-Depleting substances?

The regulatory requirements of the stratospheric ozone protection program that limit production and consumption of ozone-depleting substances are in 40 CFR part 82, subpart A. The regulatory program was originally published in the **Federal Register** on August 12, 1988 (53 FR 30566), in response to the 1987 signing and subsequent ratification of the Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal Protocol). The Montreal Protocol is the international agreement aimed at reducing and eliminating the production and consumption of stratospheric ozone-depleting substances. The United States was one of the original signatories to the 1987 Montreal Protocol, and the United States ratified the Protocol in 1988. Congress then enacted, and President George H.W. Bush signed into law, the Clean Air Act Amendments of 1990 (CAAA of 1990), which included Title VI on Stratospheric Ozone Protection, codified as 42 U.S.C. Chapter 85, Subchapter VI, to ensure that the United States could satisfy its obligations under the Protocol. EPA issued regulations to implement this legislation and has since amended the regulations as needed.

Methyl bromide was added to the Protocol as an ozone-depleting substance in 1992 through the Copenhagen Amendment to the Protocol. The Parties to the Montreal Protocol (Parties) agreed that each developed country's level of methyl bromide production and consumption in 1991 should be the baseline for establishing a freeze on the level of methyl bromide production and consumption for developed countries. EPA published a rule in the **Federal Register** on December 10, 1993 (58 FR 65018), listing methyl bromide as a Class I, Group VI controlled substance. This rule froze U.S. production and consumption at the 1991 baseline level of 25,528,270 kilograms, and set forth the percentage of baseline allowances for methyl bromide granted to companies in each control period (each calendar year) until 2001, when the complete phaseout would occur. This phaseout date was established in response to a petition filed in 1991 under sections 602(c)(3) and 606(b) of the CAAA of 1990, requesting that EPA list methyl bromide as a Class I substance and phase out its production and consumption. This date was consistent with section 602(d) of the CAAA of 1990, which, for newly listed Class I ozone-depleting substances provides that ''no extension [of the phaseout schedule in section 604] under this subsection may extend the date for termination of production of any class I substance to a date more than 7 years after January 1 of the year after the year in which the substance is added to the list of class I substances.''

At the Seventh Meeting of the Parties (MOP) in 1995, the Parties agreed to adjustments to the methyl bromide control measures and agreed to reduction steps and a 2010 phaseout date for developed countries with exemptions permitted for critical uses. At that time, the United States continued to have a 2001 phaseout date in accordance with section 602(d) of the CAAA of 1990. At the Ninth MOP in 1997, the Parties agreed to further adjustments to the phaseout schedule for methyl bromide in developed countries, with reduction steps leading to a 2005 phaseout. The Parties also established a phaseout date of 2015 for countries operating under Article 5 of the Protocol (developing countries).

V. What is the legal authority for exempting the production and import of methyl bromide for critical uses permitted by the parties to the Montreal Protocol?

In October 1998, the U.S. Congress amended the Clean Air Act to prohibit the termination of production of methyl bromide prior to January 1, 2005, to require EPA to align the U.S. phaseout of methyl bromide with the schedule specified under the Protocol, and to authorize EPA to provide certain exemptions. These amendments were contained in section 764 of the 1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act (Pub. L. 105–277, October 21, 1998) and were codified in section 604 of the CAA, 42 U.S.C. 7671c. The amendment that specifically addresses the critical use exemption appears at section 604(d)(6), 42 U.S.C. 7671c(d)(6). EPA revised the phaseout schedule for methyl bromide production and consumption in a rulemaking on November 28, 2000 (65 FR 70795), which allowed for the reduction in methyl bromide consumption specified under the Protocol and extended the phaseout to 2005 while creating a placeholder for critical use exemptions. Through an interim final rule on July 19, 2001 (66 FR 37751), and a final rule on January 2, 2003 (68 FR 238), EPA amended the regulations to allow for an exemption for quarantine and preshipment purposes.

On December 23, 2004 (69 FR 76982), EPA published a rule (the ''Framework Rule'') that established the framework for the critical use exemption, set forth a list of approved critical uses for 2005, and specified the amount of methyl bromide that could be supplied in 2005 from stocks, new production, or through imports to meet the needs of approved critical uses. EPA has subsequently published rules applying the critical use exemption framework for each of the annual control periods from 2006 to 2015.

In accordance with Article 2H(5) of the Montreal Protocol, the Parties have issued several Decisions pertaining to the critical use exemption. These include Decisions IX/6 and Ex. I/4, which set forth criteria for review of critical uses. The status of Decisions is addressed in *NRDC* v. *EPA,* (464 F.3d 1, D.C. Cir. 2006) and in EPA's ''Supplemental Brief for the Respondent,'' filed in *NRDC* v. *EPA* and available in the docket for this action. In this rule, EPA is honoring commitments

made by the United States in the Montreal Protocol context.

Under authority of section 604(d)(6) of the CAA, EPA is now listing approved critical uses, as well as authorizing the amount of methyl bromide that may be produced or imported to satisfy those uses during 2016. The critical uses and amounts reflect Decision XXVI/6, taken at the Twenty-Sixth Meeting of the Parties in November 2014.

VI. What is the critical use exemption process?

A. Background of the Process

Article 2H of the Montreal Protocol established the critical use exemption provision. At the Ninth Meeting of the Parties in 1997, the Parties established the criteria for an exemption in Decision IX/6. In that Decision, the Parties agreed that ''a use of methyl bromide should qualify as 'critical' only if the nominating Party determines that: (i) The specific use is critical because the lack of availability of methyl bromide for that use would result in a significant market disruption; and (ii) There are no technically and economically feasible alternatives or substitutes available to the user that are acceptable from the standpoint of environment and health and are suitable to the crops and circumstances of the nomination.'' EPA promulgated these criteria in the definition of ''critical use'' at 40 CFR 82.3.

In addition, Decision IX/6 provides that production and consumption, if any, of methyl bromide for critical uses should be permitted only if a variety of conditions have been met, including that all technically and economically feasible steps have been taken to minimize the critical use and any associated emission of methyl bromide, that research programs are in place to develop and deploy alternatives and substitutes, and that methyl bromide is not available in sufficient quantity and quality from existing stocks of banked or recycled methyl bromide.

EPA requested critical use exemption applications for 2016 through a **Federal Register** notice published on May 31, 2013 (78 FR 32646). Applicants submitted data on their use of methyl bromide, the technical and economic feasibility of using alternatives, ongoing research programs into the use of alternatives in their sector, and efforts to minimize use and emissions of methyl bromide.

EPA reviews the data submitted by applicants, as well as data from governmental and academic sources, to establish whether there are technically and economically feasible alternatives available for a particular use of methyl bromide, and whether there would be a significant market disruption if no exemption were available. In addition, an interagency workgroup reviews other parameters of the exemption applications such as dosage and emissions minimization techniques and applicants' research or transition plans. As required in section 604(d)(6) of the CAA, for each exemption period, EPA consults with the United States Department of Agriculture (USDA).[1] This assessment process culminates in the development of the U.S. critical use nomination (CUN). Annually since 2003, the U.S. Department of State has submitted a CUN to the United Nations Environment Programme (UNEP) Ozone Secretariat. The Methyl Bromide Technical Options Committee (MBTOC) and the Technology and Economic Assessment Panel (TEAP), which are advisory bodies to Parties to the Montreal Protocol, review each Party's CUN and make recommendations to the Parties on the nominations. The Parties then take Decisions on critical use exemptions for particular Parties, including how much methyl bromide may be supplied for the exempted critical uses. EPA then provides an opportunity for public comment on the amounts and specific uses of methyl bromide that the Agency proposed to exempt.

On January 22, 2014, the United States submitted the twelfth *Nomination for a Critical Use Exemption for Methyl Bromide for the United States of America* to the Ozone Secretariat of UNEP. This nomination contained the request for 2016 critical uses. In March 2014, MBTOC sent questions to the United States concerning technical and economic issues in the 2016 nomination. The United States transmitted responses to MBTOC in March 2014. In May 2014, the MBTOC provided their interim recommendations on the U.S. nomination in the May TEAP Interim Report. These documents, together with reports by the advisory bodies noted above, are in the public docket for this rulemaking. The critical uses and amounts approved in this rule reflect the analyses contained in those documents.

[1] See CAA section 604(d)(6): ''To the extent consistent with the Montreal Protocol, the Administrator, after notice and the opportunity for public comment, and after consultation with other departments or instrumentalities of the Federal Government having regulatory authority related to methyl bromide, including the Secretary of Agriculture, may exempt the production, importation, and consumption of methyl bromide for critical uses.''

B. How does this rule relate to previous critical use exemption rules?

The December 23, 2004, Framework Rule established the framework for the critical use exemption program in the United States, including definitions, prohibitions, trading provisions, and recordkeeping and reporting obligations. The preamble to the Framework Rule included EPA's determinations on key issues for the critical use exemption program.

Since publishing the Framework Rule, EPA has annually issued regulations to indicate which uses meet the criteria for the exemption and to exempt specific quantities of production and import of methyl bromide for a particular year.

This action continues the approach established in the 2013 Rule (78 FR 43797, July 22, 2013) for determining the amounts of Critical Use Allowances (CUAs) to be allocated for critical uses. A CUA is the privilege granted through 40 CFR part 82 to produce or import 1 kilogram (kg) of methyl bromide for an approved critical use during the specified control period. A control period is a calendar year. See 40 CFR 82.3. Each year's allowances expire at the end of that control period and, as explained in the Framework Rule, are not bankable from one year to the next.

C. Critical Uses

In Decision XXVI/6, taken in November 2014, the Parties to the Protocol agreed ''[t]o permit, for the agreed critical-use categories for 2015 and 2016 set forth in table A of the annex to the present decision for each party, subject to the conditions set forth in the present decision and in decision Ex. I/4 to the extent that those conditions are applicable, the levels of production and consumption for 2015 and 2016 set forth in table B of the annex to the present decision, which are necessary to satisfy critical uses. . . .'' Cured pork and strawberry field production are the uses that are set forth in table A of the annex to Decision XXVI/6 for the United States for 2016.

This rule modifies the table in 40 CFR part 82, subpart A, appendix L to reflect the agreed critical use categories. EPA is amending the table of critical uses and critical users based on the uses permitted in Decision XXVI/6 and the technical analyses contained in the 2016 U.S. nomination that assess data submitted by applicants to the CUE program. For reasons discussed below, EPA is removing the time limitation in appendix L for the approval of dry-cured pork products as a critical use to

allow for the continued use of carryover post-harvest methyl bromide after 2016.

Specifically, this rule removes the food processing uses that were listed in the joint 2014/2015 CUE rule as critical uses for 2014. The California Date Commission as well as all users under the food processing use (rice millers, pet food manufacturing facilities, and members of the North American Millers' Association) did not submit CUE applications for 2016 and therefore were not included in the 2016 U.S. nomination to the Parties of the Montreal Protocol.

This rule also removes the remaining commodity uses (walnuts, dried plums, figs, and raisins). These sectors applied for a critical use in 2016 but the United States did not nominate them for 2016. In addition, some sectors that were not on the list of critical uses for 2014 or 2015 submitted applications for 2016. These sectors are: Michigan cucurbit, eggplant, pepper, and tomato growers; Florida eggplant, pepper, strawberry, and tomato growers; the California Association of Nursery and Garden Centers; California stone fruit, table and raisin grape, walnut, and almond growers; ornamental growers in California and Florida; and the U.S. Golf Course Superintendents Association. EPA conducted a thorough technical assessment of each application and considered the effects that the loss of methyl bromide would have for each agricultural sector, and whether significant market disruption would occur as a result. Following this technical review, EPA consulted with the USDA and the Department of State. EPA determined that these users did not meet the critical use criteria in Decision IX/6 and the United States did not include them in the 2016 Critical Use Nomination. EPA notified these sectors of their status by letters dated March 28, 2014. For each of these uses, EPA found that there are technically and economically feasible alternatives to methyl bromide. EPA refers readers to the **Federal Register** Notice ''Request for Methyl Bromide Critical Use Exemption Applications for 2017'' (79 FR 38887; July 9, 2014) for a summary of information on how the Agency evaluated specific uses and available alternatives when considering applications for critical uses for 2016.

EPA requested comment on the technical assessments of the applications in the sector summaries found in the docket and the determination that these users did not meet the critical use criteria. EPA also requested any new or additional information that the Agency may consider in preparing future nominations. EPA also sought comment on the technical analyses contained in the U.S. nomination and information regarding any changes to the registration (including cancellations or registrations), use, or efficacy of alternatives that occurred after the nomination was submitted.

As EPA noted in the proposed rule, as the market for alternatives evolves, the thresholds for what constitutes ''significant market disruption'' or ''technical and economic feasibility'' may change. Such information has the potential to alter the technical or economic feasibility of an alternative and could thus cause EPA to modify the analysis that underpins EPA's determination as to which uses and what amounts of methyl bromide qualify for the CUE.

EPA received one comment on the proposed rule. This commenter highlighted the chemical and non-chemical alternatives in use in the European Union, including other fumigants, integrated crop management systems, heat treatment, gamma irradiation, cold storage, resistant varieties and cultivars, crop rotation, cover crops, soil solarization, and anaerobic disinfestation. EPA considered these alternatives when developing the nomination for critical uses for 2016, but concluded that additional research on alternatives is still necessary for dry cured ham production, and that additional time to transition to chloropicrin is needed for California strawberries.

The same commenter urged the Agency to announce an end date for all methyl bromide exemptions and, in light of the recent human health incident in the U.S. Virgin Islands, to end the use of all methyl bromide in the United States. Neither the Protocol nor the Clean Air Act establishes a specific end date for the critical use exemption. However, as noted in Decision Ex. I/4, the Parties intended for the critical use exemption to be a limited, temporary derogation from that phaseout. Progress in developing alternatives in key areas of historical methyl bromide use has been significant and has allowed many sectors to successfully transition from methyl bromide over the last decade. Specifically, the number of sectors nominated has declined from seventeen for 2006 to one for 2017.

With respect to the commenter's request that EPA end all use of methyl bromide in the U.S., we note that production for quarantine and preshipment is excluded from the phaseout under the Montreal Protocol and that section 604(d)(5) of the Clean Air Act directs EPA to exempt production for this purpose. EPA continues to support this important exemption to prevent the introduction and spread of quarantine pests while encouraging research into alternatives that meet the rigorous standards for quarantine and preshipment applications.

D. Critical Use Amounts

Table A of the annex to Decision XXVI/6 lists critical uses and amounts agreed by the Parties to the Montreal Protocol for 2016. The maximum amount of new production and import for U.S. critical uses in 2016, specified in Table B of the annex to Decision XXVI/6, is 234.78 MT, minus available stocks. This figure is equivalent to less than 1 percent of the U.S. 1991 methyl bromide consumption baseline of 25,528 MT.

EPA has determined the level of new production and import according to the Framework Rule, as modified by the 2013 Rule. Under this approach, the amount of new production for each control period equals the total amount permitted by the Parties to the Montreal Protocol in their Decisions minus any reductions for available stocks, carryover, and the uptake of alternatives. These terms (available stocks, carryover, and the uptake of alternatives) are discussed in detail below. Applying this approach, EPA is allocating allowances to exempt 140,531 kg of new production and import of methyl bromide for critical uses in 2016, making reductions for available stocks and carryover. This is the same amount EPA proposed to allocate.

Available Stocks: For 2016 the Parties indicated that the United States should use ''available stocks,'' but did not indicate a minimum amount expected to be taken from stocks. Consistent with EPA's past practice, EPA considered what amount, if any, of the existing stocks may be available to critical users during 2016. The latest data reported to EPA from December 31, 2014, show existing stocks to be 158,121 kg. This shows that 198,440 kg of pre-2005 stocks were sold in 2014.

The Parties to the Protocol recognized in their Decisions that the level of existing stocks may differ from the level of available stocks. Decision XXVI/6 states that ''production and consumption of methyl bromide for critical uses should be permitted only if methyl bromide is not available in sufficient quantity and quality from existing stocks. . . .'' In addition, the Decision states that ''parties operating under critical-use exemptions should take into account the extent to which methyl bromide is available in sufficient

quantity and quality from existing stocks. . . .'' Earlier Decisions also refer to the use of ''quantities of methyl bromide from stocks that the Party has recognized to be available.'' Thus, it is clear that individual Parties may determine their level of available stocks. Section 604(d)(6) of the CAA does not require EPA to adjust the amount of new production and import to reflect the availability of stocks; however, as explained in previous rulemakings, making such an adjustment is a reasonable exercise of EPA's discretion under this provision.

In the 2013 CUE Rule (78 FR 43797, July 22, 2013), EPA established an approach that considered whether a percentage of the existing inventory was available. In that rule, EPA took comment on whether 0% or 5% of the existing stocks was available. The final rule found 0% was available for critical use in 2013 for a number of reasons including: A pattern of significant underestimation of inventory drawdown; the increasing concentration of critical users in California while inventory remained distributed nationwide; and the recognition that the Agency cannot compel distributors to sell inventory to critical users. For further discussion, see the 2013 CUE Rule (78 FR 43802).

EPA believes that 5% of existing stocks will be available in 2016 for the two critical uses. As a result of the changes to the FIFRA labeling, methyl bromide sold or distributed in 2015 can only be used for approved critical uses or for quarantine and preshipment purposes. Except for sectors with quarantine and preshipment uses, California strawberries is the only pre-plant sector that will be able to use stocks in 2015 or 2016. EPA does not anticipate stocks to be used for quarantine and preshipment uses as there are no production allowances required to manufacture that material and it tends to be less expensive than stocks. Distributors will therefore likely make stocks available to California strawberry growers in 2015 and 2016.

While EPA has not estimated the amount of stocks that will be used in 2015, EPA believes that at least 5% of stocks will be available in 2016. As discussed in the section on carryover below, demand by California strawberry growers in 2014 for critical use methyl bromide was lower than anticipated. For the first time since 2009, not all of the critical use material produced or imported for a control period was sold. Decreased demand for critical use methyl bromide in 2014 means that unsold material already produced will be available in 2015 in addition to stocks.

Furthermore, EPA now knows the national distribution and composition of stocks (*e.g.* pure or mixed with chloropicrin) due to a recent information collection request under section 114 of the Clean Air Act. After reviewing results of the information collection request, EPA believes there is geographically accessible pure methyl bromide for ham producers in the Southeastern U.S. as well as pre-plant methyl bromide for California strawberry producers.

For these reasons, EPA finds that 5% of the existing inventory is available for use in 2016. Existing stocks, as of December 31, 2014, were equal to 158,121 kg. Therefore, EPA is reducing the amount of new production for 2016 by 7,906 kg, as proposed.

EPA specifically invited comment on whether between 0% and 5% of existing inventory will be available to critical users in 2016. EPA did not receive any comments on that specific issue but did receive a comment that it is unclear whether the information received by EPA is an accurate reflection of the existing and available stocks of methyl bromide in the United States. The commenter encouraged improved information gathering to better ensure that these stocks are being used in compliance with the FIFRA labeling and the critical use exemption.

EPA has undertaken two information gathering requests in 2015 under section 114 of the CAA. The first request was discussed in the proposed rule and sought information about the composition (*i.e.* pure vs mixed with chloropicrin), quantity, and location of stocks. The new information provided to the Agency in response to this request has enhanced EPA's understanding of existing and available stocks of methyl bromide in the United States. EPA's second request for information under section 114 of the Clean Air Act was in part a response to the misuse of methyl bromide in a residential space in the U.S. Virgin Islands and sought additional sales information from all known methyl bromide distributors. Specifically, EPA sought the names of all distributors and third party applicators of CUE, QPS, and pre-2005 stocks in 2014. EPA is currently reviewing responses to this request.

As a further response, under FIFRA, EPA is also working to implement changes to methyl bromide commodity labels in order to clarify uses and provide additional protections for workers and bystanders. EPA is also looking at how additional reporting could help ensure compliance with label requirements through EPA's Registration Review program, which evaluates pesticides on a regular basis. Information on the review of methyl bromide, along with a schedule of when the next public comment periods are anticipated, can be found on regulations.gov at docket number EPA–HQ–OPP–2013–0269.

Carryover Material: EPA regulations prohibit methyl bromide produced or imported after January 1, 2005, under the critical use exemption, from being added to the pre-2005 inventory. Quantities of methyl bromide produced, imported, exported, or sold to end-users under the critical use exemption in a control period must be reported to EPA the next year. EPA uses these reports to calculate any excess methyl bromide left over from that year's CUE and, using the framework established in the 2005 CUE Rule, reduces the following year's total allocation by that amount. Carryover had been reported to the Agency every year from 2005 to 2009. Carryover material (which is produced using critical use allowances) is not included in EPA's definition of existing inventory (which applies to pre-2005 material) because this would lead to a double-counting of carryover amounts.

In 2015, companies reported that 442,200 kg of methyl bromide was produced or imported for U.S. critical uses in 2014. Companies also reported that 355,857 kg of critical use methyl bromide was sold to end-users in 2014. EPA calculates that the carryover at the end of 2014 was 86,343 kg, which is the difference between the reported amount of critical use methyl bromide produced or imported in 2014 and the reported amount of sales of that material to end users in 2014. EPA's calculation of carryover is consistent with the method used in previous CUE rules, and with the format in Decision XVI/6 for calculating column L of the U.S. Accounting Framework. All U.S. Accounting Frameworks for critical use methyl bromide are available in the public docket for this rulemaking. EPA is therefore reducing the total level of new production and import for critical uses by 86,343 kg to reflect the amount of carryover material available at the end of 2014, in addition to the 7,906 kg reduction for available stocks discussed above.

EPA has considered the possibility that there might be methyl bromide produced in 2015 and 2016 carried over into subsequent years. Any pre-plant critical use methyl bromide carried over from the 2015 control period could not be subtracted in 2017, as would usually be done. That is because critical use material produced for a pre-plant use

must be used on a pre-plant use and the United States has not nominated a pre-plant use for 2017. Such carryover could be used in 2016 while California strawberry production is a critical use. Any pre-plant methyl bromide produced under the authority of this rule in 2016 that is not used in 2016 would have to be destroyed. EPA has discussed these matters with methyl bromide distributors, producers, and importers that reported to EPA that they have carryover material to make them aware of the need to use all pre-plant critical use methyl bromide by the end of 2016. California strawberry growers represent a large end-use with capacity to use all remaining pre-plant critical use material by the end of 2016.

EPA believes that not all 2014 carryover produced for post-harvest uses may be used by the end of 2016 given the low volume used by the ham production sector. As discussed above, EPA has accounted for 2014 post-harvest carryover in this rule and has reduced the production of new material. EPA is also working to connect dry cured ham producers with distributors that hold post-harvest carryover to help ensure that it will be used. However, EPA believes that ham producers should be allowed to continue to use carryover post-harvest critical use methyl bromide should any remain after 2016. EPA believes that hams may not have a technically or economically feasible alternative by the end of 2016 and thus will likely continue to meet the critical use criteria beyond 2016. Therefore, to provide certainty to the ham producers and to continue an orderly reduction in methyl bromide produced for critical uses, EPA will allow the continued use of post-harvest carryover for hams beyond 2016. Accordingly, EPA is not specifying a date limitation in appendix L for the approval of dry cured pork products as critical uses.

Uptake of Alternatives: EPA considers data on the availability of alternatives that it receives following submission of each nomination to UNEP. In previous rules EPA has reduced the total CUE amount when a new alternative has been registered and increased the new production amount when an alternative is withdrawn, but not above the amount permitted by the Parties. Neither circumstance has occurred since the nomination was submitted for 2016.

EPA is not making any other modifications to CUE amounts to account for availability of alternatives. Rates of transition to alternatives have already been applied for permitted 2016 critical use amounts through the nomination and authorization process. EPA continues to gather information about methyl bromide alternatives through the CUE application process, and by other means. EPA also continues to support research and adoption of methyl bromide alternatives, and to request information about the economic and technical feasibility of all existing and potential alternatives.

Allocation Amounts: EPA is issuing critical use allowances for new production or import of methyl bromide equivalent to 140,531 kg to Great Lakes Chemical Corporation, Albemarle Corporation, ICL–IP America, and TriCal, Inc in proportion to their respective baselines. Paragraph 3 of Decision XXVI/6 states that ''parties shall endeavour to license, permit, authorize or allocate quantities of methyl bromide for critical uses as listed in table A of the annex to the present decision. . . .'' This is similar to language in prior Decisions permitting critical uses. These Decisions call on Parties to endeavor to allocate critical use methyl bromide on a sector basis.

EPA is assigning the 7,906 kg reduction for available stocks and 86,343 kg reduction for carryover in proportion to the amounts indicated in Table A of the annex to Decision XXVI/6. In other words, both the pre-plant and the post-harvest allocation are reduced by 40%. Specifically, the pre-plant allocation for California strawberry production is 138,592 kg and the post-harvest allocation for dry cured ham is 1,939 kg. Reported data show that the critical use methyl bromide carried over from 2014 and the existing stocks include both pre-plant and post-harvest material.

The proposed Framework Rule contained several options for allocating critical use allowances, including a sector-by-sector approach. The Agency evaluated various options based on their economic, environmental, and practical effects. After receiving comments, EPA determined in the final Framework Rule that a lump-sum, or universal, allocation, modified to include distinct caps for pre-plant and post-harvest uses, was the most efficient and least burdensome approach that would achieve the desired environmental results, and that a sector-by-sector approach would pose significant administrative and practical difficulties. Because there is only one use in the pre-plant sector and one use in the post-harvest sector, this rule follows the breakout of specific uses in Decision XXVI/6.

Emergency Use: The U.S. government is committed to using flexibility in the Protocol's existing mechanisms as an avenue to address changes in national circumstance that affect the transition to alternatives. EPA requested comments and any new information on specific emergency situations that may necessitate the use of methyl bromide, consistent with the requirements of the Montreal Protocol, and which could be difficult to address using current tools and authorities. EPA did not receive any comments in response to this request.

E. The Criteria in Decisions IX/6 and Ex. I/4

Decision XXVI/6 calls on Parties to apply the criteria in Decision IX/6, paragraph 1 and the conditions set forth in Decision Ex. I/4 (to the extent applicable) to exempted critical uses for the 2016 control period. The following section provides references to sections of this preamble and other documents where EPA considers the criteria of those two Decisions.

Decision IX/6, paragraph 1 contains the critical use criteria, which are summarized in Section III.A of the preamble. The nomination documents detail how each critical use meets the criteria in Decision IX/6, paragraph 1 including: The lack of available technically and economically feasible alternatives under the circumstance of the nomination; efforts to minimize use and emissions of methyl bromide where technically and economically feasible; and the development of research and transition plans. The nomination documents also address the requests in Decision Ex. I/4 paragraphs 5 and 6 that Parties consider and implement MBTOC recommendations, where feasible, on actions a Party may take to reduce the critical uses of methyl bromide and include information on the methodology they use to determine economic feasibility.

A discussion of the Agency's application of the critical use criteria to the critical uses in this rule appears in Sections III.A., III.C., and III.D. of this preamble. The Agency has previously provided its interpretation of the criterion in Decision IX/6, paragraph (1)(a)(i) regarding the presence of significant market disruption in the absence of an exemption. EPA refers readers to the preamble to the 2006 CUE rule (71 FR 5989, February 6, 2006) as well as to the memo in the docket titled ''Development of 2003 Nomination for a Critical Use Exemption for Methyl Bromide for the United States of America'' for further elaboration. As explained in those documents, EPA's interpretation of this term has several dimensions, including looking at potential effects on both demand and supply for a commodity, evaluating potential losses at both an individual

level and at an aggregate level, and evaluating potential losses in both relative and absolute terms.

The United States also considered the research and adoption of alternatives when developing the National Management Strategy submitted to the Ozone Secretariat in December 2005 and updated in October 2009. The National Management Strategy addresses all of the aims specified in Decision Ex. I/4, paragraph 3 to the extent feasible and is available in the docket for this rulemaking.

F. Emissions Minimization

Previous Decisions of the Parties have stated that critical users shall employ emissions minimization techniques such as virtually impermeable films, barrier film technologies, deep shank injection and/or other techniques that promote environmental protection, whenever technically and economically feasible. EPA developed a comprehensive strategy for risk mitigation through the 2009 Reregistration Eligibility Decision (RED) [2] for methyl bromide, available in the docket to this rulemaking, which is implemented through restrictions on how methyl bromide products can be used. This approach means that methyl bromide labels require that treated sites be tarped. The RED also incorporated incentives for applicators to use high-barrier tarps, such as virtually impermeable film, by allowing smaller buffer zones around those sites. In addition to minimizing emissions, use of high-barrier tarps has the benefit of providing pest control at lower application rates. The amount of methyl bromide nominated by the United States reflects the lower application rates necessary when using high-barrier tarps.

EPA will continue to work with the U.S. Department of Agriculture—Agricultural Research Service (USDA–ARS) and the National Institute for Food and Agriculture (USDA–NIFA) to promote emissions reduction techniques. The Federal government has invested substantial resources into developing and implementing best practices for methyl bromide use, including emissions reduction practices. The Cooperative Extension System, which receives some support from USDA–NIFA, provides locally appropriate and project-focused outreach education regarding methyl bromide transition best practices. Additional information on USDA research on alternatives and emissions reduction can be found at: *http://www.ars.usda.gov/research/programs/programs.htm?NP_CODE=303, http://www.ars.usda.gov/research/programs/programs.htm?NP_CODE=304,* and *http://www.csrees.usda.gov.*

Users of methyl bromide should continue to minimize overall emissions of methyl bromide. EPA also encourages researchers and users who are using techniques to minimize emissions of methyl bromide to inform EPA of their experiences and to provide information on such techniques with their critical use applications.

G. Technical Correction to Recordkeeping and Reporting Provisions

EPA is making minor technical changes to section 82.13(y) and (z) related to recordkeeping and reporting under the quarantine and preshipment exemption. Section 82.13(y) contains a reference to paragraph (aa) where it should reference paragraph (y). Similarly, section 82.13(z) contains a reference to paragraph (bb) where it should reference paragraph (z). This merely corrects a typographical error and is not a substantive change to the recordkeeping requirements or the quarantine and preshipment exemption program.

VII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060–0482. The application, recordkeeping, and reporting requirements have already been established under previous critical use exemption rulemakings.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. Since this rule allows the use of methyl bromide for approved critical uses after the phaseout date of January 1, 2005, this action confers a benefit to users of methyl bromide. We have therefore concluded that this action will relieve regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It 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 levels of government. This action allocates allowances for the production and import of methyl bromide to private entities. This rule also limits the critical uses to geographical areas that reflect the scope of the trade associations that applied for a critical use. This rule does not impose any duties or responsibilities on state governments or allocate any rights to produce or use methyl bromide to a state government.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. This rule does not significantly or uniquely affect the communities of Indian tribal governments nor does it impose any enforceable duties on communities of Indian tribal governments. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the Agency does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in the Regulatory Impacts

[2] Additional information on risk mitigation measures for soil fumigants is available at *http://epa.gov/pesticides/reregistration/soil_fumigants/.*

Analysis and Benefits Analysis found in the docket.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. This action does not pertain to any segment of the energy production economy nor does it regulate any manner of energy use.

I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

EPA believes this action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it affects the level of environmental protection equally for all affected populations. Any ozone depletion that results from this action will result in impacts that are, in general, equally distributed across geographical regions in the United States. The impacts do not fall disproportionately on minority or low-income populations but instead vary with a wide variety of factors. Populations that work or live near fields or other application sites may benefit from the reduced amount of methyl bromide applied, as compared to amounts allowed under previous critical use exemption rules.

K. Congressional Review Act

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 rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective January 1, 2016.

List of Subjects in 40 CFR Part 82

Environmental protection, Chemicals, Exports, Imports, Ozone depletion.

Dated: October 5, 2015.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, 40 CFR part 82 is amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

■ 1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

■ 2. Amend § 82.8 by revising the table in paragraph (c)(1) to read as follows:

§ 82.8 Grant of essential use allowances and critical use allowances.

* * * * *

(c) * * *

(1) * * *

Company	2016 Critical use allowances for pre-plant uses * (kilograms)	2016 Critical use allowances for post-harvest uses * (kilograms)
Great Lakes Chemical Corp. A Chemtura Company	84,222	1,179
Albemarle Corp.	34,634	485
ICL–IP America	19,140	268
TriCal, Inc.	596	8
Total	*138,592*	*1,939*

* For production or import of Class I, Group VI controlled substance exclusively for the pre-plant or post-harvest uses specified in appendix L to this subpart.

* * * * *

■ 3. Amend § 82.13 by revising paragraphs (y) and (z) to read as follows:

§ 82.13 Recordkeeping and reporting requirements for class I controlled substances.

* * * * *

(y) Every distributor of methyl bromide (class I, Group VI controlled substances) who purchases or receives a quantity produced or imported solely for quarantine or preshipment applications under the exemptions in this subpart must comply with recordkeeping and reporting requirements specified in this paragraph (y) of this section.

(z) Every applicator of class I, Group VI controlled substances who purchases or receives a quantity produced or imported solely for quarantine and preshipment applications under the exemptions in this subpart must comply with recordkeeping and reporting requirements specified in this paragraph (z) of this section.

* * * * *

■ 4. Amend subpart A by revising appendix L to read as follows:

APPENDIX L TO SUBPART A OF PART 82—APPROVED CRITICAL USES AND LIMITING CRITICAL CONDITIONS FOR THOSE USES

Column A	Column B	Column C
Approved Critical Uses	Approved Critical User, Location of Use	Limiting Critical Conditions that exist, or that the approved critical user reasonably expects could arise without methyl bromide fumigation:
PRE–PLANT USES		
Strawberry Fruit	California growers in 2015 and 2016.	Moderate to severe black root rot or crown rot Moderate to severe yellow or purple nutsedge infestation

Column A	Column B	Column C
		Moderate to severe nematode infestation Local township limits prohibiting 1,3-dichloropropene
POST–HARVEST USES		
Dry Cured Pork Products.	Members of the National Country Ham Association and the American Association of Meat Processors, Nahunta Pork Center (North Carolina), and Gwaltney of Smithfield Inc..	Red legged ham beetle infestation Cheese/ham skipper infestation Dermestid beetle infestation Ham mite infestation

[FR Doc. 2015–26301 Filed 10–14–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 5

Designation of Health Professional(s) Shortage Areas

CFR Correction

In Title 42 of the Code of Federal Regulations, Parts 1 to 399, revised as of October 1, 2014:

1 On page 70, in Appendix A to Part 5, Part III, paragraph A is removed and Part I, paragraph A is redesignated as Part III, paragraph A; and on page 67, Part I, paragraph A is reinstated to read as follows:

APPENDIX A TO PART 5—CRITERIA FOR DESIGNATION OF AREAS HAVING SHORTAGES OF PRIMARY MEDICAL CARE PROFESSIONAL(S)

PART I—Geographic Areas

A. Criteria

A geographic area will be designated as having a shortage of primary medical care manpower if the following three criteria are met:

1. The area is a rational area for the delivery of primary medical care services.

2. One of the following conditions prevails within the area:

(a) The area has population to full-time-equivalent primary care physician ratio of at least 3,500:1.

(b) The area has a population to full-time-equivalent primary care physician ratio of less than 3,500:1 but greater than 3,000:1 and has usually high needs for primary care services or insufficient capacity of existing primary care providers.

3. Primary medical care manpower in contiguous areas are overutilized, excessively distant, or inaccessible to the population of the area under consideration.

* * * * *

2. On page 74, in Appendix B to Part 5, Part III, paragraph A is removed and Part I, paragraph A is redesignated as Part III, paragraph A; and on page 71, Part I, paragraph A is reinstated to read as follows:

APPENDIX B TO PART 5—CRITERIA FOR DESIGNATION OF AREAS HAVING SHORTAGES OD DENTAL PROFESSIONAL(S)

Part I—Geographic Areas

A. Criteria

A geographic area will be designated as having a dental manpower shortage if the following three criteria are met:

1. The area is a rational area for the delivery of dental services.

2. One of the following conditions prevails in the area:

(a) The area has a population to full-time-equivalent dentist ratio of less than 5,000:1 or

(b) The area has a population to full-time-equivalent dentist ratio of less than 5,000:1 but greater than 4,000:1 and has unusually high needs for dental services or insufficient capacity of existing dental providers.

3. Dental manpower in contiguous areas are over utilized, excessively distant, or inaccessible to the population of the area under consideration.

* * * * *

3. On page 77, in Appendix C to Part 5, Part III, paragraph A is revised to read as follows:

APPENDIX C TO PART 5—CRITERIA FOR DESIGNATION OF AREAS HAVING SHORTAGES OF MENTAL HEALTH PROFESSIONALS

Part III—Facilities

A. Federal and State Correctional Institutions

1. Criteria.

Medium to maximum security Federal and State correctional institutions and youth detention facilities will be designated as having a shortage of psychiatric manpower if both of the following criteria are met:

(a) The institution has more than 250 inmates, and

(b) The ratio of the number of internees per year to the number of FTE psychiatrists serving the institution is at least 1,000:1.

Here the number of internees is defined as follows:

(i) If the number of new inmates per year and the average length-of-stay are not specified, or if the information provided does not indicate that intake psychiatric examinations are routinely performed upon entry, then—

Number of internees=average number of inmates

(ii) If the average length-of-stay is specified as one year or more, and the intake psychiatric examinations are routinely performed upon entry, then—

Number internees=average number of inmates+number of new inmates per year

(iii) If the average length-of-stay is specified as less than one year, and intake psychiatric examinations are routinely performed upon entry, then—

Number of internees=average number of inmates+⅓×[1+(2×ALOS)]×number of new inmates per year

where ALOS=average length-of-stay (in fraction of year) (The number of FTE psychiatrists is computed as in Part I, Section B, paragraph 3 above.)

2. Determination of Degree of Shortage.

Designated correctional institutions will be assigned to degree-of-shortage groups, based on the number of inmates and/or the ration (R) of internees to FTE psychiatrists, as follows:

Group 1—Institutions with 500 or more inmates and no psychiatrist.

Group 2—Other institutions with no psychiatrists and institutions with R greater than (or equal to) 3,000:1.

Group 3—Institutions with R greater than (or equal to) 2,000:1 but less than 3,000:1.

[FR Doc. 2015–26249 Filed 10–14–15; 8:45 am]

BILLING CODE 1505–01–D

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1827 and 1852

NASA Federal Acquisition Regulation Supplement

AGENCY: National Aeronautics and Space Administration.

ACTION: Technical amendments.

SUMMARY: NASA is making technical amendments to the NASA FAR Supplement (NFS) to provide needed editorial changes.

DATES: *Effective:* October 15, 2015.

FOR FURTHER INFORMATION CONTACT: Manuel Quinones, NASA, Office of Procurement, Contract and Grant Policy

Division, via email at *manuel.quinones@nasa.gov,* or telephone (202) 358–2143.

SUPPLEMENTARY INFORMATION:

I. Background

As part NASA's retrospective review of existing regulations pursuant to section 6 of Executive Order 13563, Improving Regulation and Regulatory Review, NASA conducted a comprehensive review of it regulations and published two final rules in the **Federal Register** (80 FR 12935 and 80 FR 36719) on March 12, 2015, and June 26, 2015, respectively. As published, these rules contain errors due to inadvertent omission of affected clause dates and other errors that need to be corrected. A summary of changes follows:

• Section 1827.409 is revised to reinsert clause prescription paragraphs 1827.409(g), (i), and (k), which were inadvertently omitted from the rule published on March 12, 2015 (80 FR 12935).

• Sections 1852.203–71, 1852.204–76, 1852.215–77, 1852.216–90, 1852.225–8, 1852.227–17, 1852.227–19, 1852.227–88, 1852.237–72, and 1852.237–73 are revised to correct clause dates and/or clause titles.

List of Subject in 48 CFR Parts 1827 and 1852

Government procurement.

Manuel Quinones,

NASA FAR Supplement Manager.

Accordingly, 48 CFR parts 1827 and 1852 are amended as follows:

PART 1827—PATENTS, DATA, AND COPYRIGHTS

■ 1. The authority citation for part 1827 is revised to read as follows:

Authority: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

■ 2. Amend section 1827.409 by adding paragraphs (g), (i), and (k) to read as follows:

1827.409 Solicitation provisions and contract clauses.

* * * * *

(g) The contracting officer shall use the clause at 1852.227–86, Commercial Computer Software License, in lieu of FAR 52.227–19, Commercial Computer Software License, when it is considered appropriate for the acquisition of existing computer software.

* * * * *

(i) The contract officer shall modify the clause at FAR 52.227–17, Rights in Data—Special Works by adding paragraph (f) as set forth in 1852.227–17.

(k)(i) The contracting officer shall add paragraph (e) as set forth in 1852.227–19(a) to the clause at FAR 52.227–19, Commercial Computer Software License, when it is contemplated that updates, correction notices, consultation information, and other similar items of information relating to commercial computer software delivered under a purchase order or contract are available and their receipt can be facilitated by signing a vendor supplied agreement, registration forms, or cards and returning them directly to the vendor.

(ii) The contracting officer shall add paragraph (f) as set forth at 1852.227–19(b) to the clause at FAR 52.227–19, Commercial Computer Software License, when portions of a contractor's standard commercial license or lease agreement consistent with the clause, Federal laws, standard industry practices, and the FAR are to be incorporated into the purchase order or contract.

* * * * *

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. The authority citation for part 1852 continues to read as follows:

Authority: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

1852.203–71 [Amended]

■ 4. Amend section 1852.203–71 by removing ''AUGUST 2014'' and adding ''AUG 2014'' in its place.

1852.204–76 [Amended]

■ 5. Amend section 1852.204–76 by removing ''MONTH YEAR'' and adding ''JAN 2011'' in its place.

1852.215–77 [Amended]

■ 6. Amend section 1852.215–77 by removing ''DEC 1988'' and adding ''APR 2015'' in its place.

1852.216–90 [Amended]

■ 7. Amend section 1852.216–90 by removing ''AUGUST 2014'' and adding ''AUG 2014'' in its place.

1852.225–8 [Amended]

■ 8. Amend the section heading of 1852.225–8 by removing ''Duty-free entry of space articles'' and adding ''Duty-free entry of space articles (FEB 2000)'' in its place.

1852.227–17 [Amended]

■ 9. Amend the section heading of 1852.227–17 by removing ''Rights in data—Special works'' and adding ''Rights in data—Special works (JUL 1997)'' in its place.

1852.227–19 [Amended]

■ 10. Amend the section heading of 1852.227–19 by removing ''Commercial computer software—Restricted rights'' and adding ''Commercial computer software—Restricted rights (JUL 1997)'' in its place.

1852.227–88 [Amended]

■ 11. Amend section 1852.227–88 by adding a clause title and date immediately following the introductory text to read as follows:

1852.227–88 Government-furnished computer software and related technical data.

* * * * *

GOVERNMENT–FURNISHED COMPUTER SOFTWARE AND RELATED TECHNICAL DATA (APR 2015)

* * * * *

1852.237–72 [Amended]

■ 12. Amend section 1852.237–72 by removing ''JUNE 2005'' and adding ''JUN 2005'' in its place.

1852.237–73 [Amended]

■ 13. Amend section 1852.237–73 by removing ''JUNE 2005'' and adding ''JUN 2005'' in its place.

[FR Doc. 2015–26255 Filed 10–14–15; 8:45 am]

BILLING CODE 7510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 111220786–1781–01]

RIN 0648–XE241

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Available for the Commonwealth of Massachusetts

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule.

SUMMARY: NMFS announces that the 2015 summer flounder commercial fishery within the Commonwealth of Massachusetts is reopening to allow permitted vessels to fully harvest remaining commercial summer flounder quota as of October 12, 2015.

Regulations governing the summer flounder fishery require publication of this rule to advise Massachusetts that quota remains available to be landed, and to inform Federal vessel and dealer permit holders that Federal commercial summer flounder quota is available for landing in Massachusetts.

DATES: Effective 0001 hours October 12, 2015, through December 31, 2015.

FOR FURTHER INFORMATION CONTACT: Reid Lichwell, (978) 281–9112, or *Reid.Lichwell@noaa.gov.*

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned on a percentage basis among the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.103(b).

The total commercial quota for summer flounder for the 2015 fishing year is 11,069,410 lb (5,020,999 kg) (79 FR 78311, December 30, 2014). The percent allocated to vessels landing summer flounder in Massachusetts is 6.82046 percent, resulting in a commercial quota of 754,985 lb (342,455 kg). The 2015 Massachusetts allocation was adjusted to 760,785 lb (340,165 kg) to reflect the 2014 quota overages and the transfer of quota from other states. On September 17, 2015, NMFS closed the 2015 commercial summer flounder fishery in Massachusetts based on up-to-date catch information. Analysis after the closure indicates that 16,294 lb (7,390 kg) of the760,785 lb (340,165 kg) of Massachusetts commercial summer flounder quota remains unharvested. Therefore, we are reopening the Federal fishery concurrent with the Massachusetts action to open state waters to allow for full utilization of the 2015 Massachusetts commercial summer flounder quota.

The Administrator, Northeast Region, NMFS (Regional Administrator), has determined that there is still commercial summer flounder quota available for harvest in Massachusetts. NMFS is required to publish notification in the **Federal Register** advising and notifying commercial vessels and dealer permit holders that, effective upon a specific date, the commercial fishery will re-open.

Therefore, effective 0001 hours October 12, 2015, vessels holding summer flounder commercial Federal fisheries permits can again land summer flounder in Massachusetts until the commercial state quota is fully harvested. Effective 0001 hours October 12, 2015, federally permitted dealers can also purchase summer flounder from federally permitted vessels that land in Massachusetts until the commercial state quota is fully harvested.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest. This action reopens the summer flounder fishery for Massachusetts until the state commercial summer flounder quota is fully harvested, under current regulations. If implementation of this reopening were delayed to solicit prior public comment, the quota for this fishing year would not be fully harvested, thereby undermining the conservation objectives of the Summer Flounder Fishery Management Plan. The AA further finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reason stated above.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 8, 2015.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2015–26227 Filed 10–9–15; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 80, No. 199
Thursday, October 15, 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 ENERGY

10 CFR Part 430

[Docket Number EERE–2015–BT–STD–0008]

RIN 1904–AD52

Appliance Standards and Rulemaking Federal Advisory Committee: Notice of Open Meetings for the Dedicated Purpose Pool Pumps (DPPP) Working Group To Negotiate a Notice of Proposed Rulemaking (NOPR) for Energy Conservation Standards

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of public meetings.

SUMMARY: The Department of Energy (DOE) announces public meetings and webinars for the DPPP Working Group. The Federal Advisory Committee Act requires that agencies publish notice of an advisory committee meeting in the **Federal Register**.

DATES: See **SUPPLEMENTARY INFORMATION** section for meeting dates.

ADDRESSES: The meetings will be held at U.S. Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue SW., Washington, DC 20585 unless otherwise stated in the **SUPPLEMENTARY INFORMATION** section.

Individuals will also have the opportunity to participate by webinar. To register for the webinars and receive call-in information, please register at DOE's Web site *https://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/14.*

FOR FURTHER INFORMATION CONTACT:

Mr. John Cymbalsky, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1692. Email: *asrac@ee.doe.gov.*

Ms. Johanna Hariharan, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–9496. Email: *Johanna.Hariharan@Hq.Doe.Gov.*

SUPPLEMENTARY INFORMATION: DOE will host public meetings and webinars on the below dates. Meetings will be hosted at DOE's Forrestal Building, unless otherwise stated.

- October 19, 2015; 9:00 a.m. to 5:00 p.m. EDT
- October 20, 2015; 8:00 a.m. to 3:00 p.m. EDT
- November 12, 2015; 9:00 a.m. to 5:00 p.m. PST; Federal Mediation & Conciliation Services, 110 City Parkway, Suite 300, Las Vegas, NV 89106
- November 13, 2015; 8:00 a.m. to 3:00 p.m. PST; Federal Mediation & Conciliation Services, 110 City Parkway, Suite 300, Las Vegas, NV 89106
- December 7, 2015; 9:00 a.m. to 5:00 p.m. EST
- December 8, 2015; 8:00 a.m. to 3:00 p.m. EST

Members of the public are welcome to observe the business of the meeting and, if time allows, may make oral statements during the specified period for public comment. To attend the meeting and/or to make oral statements regarding any of the items on the agenda, email *asrac@ee.doe.gov* . In the email, please indicate your name, organization (if appropriate), citizenship, and contact information. Please note that foreign nationals participating in the public meeting are subject to advance security screening procedures which require advance notice prior to attendance at the public meeting. If you are a foreign national, and wish to participate in the public meeting, please inform DOE as soon as possible by contacting Ms. Regina Washington at (202) 586–1214 or by email: *Regina.Washington@ee.doe.gov* so that the necessary procedures can be completed. Anyone attending the meeting will be required to present a government photo identification, such as a passport, driver's license, or government identification. Due to the required security screening upon entry, individuals attending should arrive early to allow for the extra time needed.

Due to the REAL ID Act implemented by the Department of Homeland Security (DHS) recent changes have been made regarding ID requirements for individuals wishing to enter Federal buildings from specific states and U.S. territories. Driver's licenses from the following states or territory will not be accepted for building entry and one of the alternate forms of ID listed below will be required.

DHS has determined that regular driver's licenses (and ID cards) from the following jurisdictions are not acceptable for entry into DOE facilities: Alaska, Louisiana, New York, American Samoa, Maine, Oklahoma, Arizona, Massachusetts, Washington, and Minnesota.

Acceptable alternate forms of Photo-ID include: U.S. Passport or Passport Card; an Enhanced Driver's License or Enhanced ID-Card issued by the states of Minnesota, New York or Washington (Enhanced licenses issued by these states are clearly marked Enhanced or Enhanced Driver's License); A military ID or other Federal government issued Photo-ID card.

This notice is being published less than 15 days prior to the first set of meeting dates due to logistical issues that had to be resolved prior to the meeting date.

Docket: The docket is available for review at *www.regulations.gov,* including **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

Issued in Washington, DC, on October 7, 2015.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2015–26298 Filed 10–14–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 188

[Docket ID: DOD–2013–OS–0230]

RIN 0790–AJ16

DoD Environmental Laboratory Accreditation Program (ELAP)

AGENCY: Under Secretary of Defense for Acquisition, Technology, and Logistics, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish policy, assign responsibilities, and provide procedures to be used by DoD personnel for the operation and management of the DoD ELAP. The DoD ELAP provides a unified DoD program through which commercial environmental laboratories can voluntarily demonstrate competency and document conformance to the international quality systems standards as they are implemented by DoD.

DATES: Comments must be received by December 14, 2015.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

Instructions: All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Edmund Miller, 571–372–6904.

SUPPLEMENTARY INFORMATION:

Executive Summary

The purpose of this regulatory action is to document the procedures for the operation and management of the DoD Environmental Laboratory Accreditation Program (ELAP). The legal authority for the regulatory action is Section 515, Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554), which directed the Office of Management and Budget (OMB) to issue government-wide guidelines that ''provide policy and procedural guidance to Federal Agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal Agencies.'' OMB guidelines, provided by FR Volume 67, Number 36, page 8452 (February 22, 2002) required federal agencies to maintain a basic standard of quality and take appropriate steps to incorporate information quality criteria into DoD public information dissemination practices. The guidance further provided that DoD Components shall adopt standards of quality that are appropriate to the nature and timeliness of the information they disseminate. The DoD ELAP provides the standards for ensuring the quality, objectivity, utility, and integrity of definitive environmental testing data disseminated by DoD for the Defense Environmental Restoration Program (DERP).

This rule includes a general overview of DoD ELAP and establishment of standard operating procedures. It utilizes the baseline quality systems requirements of The NELAC Institute (TNI) and ISO/IEC 17025 standards, but alone neither of these standards meet the testing and analysis needs for DERP. Therefore the DoD Quality Systems Manual (QSM) for environmental laboratories serves as the standard for DoD ELAP accreditation. The QSM contains the minimum requirements DoD considers essential to ensure the generation of definitive environmental data of know quality, appropriate for their intended uses. These minimal needs are not met by TNI or ISO 17025 standards alone. The DoD ELAP includes procedures on how to evaluate and recognize 3rd party accreditation bodies; perform and document government oversight of the DoD ELAP to ensure ongoing compliance with program requirements and to identify opportunities for continual improvement; conduct project-specific laboratory approvals for specific tests not addressed in the DoD ELAP; and handle specific complaints concerning the processes established by the DoD ELAP or the QSM.

Past DoD laboratory assessment programs were specific to each DoD Component and limited to available resources. This created an overlap in assessments and fewer opportunities for laboratories to participate on DoD contracts. This rule proposes to establish a program to allow qualified laboratories to received third-party accreditation and become eligible to provide environmental sampling and testing services for DoD. It will be a voluntary program open to any qualified laboratories wishing to participate, thereby promoting fair and open competition among commercial laboratories.

Since laboratories fund their own participation in the accreditation process, it will allow DoD to focus its resources on providing oversight of laboratory contracts. By proposing to replace separate DoD Component-specific laboratory approval programs, The DoD ELAP will eliminate redundant assessments, promote interoperability across the Department, streamline the process for DoD to identify and procure competent providers of environmental laboratory services, and provide more opportunities for commercial laboratories to participate in DoD environmental sampling and testing contracts.

The scope of accreditation under ELAP includes specific laboratory services such as the test methods used, type of material tested (soil, water, etc.), and type of contaminants measured. The evaluation of a test method also includes the use of internal laboratory standard operating procedures.

Regulatory Procedures

Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a ''significant regulatory action,'' but not an economically significant action because it does not: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by

another Agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in these Executive Orders.

Sec. 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4) requires agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2014, that threshold is approximately $141 million. This rule will not mandate any requirements for State, local, or tribal governments, nor will it affect private sector costs.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

The Department of Defense does not expect this proposed rule would have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601, *et. seq.*). The rule establishes a policy to provide a unified DoD program for commercial environmental laboratories to voluntarily demonstrate competency and document conformance to the international quality system standards already implemented by DoD. The Department's experience with these laboratories indicates that the professional skill and technical requirements of the accreditation program limits the numbers of entities that are likely to be impacted by this rule to approximately 100 entities. Therefore, the Regulatory Flexibility Act, as amended, does not require that DoD prepare a regulatory flexibility analysis.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been certified that 32 CFR part 188 does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. The requirements in this rule do not require OMB approval under the Paperwork Reduction Act as the information is collected by the four accreditation bodies and not the Department. These accreditation bodies accredit the laboratories to meet DoD standards for environmental sampling and testing.

Executive Order 13132, ''Federalism''

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This rule will not have a substantial effect on State and local governments.

List of Subjects in 32 CFR Part 188

Environmental Laboratory Accreditation Program, Oversight.

Accordingly, 32 CFR part 188 is proposed to be added to read as follows:

PART 188—DOD ENVIRONMENTAL LABORATORY ACCREDITATION PROGRAM (ELAP)

Sec.

Authority: 15 U.S.C. 3701, Public Law 106–554.

§ 188.1 Purpose.

This part implements policy, assigns responsibilities, and provides procedures to be used by DoD personnel for the operation and management of the DoD ELAP.

§ 188.2 Applicability.

This part applies to Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this part as the ''DoD Components'').

§ 188.3 Definitions.

Unless otherwise noted, these terms and their definitions are for the purposes of this part.

Accreditation. Third-party attestation conveying formal demonstration of a laboratory's competence to carry out specific tasks.

Accreditation body (AB). Authoritative organization that performs accreditation.

Assessment. Process undertaken by an AB to evaluate the competence of a laboratory, based on requirements contained in the DoD Quality Systems Manual for Environmental Laboratories (QSM), for a defined scope of accreditation.

Change. A reissuance of the DoD QSM containing minor changes to requirements or clarifications of existing requirements necessary to ensure consistent implementation.

Complaint. Defined in International Organization for Standardization/International Electrotechnical Commission (ISO/IEC) 17025:2005, ''General Requirements for the Competence of Testing and Calibration Laboratories'' (available for purchase at *http://www.iso.org/iso/store.htm*).

Contractor project chemist. Defined in Under Secretary of Defense for Acquisition, Technology, and Logistics Memorandum, ''Acquisitions Involving Environmental Sampling or Testing Services'' (available at *http://www.acq.osd.mil/dpap/dars/dfars/changenotice/2008/20080303/223.7.pdf*).

Corrective action response. Description, prepared by the laboratory, of specific actions to be taken to correct a deficiency and prevent its reoccurrence.

Deficiency. An unauthorized deviation from requirements.

Definitive data. Defined in DoD Instruction 4715.15, ''Environmental Quality Systems'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/471515p.pdf*).

Environmental Data Quality Workgroup (EDQW) component principal. A voting member of the DoD EDQW.

Errata sheet. A document prepared by the EDQW and issued by the EDQW chair, defining minor ''pen and ink'' changes that apply to the most recently issued version of the DoD QSM. Errata will be corrected in the next change or revision of the DoD QSM.

Government chemist. Defined in USD(AT&L) Memorandum, ''Acquisitions Involving Environmental Sampling or Testing Services.''

Government oversight. The set of activities performed by or on behalf of the DoD EDQW to provide assurance that ABs and assessors are providing thorough, consistent, objective, and impartial assessments within the specified scopes of accreditation and to identify opportunities for continual improvement of the DoD QSM and DoD ELAP.

International Laboratory Accreditation Cooperation (ILAC) mutual recognition arrangement (MRA). An arrangement through which ABs are evaluated and accepted by their peers for conformance to ILAC rules and procedures. To be accepted into the ILAC MRA, the AB must become a signatory to its requirements; specifically, it must commit to maintain

conformance with the current version of Deputy Secretary of Defense Memorandum, ''Ensuring Quality of Information Disseminated to the Public by the Department of Defense'') and ensure that the laboratories it accredits comply with ISO/IEC 17025:2005.

ILAC MRA peer evaluation. The process through which ABs are assessed by other ABs and receive or maintain acceptance into the ILAC MRA.

Project-specific laboratory approval. The set of activities undertaken by the DoD EDQW to assess whether a laboratory is competent to perform specific tests, in the case where no DoD–ELAP accredited laboratory is able to perform the required tests.

Quality system. Defined in ISO/IEC 17025:2005.

Recognition. The acceptance of an AB by the EDQW based on its demonstrated commitment to maintain signatory status in the ILAC MRA and accept the DoD ELAP conditions and criteria for recognition.

Revision. A reissuance of the DoD QSM containing significant changes in requirements or scope. A significant change is one that could reasonably be expected to affect a laboratory's ability to comply with the requirement (*i.e.,* the laboratory is likely to have to make a change in its quality system or technical procedures in order to maintain compliance).

Scope of accreditation. Specific laboratory services, stated in terms of test method, matrix, and analyte, for which accreditation is sought or has been granted.

§ 188.4 Policy.

It is DoD policy, in accordance with DoD Instruction 4715.15, to implement the DoD ELAP for the collection of definitive data in support of the Defense Environmental Restoration Program (DERP) at all DoD operations, activities, and installations, including government-owned, contractor-operated facilities and formerly used defense sites.

§ 188.5 Responsibilities.

(a) *Secretaries of the Military Departments and Director, Defense Logistics Agency (DLA).* The Director, DLA, is under the authority, direction, and control of the USD(AT&L), through the Assistant Secretary of Defense for Logistics and Materiel Readiness. The Secretaries of the Military Departments and Director, DLA:

(1) Provide resources to support project-specific government oversight for the collection of definitive data in support of the DERP.

(2) Provide resources to support project-specific laboratory approvals, if required.

(b) *Secretary of the Navy.* In addition to the responsibilities in paragraph (a) of this section, the Secretary of the Navy plans, programs, and budgets for DoD EDQW activities necessary to support government oversight of the DoD ELAP.

§ 188.6 Procedures.

(a) *DoD ELAP Overview*—(1) *Introduction.* (i) DoD ELAP provides a unified DoD program through which commercial environmental laboratories can voluntarily demonstrate competency and document conformance to the international standard established in ISO/IEC 17025:2005 as implemented by the Deputy Under Secretary of Defense for Environmental Security Memorandum, ''DoD Quality Systems Manual for Environmental Laboratories'' (available at *http://www.denix.osd.mil/edqw/upload/QSM-V4-2-Final-102510.pdf*) (referred to in this part as the ''DoD Quality Systems Manual for Environmental Laboratories (QSM)''). The DoD QSM provides minimum quality systems requirements, based on ISO/IEC 17025:2005, for environmental laboratories performing testing for DoD.

(ii) DoD ELAP was developed in compliance with 15 U.S.C. 3701 (also known as the ''National Technology Transfer and Advancement Act''). Support and guidance was provided by the National Institute of Standards and Technology, following procedures used to establish similar programs for other areas of testing. The DoD ELAP supports implementation of section 515 of Public Law 106–554, ''Treasury and General Government Appropriations Act, 2001'' and Office of Management and Budget Guidance, ''Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies'' (67 FR 8452) as implemented by Deputy Secretary of Defense Memorandum, ''Ensuring Quality of Information Disseminated to the Public by the Department of Defense.''

(iii) Using third party ABs operating in accordance with the international standard ISO/IEC 17011:2004(E), ''Conformity Assessment—General Requirements for Accreditation Bodies Accrediting Conformity Assessment Bodies'' (available for purchase at *http://www.iso.org/iso/store.htm*), the DoD ELAP:

(A) Promotes interoperability among the DoD Components.

(B) Promotes fair and open competition among commercial laboratories.

(C) Streamlines the process for identifying and procuring competent providers of environmental laboratory services.

(D) Promotes the collection of data of known and documented quality.

(2) *Authority.* Operation of the DoD ELAP is authorized by DoD Instruction 4715.15.

(3) *Program Requirements.* (i) Pursuant to DoD Instruction 4715.15, laboratories seeking to perform testing in support of the DERP must be accredited in accordance with DoD ELAP.

(ii) The DoD ELAP applies to:

(A) Environmental programs at DoD operations, activities, and installations, including government-owned, contractor-operated facilities and formerly used defense sites.

(B) Permanent, temporary, and mobile laboratories regardless of their size, volume of business, or field of accreditation that generate definitive data.

(iii) Participation in the program is voluntary and open to all laboratories that operate under a quality system conforming to ISO/IEC 17025:2005 and Deputy Under Secretary of Defense for Environmental Security Memorandum, ''DoD Quality Systems Manual for Environmental Laboratories.'' Laboratories may seek accreditation for any method they perform in accordance with documented procedures, including non-standard methods. Laboratories are free to select any participating AB for accreditation services.

(iv) To participate in DoD ELAP, ABs must be U.S.-based signatories to the ILAC MRA and must operate in accordance with ISO/IEC 17011:2004(E).

(4) *Program Oversight.* In accordance with Assistant Deputy Under Secretary of Defense for Installations and Environment Memorandum, ''DoD Environmental Data Quality Workgroup Charter'' (available at *http://www.denix.osd.mil/edqw/upload/USA004743-10-Signed-Memo-to-DASs-DLA-DoD-Envir-Data-Quality-Workgroup-Charter-1Oct10-1.pdf*), the DoD EDQW:

(i) Provides coordinated responses to legislative and regulatory initiatives.

(ii) Responds to requests for DoD Component information.

(iii) Develops and recommends department-wide policy related to sampling, testing, and quality assurance for environmental programs.

(iv) Implements and provides oversight for the DoD ELAP.

(v) Includes technical experts from the Military Services and DLA as well as an EDQW component principal

(voting) member from each of the Military Services.

(vi) Specifies the EDQW Navy principal, Director of Naval Sea Systems Command (NAVSEASYSCOM) 04XQ(LABS), serve as EDQW chair.

(b) *Maintaining the DoD QSM*—(1) *General.* The DoD EDQW will maintain and improve the DoD QSM to ensure that:

(i) The DoD QSM remains current in accordance with ISO/IEC 17025:2005.

(ii) Minimum essential requirements are met.

(iii) Requirements are clear, concise, and auditable.

(iv) The DoD QSM will efficiently and effectively support the DoD ELAP.

(2) *Procedures.*—(i) *Annual Review.* At a minimum, the DoD EDQW will perform an annual review of the DoD QSM, based on feedback received from participants in DoD ELAP (*e.g.,* DoD Components, commercial laboratories, and ABs). The review will also address any revisions to ISO/IEC 17025:2005.

(ii) *Ongoing Review.* As received, the DoD EDQW will respond to questions submitted through the Defense Environmental Network Information Exchange (DENIX) concerning the interpretation of DoD QSM requirements. DoD EDQW participants will forward all questions through their EDQW component principal to the DoD EDQW chair.

(iii) *Issuances.* The DoD EDQW chair will prepare DoD QSM updates:

(A) *Correspondence.* The DoD EDQW chair, in consultation with the EDQW component principals, will prepare correspondence (email or memorandum) providing responses to all written requests for clarification and interpretation of the DoD QSM. Depending on the significance of the issue, as determined by the EDQW chair, the response may also result in a posting to the frequently asked question (FAQ) section of the appropriate Web sites.

(B) *Errata Sheets.* Minor corrections to the DoD QSM, such as typographical errors, may be made by the issuance of an errata sheet defining ''pen and ink'' changes that apply to the current version of the DoD QSM. Following concurrence by all EDQW component principals, errata sheets will be issued as needed by the DoD EDQW chair. Errata will be corrected in the next change or revision to the DoD QSM.

(C) *Changes.* Changes to the DoD QSM will be issued as necessary to reflect minor changes to requirements or clarifications of existing requirements that are necessary to ensure consistent implementation. Following concurrence by the EDQW component principals, changes will be issued by the DoD EDQW chair in the form of a complete DoD QSM.

(*1*) The first change to DoD QSM Version 4 will be numbered Version 4.1, the second change will be Version 4.2, etc.

(*2*) Changes to the DoD QSM will be posted on DENIX in place of the previous version or change of the DoD QSM.

(D) *Revisions.* A revision will be issued if one or more of the proposed changes could reasonably be expected to affect a laboratory's ability to comply with the requirement (*i.e.,* the laboratory is likely to have to make a change in its quality system or technical procedures).

(*1*) Once EDQW component principals have reached consensus on the proposed revision, the DoD EDQW chair will forward the proposed revision to all participating DoD ELAP-accredited laboratories and ABs for review.

(*2*) The DoD EDQW will review and respond to comments received from the DoD ELAP-accredited laboratories and ABs within the designated comment period.

(*3*) Following concurrence by the EDQW component principals, revisions will be issued by the DoD EDQW chair in the form of a complete DoD QSM.

(*4*) A revision of Version 4 will be issued as Version 5, a revision of Version 5 will be issued as Version 6, etc.

(*5*) The final revised version of the DoD QSM will be posted on DENIX in place of the previous version including any DoD QSM updates.

(3) *Continual Improvement.* The DoD EDQW will meet with the ABs on an annual basis to review lessons learned and identify additional opportunities for continual improvement of the DoD ELAP and the DoD QSM.

(4) *Data and Records Management.* Through NAVSEASYSCOM, the DoD EDQW will maintain all DoD QSM updates in accordance with Secretary of the Navy Manual M–5210.1, ''Department of the Navy Records Management Program: Records Management Manual'' (available at *http://doni.daps.dla.mil/SECNAV%20Manuals1/5210.1.pdf*).

(c) *Recognizing ABs.*—(1) *General.* (i) The DoD EDQW will:

(A) Use the procedures in this paragraph to evaluate and recognize third-party ABs in support of the DoD ELAP.

(B) Develop and maintain the application for recognition, the conditions and criteria for recognition and related forms, and review submitted AB applications for completeness and compliance with DoD ELAP requirements.

(ii) The DoD EDQW chair, following consultation with and concurrence by the EDQW component principals, grants or revokes AB recognition in accordance with this paragraph.

(2) *Limitations.* Candidate ABs must be U.S.-based signatories in good standing to the ILAC MRA. ABs must maintain ILAC recognition to maintain DoD ELAP recognition. Because the EDQW continually monitors AB performance, no pre-defined limits are placed on the duration of recognition; however, the EDQW may revoke recognition at any time, for cause, in accordance with paragraph (c)(3)(vii) of this section.

(3) *Procedures.*

(i) Upon receipt of an application for recognition, the DoD EDQW will review the application package for completeness. A complete application package must include:

(A) Application for recognition.

(B) Signed acceptance of the conditions and criteria for DoD ELAP recognition.

(C) Electronic copy of the AB's quality systems documentation.

(D) Copy of the most recent ILAC MRA peer evaluation documentation.

(ii) If necessary to complete the review, the DoD EDQW will request additional documentation from the applicant.

(iii) The EDQW component principals will review the application package for compliance with requirements. Prior to granting recognition, the EDQW component principals must unanimously concur that all application requirements have been met.

(iv) Once the EDQW component principals have completed review of the application package, the DoD EDQW chair will notify the AB, either granting recognition or citing specific reasons for not doing so (*i.e.,* indicating which areas of the application package are deficient).

(v) Once recognition has been granted, the DoD EDQW chair will post the name and contact information of the AB on DENIX.

(vi) With unanimous concurrence, the EDQW component principals may revoke recognition if the AB:

(A) Violates any of the conditions or criteria for recognition.

(B) Fails to operate in accordance with its documented quality system.

(vii) Should it become necessary to revoke an AB's recognition, the DoD EDQW chair will notify the AB stating specific reasons for the revocation and remove the AB's name from the list of DoD ELAP-recognized ABs.

(viii) If recognition is revoked, the AB must immediately cease to perform all DoD ELAP assessments.

(ix) ABs who have been denied recognition, or ABs whose recognition has been revoked, may appeal that decision.

(A) Within 15 calendar days of its receipt of a notice denying or revoking recognition, the AB must submit to the DoD EDQW chair a written statement with supporting documentation contesting the denial or revocation.

(B) The submission must demonstrate that:

(*1*) Clear, factual errors were made by the DoD EDQW during the review of the AB's application for recognition; or

(*2*) The decision to revoke recognition was based on clear, factual errors, and that the AB would have been determined to meet all requirements for recognition if those errors had been corrected.

(x) The DoD EDQW will have up to 30 calendar days to review the appeal and provide written notice to the AB either accepting the appeal and granting, or restoring, recognition, or explaining the basis for denying the appeal.

(4) *Continual Improvement.* The DoD EDQW will meet with ABs on an annual basis to review lessons learned and identify additional opportunities for continual improvement of the DoD ELAP. On a 5-year cycle, at minimum, the DoD EDQW will evaluate whether the process for evaluating and recognizing ABs is continuing to meet DoD needs.

(5) *Data and Records Management.* Through NAVSEASYSCOM, the DoD EDQW, will maintain copies of all application packages and associated documentation in accordance with Secretary of the Navy Manual M–5210.1.

(d) *Performing Government Oversight*—(1) *General.* DoD personnel will use the procedures in this paragraph to perform and document government oversight of the DoD ELAP. Government oversight will include monitoring the performance of AB assessors during laboratory assessments, reviewing laboratory assessment reports, observing ILAC MRA peer evaluations, and evaluating AB Web sites for content on accredited laboratories.

(2) *Limitations.* (i) DoD personnel performing oversight must observe, but must not participate in, laboratory assessments or ILAC MRA peer evaluations. Specifically, DoD personnel must not:

(A) Offer specific advice to the laboratory regarding the development or implementation of quality systems or technical procedures;

(B) Offer specific advice or direction to assessors or peer evaluators regarding accreditation processes, assessment procedures, or documentation of findings; or

(C) Impede assessors, peer reviewers, or laboratory personnel in any way during the performance of their work, including technical procedures, document reviews, observations, interviews, and meetings.

(ii) If, during the course of an assessment, questions by laboratory personnel or assessors are directed to DoD personnel, personnel must limit responses to specific text from the DoD QSM or published FAQs. DoD personnel must not render opinions regarding interpretation of the DoD QSM. If there are questions about the DoD QSM that require interpretation, DoD personnel must advise the assessor to contact the AB who may, if necessary, contact the DoD EDQW chair for a coordinated response.

(iii) If DoD personnel observe any evidence of inappropriate practices on the part of assessors or laboratory personnel during the course of the assessment, they must record the observations and notify the DoD EDQW chair immediately (inappropriate practices are identified in the DoD QSM). DoD personnel must not call either the laboratory's or the assessor's attention to the specific practice in question.

(3) *Personnel Qualifications.* DoD personnel or contractors performing oversight must:

(i) Meet the government chemist or contractor project chemist requirements contained in the USD(AT&L) Memorandum, ''Acquisitions Involving Environmental Sampling or Testing Services.''

(ii) Have a working knowledge of the DoD QSM requirements and be familiar with environmental test methods and instrumentation.

(iii) Obey all laboratory instructions regarding health and safety precautions while in the laboratory.

(4) *Procedures.* (i) The DoD EDQW will maintain an up-to-date calendar of scheduled assessments and peer evaluations based on input from the ABs, peer evaluators, and assigned oversight personnel.

(ii) Once an assessment or peer review has been scheduled, the EDQW component principals will determine if DoD oversight of the activity will be performed. The goal will be to observe a representative number of activities for each AB.

(iii) The EDQW component principals will provide the DoD EDQW chair the names of personnel from their respective DoD Components who will participate in the oversight.

(iv) The DoD EDQW chair will provide the AB with contact information for the oversight personnel.

(v) If two or more DoD personnel are scheduled to monitor the assessment, the DoD EDQW chair will designate a lead that will be responsible for compiling an oversight report.

(vi) The lead for the oversight activity will request a copy of the assessment plan from the AB's lead assessor and distribute it to other oversight personnel.

(vii) The lead will review the assessment plan to determine the scope of accreditation and ensure that oversight personnel are assigned to monitor a cross-section of the assessment.

(viii) Persons performing oversight will review previous oversight reports, if available, for the particular AB and assessors performing the assessment.

(ix) Observing all health and safety protective measures, oversight personnel must accompany the assessor(s) as they witness procedures and conduct interviews, taking care not to interfere with the assessment.

(5) *Reporting.* Within 15 calendar days of the onsite assessment, the lead for the oversight activity will complete an oversight report and forward the completed report through the appropriate EDQW component principal to the DoD EDQW chair.

(i) The DoD EDQW chair will provide copies of the report to the EDQW component principals for review.

(ii) After review by the EDQW component principals, the DoD EDQW chair will provide a summary of the oversight report to the AB performing the assessment.

(6) *Handling Disputes.* Laboratories must follow the AB's dispute resolution process for all disputes concerning the assessment or accreditation of the laboratory, including disagreements involving an interpretation of the DoD QSM arising during the accreditation process.

(i) In the event the laboratory and the AB are unable to resolve a disagreement concerning the interpretation of the DoD QSM, either the laboratory or the AB may request the DoD EDQW provide an interpretation of the DoD QSM. The DoD EDQW chair will provide a written response to the laboratory and the AB providing the DoD authoritative interpretation of the DoD QSM. No review of this interpretation will be available to the laboratory or the AB.

(ii) The DoD EDQW will not consider or take a position on requests by either a laboratory or an AB on a dispute concerning accreditation of the laboratory.

(7) *Continual Improvement.* The DoD EDQW will:

(i) Review the ABs' assessment reports and the DoD oversight reports to evaluate the thoroughness, consistency, objectivity, and impartiality of the DoD ELAP assessments.

(ii) Compare assessment reports across laboratories, ABs, and assessors.

(iii) Compare DoD ELAP findings to findings from previous assessments.

(iv) Identify opportunities for continual improvement of the DoD ELAP.

(v) Meet with ABs on an annual basis to review lessons learned and identify additional opportunities for continual improvement of the DoD ELAP.

(8) *Data and Records Management.* Through NAVSEASYSCOM, the DoD EDQW will maintain copies of all oversight reports in accordance with Secretary of the Navy Manual M–5210.1.

(e) *Conducting Project-Specific Laboratory Approvals.* (1) *General.* The DoD EDQW will use the procedures in this paragraph to conduct project-specific laboratory approvals for specific tests in the rare instances when DoD is unable to identify a DoD ELAP-accredited laboratory capable of providing the required services. This will ensure that competent laboratories are used to support DoD environmental projects. Examples of these rare instances include:

(i) The required method, matrix, or analyte is not included in the scope of accreditation for any existing DoD ELAP-accredited laboratories.

(ii) The required method, matrix, and analyte combination is included in the scope of accreditation for an existing accredited laboratory; however, the laboratory is unable to meet one or more of the project-specific measurement performance criteria.

(2) *Limitations.* (i) Project-specific laboratory approvals are not to be used as substitutes for the required DoD ELAP-accreditation.

(ii) The DoD EDQW will not perform project-specific laboratory approvals in cases where one or more DoD ELAP-accredited laboratories capable of meeting project-specific requirements are available.

(iii) The project-specific laboratory approval is a one-time approval, the specific terms of which will be outlined in the approval notice issued by the DoD EDQW.

(3) *Personnel Qualifications.* DoD personnel and contractors assessing laboratories for the purpose of performing project-specific laboratory approvals must meet the government chemist or contractor project chemist requirements contained in USD(AT&L) Memorandum, ''Acquisitions Involving Environmental Sampling or Testing Services.'' Personnel must have a working knowledge of the DoD QSM requirements and be familiar with required environmental test methods and instrumentation.

(4) *Procedures.* (i) If a project-specific laboratory approval is requested, the DoD EDQW will request and review a copy of the project's quality assurance project plan (QAPP).

(ii) If, after review of the QAPP, the DoD EDQW determines that an existing DoD ELAP-accredited laboratory is available to provide the required services, the laboratory contact information will be provided to the project manager requesting assistance.

(iii) If, after review of the QAPP, the DoD EDQW determines that no existing DoD ELAP-accredited laboratory is available to provide the required services, the DoD EDQW will:

(A) Work with the project team to determine whether the use of alternative procedures by an existing DoD ELAP-accredited laboratory is feasible;

(B) Determine if the required services can be added to the scope of accreditation of an existing DoD ELAP-accredited laboratory; or

(C) Work with the project team to identify a candidate laboratory for project-specific laboratory approval.

(iv) If a project-specific approval is needed, the DoD EDQW will:

(A) Determine the type of assessment required (on-site, document review, etc.).

(B) Determine if additional funding is required to support the assessment. If additional funding is required, the DoD EDQW will provide a cost estimate and work with the project manager to establish funding.

(v) If the DoD EDQW determines that a project-specific laboratory approval is warranted and resources (including funding and technical expertise) are available to support the assessment, the DoD EDQW chair will coordinate with the EDQW component principals to appoint an assessment team with appropriate technical backgrounds.

(vi) The DoD EDQW chair will designate an assessment team leader. The assessment team leader will:

(A) Request the documentation needed to perform the assessment.

(B) Assign responsibilities for individual members of the assessment team, if appropriate.

(C) Coordinate the document reviews.

(D) Lead the assessment team in the performance of the on-site assessment, if required.

(E) Provide a report to the DoD EDQW chair. The report will identify whether:

(*1*) The laboratory is capable of meeting all project-specific requirements.

(*2*) Documentation procedures are in place to provide data that are scientifically valid, defensible, and reproducible.

(*3*) Any deficiencies must be corrected prior to granting the project-specific laboratory approval.

(vii) The DoD EDQW chair, with concurrence by the EDQW component principals, will issue a report to the project manager and laboratory detailing the results of the assessment and any deficiencies that must be corrected prior to granting a project-specific laboratory approval.

(viii) Upon receipt of the laboratory's corrective action response, if required, the assessment team will:

(A) Review the laboratory's corrective action response for resolving the deficiencies.

(B) Provide the EDQW component principals with a final report describing the resolution of findings and containing recommendations on whether to grant the project-specific laboratory approval.

(ix) The DoD EDQW chair, with concurrence by the EDQW component principals, will prepare a report for the DoD project manager describing the results of the assessment and the status and terms of the project-specific laboratory approval. Information about project-specific laboratory approvals will not be posted on Web sites listing DoD ELAP-accredited laboratories.

(5) *Continual Improvement.* The EDQW component principals will review project-specific laboratory assessment reports to evaluate the thoroughness, consistency, objectivity, and impartiality of project-specific assessments and make recommendations for continual improvement of the DoD QSM and the DoD ELAP.

(6) *Data and Records Management.* Through NAVSEASYSCOM, the DoD EDQW will maintain copies of all laboratory records and project-specific assessment reports in accordance with Secretary of the Navy Manual M–5210.1.

(f) *Handling Complaints*—(1) *General.* The DoD EDQW will use the procedures in this paragraph to handle complaints

concerning the processes established in the DoD ELAP or the DoD QSM. The DoD EDQW will document and resolve complaints promptly through the appropriate channels, consistently and objectively, and identify and implement any necessary corrective action arising from complaints. Complaints generally fall into one of four categories:

(i) Complaints by any party against an accredited laboratory.

(ii) Complaints by any party against an AB.

(iii) Complaints by any party concerning any assessor acting on behalf of the AB.

(iv) Complaints by any party against the DoD ELAP itself.

(2) *Limitations.* The procedures in this paragraph:

(i) Do not address appeals by laboratories regarding accreditation decisions by ABs. Appeals to decisions made by ABs regarding the accreditation status of any laboratory must be filed directly with the AB in accordance with agreements in place between the laboratory and the AB.

(ii) Are not designed to handle allegations of unethical or illegal actions as described in paragraph (d)(2)(iii) of this section.

(iii) Do not address complaints involving contractual requirements between a laboratory and its client. All contracting issues must be resolved with the contracting officer.

(3) *Procedures.* (i) All complaints must be filed in writing to the EDQW chair. All complaints must provide the basis for the complaint (*i.e.,* the specific process or requirement in the DoD ELAP or the DoD QSM that has not been satisfied or is believed to need changing) and supporting documentation, including descriptions of attempts to resolve the complaint by the laboratory or the AB.

(ii) Upon receipt of the complaint, the DoD EDQW chair will assign a unique identifier to the complaint, send a notice of acknowledgement to the complainant, and forward a copy of the complaint to the EDQW component principals.

(iii) In consultation with the EDQW component principals, the DoD EDQW chair will make a preliminary determination of the validity of the complaint. Following preliminary review, the actions available to the DoD EDQW chair include:

(A) If the DoD EDQW chair determines the complaint should be handled directly between the complainant and the subject of the complaint, the DoD EDQW will refer the complaint to the laboratory, or AB, as appropriate. The DoD EDQW will notify the complainant of the referral, but will take no further action with respect to investigation of the compliant. The subject of the complaint will be expected to respond to the complainant in accordance with their established procedures and timelines. A copy of the response will be provided to the DoD EDQW.

(B) If insufficient information has been provided to determine whether the complaint has merit, the DoD EDQW will return the complaint to the complainant with a request for additional supporting documentation.

(C) If the complaint appears to have merit and the parties to the complaint have been unable to resolve it, the DoD EDQW will investigate the complaint and recommend actions for its resolution.

(D) If available information does not support the complaint, the DoD EDQW may reject the complaint.

(E) If the complaint alleges inappropriate laboratory practices or other misconduct, the DoD EDQW chair will consult legal counsel to determine the recommended course of action.

(iv) In all cases, the DoD EDQW will notify the complainant and any other entity involved in the complaint and explain the response of the EDQW to the complaint.

(4) *Continual Improvement.* The DoD EDQW will look into root causes and trends in complaints to help identify actions that should be taken by the DoD EDQW, or any parties involved with DoD ELAP, to prevent recurrence of problems that led to the complaints.

(5) *Data and Records Management.* Through NAVSEASYSCOM, the DoD EDQW will maintain copies of all complaint documentation in accordance with Secretary of the Navy Manual M–5210.1.

Dated: October 7, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–25999 Filed 10–14–15; 8:45 am]

BILLING CODE 5001–06–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2011–0864; FRL–9935–67-Region 6]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Infrastructure and Interstate Transport for the 2008 Lead 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 a State Implementation Plan (SIP) submission from the State of Texas for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS). The submittal addresses how the existing SIP provides for implementation, maintenance, and enforcement of the 2008 Pb 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, including the four CAA requirements for interstate transport of Pb emissions.

DATES: Written comments must be received on or before November 16, 2015.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R06–OAR–2011–0864, by one of the following methods:

- *www.regulations.gov.* Follow the online instructions.
- *Email:* Tracie Donaldson at *Donaldson.tracie@epa.gov.*
- *Mail or delivery:* Mary Stanton, Chief, Air Grants Section (6PD–S), 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–2011–0864. 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 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. 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: Tracie Donaldson, telephone 214–665–6633, *Donaldson.tracie@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 October 5, 1978, we published the first NAAQS for lead (Pb) (43 FR 46246). Both the primary and secondary standards were set at 1.5 micrograms per cubic meter (μg/m^3). In 2008, following a periodic review of the NAAQS for lead, we revised the NAAQS to 0.15 μg/m^3 for both the primary and secondary standards (73 FR 66964, November 13, 2008). For more information on these standards, please see the Technical Support Document (TSD) and EPA Web site *http://epa.gov/airquality/lead.*

Each state must submit an 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 October 14, 2011, the EPA issued guidance addressing the i-SIP elements for NAAQS.[1] The Chairman of the Texas Commission on Environmental Quality (TCEQ) submitted an i-SIP revision on October 14, 2011 to address this revised NAAQS for Pb and a separate September 14, 2011 SIP submission that addresses the interstate transport of Pb emissions.

EPA is proposing approval of the Texas i-SIP submittals for the 2008 Pb NAAQS [2] as meeting the requirements for an i-SIP, including the requirements for interstate transport of Pb emissions.

II. EPA's Evaluation of the Texas' i-SIP and Interstate Transport Submittals

The TCEQ submittals on September 14, 2011 and October 14, 2011 provided a demonstration of how the existing Texas SIP met all the requirements of the 2008 Pb NAAQS. These SIP submittals became complete by operation of law on March 14, 2012, and April 14, 2012, respectively pursuant to CAA section 110(k)(1)(B). Below is a summary of EPA's evaluation of the Texas i-SIP for each applicable element of CAA 110(a)(2) A–M.

(A) Emission limits and other control measures: The SIP must include enforceable emission limits and other control measures, means or techniques, schedules for compliance and other related matters as needed to implement, maintain and enforce each of the NAAQS.[3]

The Texas Clean Air Act (TCAA) provides the 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; 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 is documented at 40 CFR part 52.1620, Subpart SS.[4] 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.[5]

(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 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 Pb-monitoring network to measure ambient levels of Pb in accordance with EPA regulations which specify siting and monitoring requirements. All monitoring data is measured using EPA approved methods and subject to the EPA quality assurance requirements. TCEQ submits all required data to EPA, following the EPA regulations. The Texas statewide monitoring network was initially approved into the SIP (37 FR 10842, 10895), was revised on March 7, 1978 (43 FR 9275), and it undergoes annual

[1] ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2) for the 2008 Pb NAAQS,'' Memorandum from Stephen D. Page, October 14, 2011, *http://epa.gov/air/urbanair/sipstatus/docs/Guidance_on_Infrastructure_SIP_Elements_Multipollutant_FINAL_Sept_2013.pdf.*

[2] Additional information on: The history of Pb, its levels, forms and, determination of compliance; EPA's approach for reviewing i-SIPs; the details of the SIP submittal and 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 EPA regulatory citations; **Federal Register** Notice citations for Texas SIP approvals; Texas' minor New Source Review program and EPA approval activities; and Texas' Prevention of Significant Deterioration (PSD) program can be found in the Technical Support Document (TSD).

[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 2008 Pb 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, EPA is not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether the state's SIP has basic structural provisions for the implementation of the NAAQS.

[4] *http://www.ecfr.gov/cgi-bin/text-idx?SID=64943a7422504656d8d72e9d6f87f177&mc=true&node=sp40.5.52.ss&rgn=div6.*

[5] See the TSD page 4 for additional information.

review by EPA.[6] In addition, TCEQ conducts a recurrent assessment of its monitoring network every five years, which includes an evaluation of the need to conduct ambient monitoring for Pb, as required by EPA rules. The most recent of these 5-year monitoring network assessments was approved by EPA in December 2010.[7] 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.[8]

(C) Program for enforcement: The SIP must 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).[9]

(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 of the TCAA, and any regulations, permits, or final compliance orders. These statutes also provide the TCEQ, its Chairman, and its Executive Director with general enforcement powers. Among other things, they can file lawsuits to compel compliance with the statutes and regulations; commence civil actions; issue field citations; conduct investigations of regulated entities; collect criminal and civil penalties; develop and enforce rules and standards related to protection of air quality; issue 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). The SIP is required to 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.[10]

(3) Prevention of Significant Deterioration (PSD) permit program. The Texas PSD portion of the SIP covers all NSR regulated pollutants as well as the requirements for the 2008 Pb NAAQS and has been approved by EPA (79 FR 66626, November 10, 2014).[11]

(D) Interstate and international transport: The statue requires that the SIP contain adequate provisions prohibiting Pb 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)).

With respect to significant contribution to nonattainment or interference with maintenance of the Pb NAAQS, the physical properties of Pb, which is a metal and very dense, prevent Pb emissions from experiencing a significant degree of travel in the ambient air. No complex chemistry is needed to form Pb or Pb compounds in the ambient air; therefore, ambient concentrations of Pb are typically highest near Pb sources. More specifically, there is a sharp decrease in ambient Pb concentrations as the distance from the source increases. According to EPA's report entitled *Our Nation's Air: Status and Trends Through 2010*,[12] Pb concentrations that are not near a source of Pb are approximately 8 times less than the typical concentrations near the source.[13] For these reasons, EPA believes that the interstate transport requirements pertaining to significant contribution to nonattainment or interference with maintenance of the Pb NAAQS can be satisfied through a state's assessment as to whether a lead source located within its state in close proximity to a state border has emissions that contribute significantly to the nonattainment in or interfere with maintenance of the NAAQS in the neighboring state.

Texas submitted a separate SIP submission addressing the interstate transport provisions of subsection (2)(D)(i)(I), in which air dispersion modeling was conducted for seven operational sources in the state of Texas with the highest reported emissions of Pb in calendar year 2008: Fort Hood near Killeen; Oxbow Carbon in Port Arthur; ASARCO Refining near Amarillo; ECS Refining in Terrell; Exide Technologies in Frisco; Coleto Creek Power Station near Fannin; and the San Miguel Electric Cooperative near Christine. Two of these sources, Coleto Creek and San Miguel, reported emissions of Pb between 0.5 and 1.0 tons in 2008, and the remaining five sources reported emissions equal to or exceeding 1.0 ton. The modeled lead emissions from Coleto Creek and San Miguel each result in ambient concentrations of less than 1% of the level of the 2008 Pb NAAQS and indicate that there will be no impact on surrounding states. The Fort Hood and Oxbow model results predict levels of less than 15% of the NAAQS. For Exide Technologies, ECS Refining, and ASARCO Refining, the predicted concentrations dropped to below half the level of the NAAQS within 2 kilometers of the property line. For more detailed information on these modeling results, see the TSD and the Interstate Transport SIP submission in the docket for this rulemaking.

The Frisco Texas area is the one area within the state of Texas that is designated as nonattainment with respect to the 2008 Pb NAAQS. Exide Technologies battery recycling center was the sole contributing source responsible for the ambient Pb concentrations that led to the nonattainment designation. However, the source has been permanently shut down. During calendar year 2011 there were eight significant sources of Pb emissions within Texas that reported Pb emissions in amounts approximately equal to or exceeding 0.5 tons per year, including the aforementioned Exide Technologies in Frisco; however, none of these sources of Pb emissions are located within two miles of a neighboring state line. Total reported Pb emissions within Texas in 2011 were 31.2 tons,[14] and most of the Pb-emitting sources within the state are general aviation airports where aviation gasoline containing tetra-ethyl lead is

[6] A copy of the 2014 Annual Air Monitoring Network Plan and EPA's approval letter are included in the docket for this proposed rulemaking.

[7] A copy of TCEQ's 2010 5-year ambient monitoring network assessment and EPA's approval letter are included in the docket for this proposed rulemaking.

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

[9] As discussed in further detail in the TSD beginning on page 6.

[10] EPA is not proposing to approve or disapprove the existing Texas minor NSR program to the extent that it may be inconsistent with EPA's regulations governing this program. 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 EPA to approve the infrastructure SIP for element C (*e.g.,* 76 FR 41076–41079). 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.

[11] As discussed further in the TSD

[12] *http://www.epa.gov/airtrends/2011/.*

[13] *http://www.epa.gov/airtrends/2011/report/fullreport.pdf.*

[14] See the TSD and the docket for this rulemaking for more detailed information on Pb-emitting sources in Texas and the Pb emissions reported in calendar year 2011.

still in use by propeller-driven aircraft. Therefore, EPA finds that Texas has presumptively satisfied the requirements of subsection (2)(D)(i)(I).

The necessary provisions under section 110(a)(2)(D)(i)(II) are contained in the PSD portion of the SIP, as discussed with respect to element (C) above. With regard to the applicable requirements for visibility protection of visibility under subsection (2)(D)(i)(II), significant impacts from Pb emissions from stationary sources are expected to be limited to short distances from emitting sources and most, if not all, stationary sources of Pb emissions are located at sufficient distances from Class I areas such that visibility impacts would be negligible. Although Pb can be a component of coarse and fine particles, Pb generally comprises only a small fraction these particles. A recent EPA study conducted to evaluate the extent that Pb could impact visibility concluded that Pb-related visibility impacts at Class I areas were found to be insignificant (*e.g.,* less than 0.10% contribution).[15]

The Texas SIP includes provisions that satisfy the CAA interstate pollution abatement requirements of 110(a)(2)(D)(i)(II). There are no findings by EPA that air emissions originating in Texas 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 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 2008 Pb 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, the TCAA requires TCEQ to 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. 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 Texas statutes and the SIP stipulate 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 Federal CAA or the TCAA. 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 State 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 TCEQ maintains authority to ensure implementation of any applicable plan portion.

(F) Stationary source monitoring system: The SIP must provide for 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-approved state regulations pertaining to sampling and testing and requirements for reporting of emissions inventories. In addition, SIP-approved 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 emission levels, and determining compliance with SIP-approved 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-approved 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, the TCAA and 30 TAC chapters 35 and 118 authorize 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 ''Texas Air Quality Control Contingency Plan for Prevention of Air Pollution Episodes'' is part of the Texas SIP. However, because of the low levels of Pb emissions emitted and monitored statewide, Texas is not required to have contingency plans for the 2008 Pb NAAQS. However, to provide additional protection, the State has general emergency powers to address any possible dangerous Pb-related air pollution episode if necessary to protect the environment and public health.

(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.

[15] Analysis by Mark Schmidt, OAQPS, ''Ambient Pb's Contribution to Class I Area Visibility Impairment,'' June 17, 2011.

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

(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 areas.

Texas currently has one nonattainment area for the 2008 Pb NAAQS, located in the city of Frisco in Collin County. For more information on the Frisco nonattainment area and past nonattainment areas under the 1978 Pb NAAQS, please refer to the TSD for this rulemaking.

As noted earlier, EPA does not expect infrastructure SIP submissions to address subsection (I). The specific SIP submissions for designated nonattainment areas, as required under CAA title I, part D, are subject to different submission schedules than those for section 110 infrastructure elements. Instead, EPA will take action on part D attainment plan SIP submissions, including the attainment plan submission for the Frisco nonattainment area, through a separate rulemaking process governed by the requirements for nonattainment areas, as described in part D.

(J) Consultation with government officials, public notification, PSD and visibility protection: The SIP must meet the following three CAA requirements: (1) Section 121, relating to interagency consultation; (2) section 127 relating to public notification of NAAQS exceedances and related issues; and, (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 must be given a reasonable opportunity to review the action that is being proposed and to submit data or arguments, either orally or in writing, and to examine the testimony of witnesses from the hearing. In addition, the TCAA provides the TCEQ the power and duty to establish cooperative agreements with local authorities, and consult with other states, the federal government and other interested persons or groups in regard to matters of common interest in the field of air quality control. Furthermore, the Texas PSD SIP rules mandate that the TCEQ shall provide for public participation and notification regarding permitting applications to any other state or local air pollution control agencies, local government officials of the city or county where the source will be located, tribal authorities, and Federal Land Managers (FLMs) whose lands may be affected by emissions from the source or modification. Additionally, the State's PSD SIP rules require the TCEQ to consult with FLMs regarding permit applications for sources with the potential to impact Class I Federal Areas. The SIP also includes a commitment to consult continually with the FLMs on the review and implementation of the visibility program, and the State recognizes the expertise of the FLMs in monitoring and new source review applicability analyses for visibility and has agreed to notify the FLMs of any advance notification or early consultation with a major new or modifying source prior to the submission of a permit application. Likewise, the State's Transportation Conformity SIP rules provide procedures for interagency consultation, resolution of conflicts, and public notification.

(2) *Public Notification:* The 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:* The PSD requirements for this element are the same as those addressed under element (C) above. The Texas SIP requirements relating to visibility and regional haze are not affected when EPA establishes or revises a NAAQS. Therefore, EPA believes that there are no new visibility protection requirements due to the revision of the Pb NAAQS in 2008, and consequently there are no newly applicable visibility protection obligations pursuant to infrastructure element (J).

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

The TCEQ has the authority and duty under the TCAA to investigate and develop facts providing for the functions of environmental air quality assessments. Past modeling and emissions reductions measures have been submitted by the State and approved into the SIP. Additionally, TCEQ has the ability to perform modeling for the primary and secondary Pb standards and other criteria pollutant NAAQS on a case-by-case permit basis consistent with their SIP-approved PSD rules and EPA guidance. As discussed with regard to element (D) above, TCEQ has conducted air quality dispersion modeling on the emissions of Pb from numerous stationary sources to determine the impact of such emissions on air quality in neighboring states. TCEQ has also conducted extensive modeling on the emissions of Pb from the former Exide Technologies facility located in the Frisco nonattainment area and has prepared and submitted an attainment demonstration with a control strategy based on the results of this modeling to the EPA.

The TCAA authorizes and requires TCEQ to cooperate with the federal government and local authorities concerning matters of common interest in the field of air quality control, thereby allowing the agency to make such submissions 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. The fees 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 such a time when a fee program is established by the state pursuant to Title V of the CAA, and is submitted to and is approved by EPA.

See the discussion for 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.

See the discussion for element (J)(1) and (2) above for a description 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. The transportation conformity component of the Texas SIP requires that interagency consultation and opportunity for public involvement be provided before making transportation conformity determinations and before adopting applicable SIP revisions on transportation-related issues.

IV. Proposed Action

EPA is proposing to approve the October 14, 2011 infrastructure SIP and the September 14, 2011 interstate transport submissions from Texas, which address the requirements of CAA sections 110(a)(1) and (2) as applicable to the 2008 Pb NAAQS. Specifically, EPA is proposing to approve the following infrastructure elements: 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M). EPA is not acting on the submittal pertaining to CAA section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions because EPA believes these need not be addressed in the i-SIP. Based upon review of the state's infrastructure and interstate transport SIP submissions, in light of the relevant statutory and regulatory authorities and provisions referenced in these submissions or referenced in the Texas SIP, EPA believes that Texas has the infrastructure in place to address all applicable required elements of sections 110(a)(1) and (2) (except otherwise noted) to ensure that the 2008 Pb NAAQS are implemented in the state. We also are proposing to approve the State's demonstration that it meets the four statutory requirements for interstate transport of Pb emissions.

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

EPA is not proposing to approve this infrastructure SIP certification 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, 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, Lead (Pb), Reporting and recordkeeping requirements.

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

Dated: September 30, 2015.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2015–26122 Filed 10–14–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 224

RIN 0648–XD314

Finding for a Petition To Exclude Federally-Maintained Dredged Port Channels From New York to Jacksonville From Vessel Speed Restrictions Designed To Reduce Vessel Collisions With North Atlantic Right Whales

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Petition finding.

SUMMARY: NMFS received a petition to exclude federally-maintained dredged channels and pilot boarding areas (and the immediately adjacent waters) for ports from New York to Jacksonville from the vessel speed restrictions that were established to reduce the threat of vessel collisions with North Atlantic right whales. After reviewing the information in the petition and public comments thereon, NMFS finds that the petition does not present substantial information indicating that that exclusion of these areas is necessary to address the concerns, and denies the petition. NMFS will review and revise our existing compliance guide to provide clarifying information about the navigational safety exception (*i.e.,* the October 10, 2008, final rule's deviation provision) for the speed restrictions.

DATES: October 15, 2015.

ADDRESSES: Notice of receipt of the petition, information related to the previous request for public comment, and related information is available at: *http://www.nmfs.noaa.gov/pr/shipstrike/.*

FOR FURTHER INFORMATION CONTACT: Gregory Silber, Office of Protected Resources, Silver Spring, MD (301) 427–8402.

SUPPLEMENTARY INFORMATION:

Background

On October 10, 2008, NMFS published a final rule (73 FR 60173) that established a 10-knot vessel speed restriction for vessels 65 feet or greater in length in certain locations and at certain times of the year along the east coast of the United States to reduce the likelihood of deaths and serious injuries to endangered North Atlantic right whales from collisions with vessels. Of note here, the 2008 final speed regulation included a provision allowing for deviation from the speed restriction if weather and/or sea conditions severely restrict the vessel's maneuverability, operating at a higher speed is necessary to maintain safe maneuvering speed, and the need to operate at a higher speed is confirmed by the pilot or, if there is no pilot on board, by the master of the vessel. The 2008 regulation also contained a December 9, 2013, expiration or ''sunset'' date.

On June 6, 2013, NMFS published a proposed rule to eliminate the rule's sunset provision (78 FR 34024). Following a notice and public comment period, on December 9, 2013, NMFS published a final rule (78 FR 73726) that removed the sunset provision. All other aspects of the regulation remained the same, including the navigational safety exception referenced above.

During the public comment period on the June 2013 proposed rule to remove the sunset provision, some commenters expressed their continuing concern that the speed regulation, notwithstanding the navigational safety exception noted above, compromised navigational safety through reduced vessel maneuverability in some circumstances. In particular, the American Pilots' Association indicated that safe navigation is hindered by operating at or below ten knots in specific areas and recommended that NMFS ''exclude federally-maintained dredged channels and pilot boarding areas (and the immediately adjacent waters) for ports from New York to Jacksonville''—which they stated is an approximate aggregate area of 15 square miles—from the vessel speed restrictions.

NMFS elected to treat the American Pilots' Association's recommendation to exclude vessels using federally-maintained dredged port entrance channels from the speed restrictions as a petition for rulemaking under the Administrative Procedure Act. Accordingly, we issued a Notice in the **Federal Register** announcing receipt of the petition and solicited comments on the request (79 FR 4883; January 31, 2014). The Notice indicated that if we decided to proceed with the suggested rulemaking, we would notify the petitioner within 120 days, publish a notice in the **Federal Register** of our decision to engage in rulemaking, and thereafter proceed in accordance with the requirements for rulemaking. If we decided not to proceed with the petitioned rulemaking, we would notify the petitioner, provide a brief statement of the grounds for the decision, and publish a notice in the **Federal Register** regarding our decision not to proceed with the petitioned action.

Based on consideration of information in the petition, public comments thereon, and related information, NMFS finds that the petitioned action is not necessary to address the concerns. The petitioner and commenters in favor of the petitioned action maintained that vessels navigating federally-maintained port entrance channels are faced with hazardous conditions unique to those channels. Commenters, including the U.S. Army Corps of Engineers (ACOE) identified incidents where vessels lost propulsion and, had the vessel not been travelling in excess of 10 knots, it could have created a considerable safety risk. ACOE submitted a study that found the speed limit increases the likelihood of pilot error. Concerns were also raised that communication barriers among foreign vessel masters, owners, and pilots, coupled with the need to sometimes make speed adjustments on short time frames, can place the vessel in jeopardy.

The speed regulation, including the navigational safety exception provision, has been in effect for over 6 years, and in that time there have been no specific reports of navigational safety issues or related problems that were not addressed by the existing exception. Recent studies indicate that the vessel speed restriction appears to be achieving the objective of reducing fatal collisions with North Atlantic right whales. NMFS believes that it does not need to exclude federally-dredged and maintained navigation channels from the speed restrictions in order to effectively address the concerns.

NMFS will review and revise our existing compliance guide for the speed restrictions to provide clarifying information about the deviation provision. For these reasons and as further explained in the responses to comments, NMFS denies the petition.

Comments and Responses

NMFS received over 32,000 public comments in response to the January 30, 2014, **Federal Register** notice regarding this petition that were provided by 88 separate organizations or commenters. The majority of these were signed form letters from members of environmental groups; 18 commenters provided substantive or new data or information (*e.g.,* analysis or synthesis of new or existing data; legal analyses; draft or final technical papers or reports; or information about vessel navigation) not previously considered in our analysis of vessel speed restrictions.

All of the signed form letters, and 39 of the commenters that provided information beyond a signed form letter, opposed the petitioned action. A total of 46 commenting organizations or individuals favored the petitioned action. Several comments were ambiguous or offered no specific opinion about the petition. Summaries of key points in the substantive comments and responses to these comments are included below.

Comment 1: Commenters in favor of the petitioned action indicated that the vessel speed restrictions create serious navigational safety concerns, particularly in areas encompassing narrow, federally-maintained dredged channels where two-way traffic, cross currents, seas and winds impact safe navigation.

Response: Navigational safety is of paramount importance to NMFS. The original 2006 proposed speed regulation (71 FR 36299; June 26, 2006) did not contain a navigational safety exception. During the public comment period for that proposed rule, NMFS received comments indicating that large vessels experience reduced steerage at low speeds, which is exacerbated in adverse wind and sea conditions, thereby compromising navigational safety. At that time a number of pilots and pilots' associations indicated that adequate maneuverability was particularly important when negotiating a port entrance or channel.

As a result, in the 2008 final rule, NMFS instituted a navigational safety exception to account for severe wind and sea conditions (73 FR 60173, 60178; October 10, 2008). Vessels may operate at a speed greater than 10 knots when oceanographic, hydrographic or meteorological conditions restrict the maneuverability of the vessel to the point that increased speed is necessary to ensure the safe operation of the vessel, as confirmed by the pilot or master. Any deviation from the speed restriction must be entered into the logbook, including the specific conditions necessitating the deviation, time and duration of deviation, location (latitude/longitude) where the deviation began and ended, and speed at which vessel was operated. The master of the vessel must sign and date the logbook

entry, attesting to its accuracy. The speed regulation, including the navigational safety exception provision (which has been invoked a number of times), has been in effect for over 6 years, and in that time there have been no specific reports of navigational safety issues or related problems that were not addressed by the existing exception. In fact, thousands of trips at or below 10 knots have occurred in the period since the rule was implemented, including in the port areas identified by the petitioners, and NMFS is not aware of any instance in which a vessel was endangered by a loss of maneuverability as a result of the speed restrictions. We continue to believe the navigational safety exception provides vessel pilots and masters sufficient discretion to deviate from the speed regulation when necessary to ensure vessel safety. Nonetheless, there may be specific areas within navigation channels where conditions supporting a deviation occur frequently. NMFS is working with the U.S. Coast Guard to better understand the specific conditions under which deviations may frequently occur in these areas.

Comment 2: Most commenters who opposed the petitioned action noted that the rule (73 FR 60173; October 10, 2008) contains an exception provision for navigational safety concerns and encouraged NMFS not to grant the petition.

Response: NMFS agrees. See our response to Comment 1, above.

Comment 3: We received comments that the rule's (73 FR 60173; October 10, 2008) navigational safety exception is ambiguous and that some mariners are confused by the provision; specifically that communication barriers among foreign vessel masters, owners, and pilots make the speed limit impracticable; that vessel owners and shipping interests have been discouraging, or even prohibiting, their masters from invoking the deviation authority; and that the lack of understanding may result in a deviation not being invoked when necessary, placing the vessel in jeopardy.

Response: To facilitate compliance, NMFS will review our existing compliance guide for the speed restrictions and provide clarifying information about the deviation provision. We will also investigate other ways to provide such clarifying information to the regulated community (*e.g.,* through the U.S. Coast Pilot). Further, as noted in the December 9, 2013, final rule that removed the sunset provision, NMFS will continue to synthesize, review, and report on various aspects of the speed regulation, including navigational safety impacts, within 5 years (78 FR 73734).

Comment 4: Some commenters suggested that any lack of understanding or confusion about the deviation would be better addressed through further outreach and communication with stakeholders, rather than excluding some areas from the restrictions.

Response: NMFS agrees that a rulemaking is not necessary at this time. See our response to the previous comment.

Comment 5: A number of commenters contended that because the area in federally-maintained channels is a fraction of the total area included in vessel speed restriction zones, the conservation value would not be diminished by excluding these areas. Conversely, commenters indicated that the vessel speed restrictions are working as intended—both the probability and actual number of fatal vessel-related right whale deaths have been reduced by the speed restrictions—as demonstrated by several recent studies. Commenters also noted that vessel traffic density is most concentrated in port entrances and right whale vulnerability to vessel collisions is elevated in these areas. They concluded that the requested exclusions would increase right whale vulnerability to vessel strikes in excluded areas.

Response: Recent studies indicate that the vessel speed restriction appears to be achieving the objective of reducing fatal collisions with North Atlantic right whales. By design, the speed restriction focuses on those areas where vessels and whale occurrences overlap, including port entrance channels. Therefore, if NMFS were to grant the petitioned action the conservation value of the speed regulation would be diminished.

Comment 6: One commenter noted that nearly all comments from shipping industry representatives on the proposed rule to remove the sunset provision accepted an extension of the speed restrictions (for at least a fixed period) without expressing concern for vessel safety in federally-maintained dredged entrance channels.

Response: NMFS acknowledges that most industry comments regarding our proposal to remove the rule's sunset provision were in favor of extending (rather than removing) the sunset provision and most did not discuss concerns about safety in federally dredged channels. However, several pilots' associations and the U.S. Army Corps of Engineers (ACOE) submitted comments citing safety-related concerns.

Comment 7: Another commenter observed that the petitioned action did not include all the U.S. east coast federally-maintained channels and noted, in particular, the U.S. Army Corps of Engineers (ACOE) imposed vessel speed restrictions in the Cape Cod Canal.

Response: NMFS has verified the existence of an ACOE speed control regulation in Cape Cod Canal (33 CFR 207.20) and acknowledges that the Canal is not among the areas included in the petition.

Comment 8: Several commenters stated that ship captains were being issued notices of violation for going speeds just above the 10-knot limit and, in particular, after the vessel captain had invoked the deviation for weather conditions.

Response: The National Oceanic and Atmospheric Administration's (NOAA) Office of General Counsel, Enforcement Section (GC) issued a total of 53 Notices of Violation and Assessment of civil penalties (NOVAs) between November 2010 and December 2014. In all cases to date, NOVAs were only issued in cases in which the vessel exceeded the 10-knot speed restriction by a significant amount and for a significant distance. Cases involving justified deviations from the speed restriction, properly documented in a manner consistent with 50 CFR 224.105(c), have not resulted in the imposition of penalties. In addition, NOAA only began issuing NOVAs after several years of outreach and education during the initial phase of the regulation to ensure that the regulated community was informed of and educated regarding the new speed restriction.

OLE/GC has also changed the way in which violations are investigated. Current procedures now include an opportunity, prior to a NOVA being issued, for vessel operators to provide log entries documenting their need to deviate from the speed restrictions for incidents under investigation.

Comment 9: A number of commenters cited analysis and anecdotal information about hazardous situations that occurred in several instances when a vessel's propulsion system malfunctioned or a vessel suffered a complete loss of power. These commenters maintained that had these vessels been traveling 10-knots or less at the time of power loss, the situation could have been far worse.

Response: NMFS recognizes that deviating from the speed limit when necessary to ensure the safety of the vessel is appropriate and allowed under our regulations. NMFS will revise its compliance guide to clarify how and

when to properly invoke the regulation's deviation provision. NMFS will consult with the ACOE and the USCG on these revisions. As noted, NOAA has the utmost concern for the safety of humans and the safe and efficient transport of materials.

Comment 10: Several commenters reiterated earlier public comments on the need for modifications to the speed restriction rule (73 FR 60173; October 10, 2008), in particular the need to: Increase management zones to include waters 30 nautical miles from shore; make the voluntary Dynamic Management Areas program mandatory; and consider making vessels <65 feet in length also subject to the provisions of the rule.

Response: NMFS has addressed comments regarding modification of the rule in previous responses to public comments (78 FR 73733, 73734; December 9, 2013). While not germane to the petitioned action, NMFS is continuing to evaluate and consider these and other suggestions for possible future rulemaking. No decisions have been made.

Comment 11: The ACOE submitted a study concluding that vessel speed restrictions can adversely impact the risk of ship grounding accidents when a ship loses power in the Charleston, SC, harbor entrance, based on the assumption that the restriction increased the ''likelihood of a piloting error by 20%'' due to diminished vessel maneuverability.

Response: NMFS acknowledges the concerns raised by ACOE and others regarding the potential safety risk if a pilot does not deviate from the speed restrictions when necessary. NMFS is working with ACOE, the U.S. Coast Guard, and other relevant agencies to facilitate increased awareness and appropriate use of the deviation provision. This collaboration will inform NMFS' review and revision of our existing compliance guide which provides clarifying information about the deviation provision.

Comment 12: The ACOE commented that NOAA lacks the legal authority to establish vessel speed restrictions and the authority lies instead with the Secretary of the Army and the ACOE under the 1894 Rivers and Harbors Act.

Response: NMFS does not dispute the ACOE's assertion of authority to regulate activity in navigation channels. However, NMFS does not believe this equates to an exclusive authority to do so. The 2008 speed regulation, which was extended in 2013 through the removal of a sunset provision, is a valid exercise of NMFS' own regulatory authority under the Endangered Species Act and Marine Mammal Protection Act to further the purposes of those laws (in this case, protecting highly endangered right whales from injury and death from collisions with ships). NMFS notes the U.S. Coast Guard has likewise imposed speed regulations in river and port entrances pursuant to their own regulatory authorities (some of which are cited in our 2013 final rule).

Authority: 5 U.S.C. 551 *et seq.*

Dated: October 7, 2015.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–26225 Filed 10–14–15; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 80, No. 199
Thursday, October 15, 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

Office of Advocacy and Outreach

Submission for OMB Review; Comment Request

October 8, 2015.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Office of Advocacy and Outreach

Title: USDA/1890 National Scholars Program Application

OMB Control Number: 0503–0015

Summary of Collection: The USDA/1890 National Scholars Program is an annual recruiting effort by the USDA/1890 National Program Office and the participating eighteen 1890 Land-Grant Universities. This human capital initiative is a collective effort geared towards attracting graduating high school seniors and currently enrolled college students who are rising sophomores or juniors, into pursuing disciplines in agriculture, natural resources, and related sciences at any of the 1890 Land-Grant Universities. The USDA/1890 National Scholars Program offers scholarships to U.S. citizens who are seeking a bachelor's degree, in the fields of agriculture, food, or natural resources sciences and related majors, at one of the eighteen Historically Black Land-Grant Universities. Each applicant is required to submit a hard copy of the USDA/1890 National Scholars Program Application Form to the USDA/1890 Program Liaison assigned to the 1890 Land-Grant University to which they want to apply.

Need and Use of the Information: The information to be collected from the application includes the applicant name, address, educational background (grade point average, test scores), name of universities interested in attending, desired major, extracurricular activities, interest and habits. The information will be used to assist the selecting agencies in their process of identifying potential recipients of the scholarship. The program would not be able to function consistently without this annual collection.

Description of Respondents: Individuals or households.

Number of Respondents: 1,500.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 3,900.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2015–26199 Filed 10–14–15; 8:45 am]

BILLING CODE 3412–88–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Supplemental Nutrition Assistance Program's Quality Control Review Schedule Form FNS 380–1

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This is a revision of a currently approved collection for OMB No. 0584–0299.

DATES: Written comments must be received on or before December 14, 2015.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Stephanie Proska, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 822, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Stephanie Proska at 703–305–0928 or via email to *SNAPHQ-WEB@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget

approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Stephanie Proska at 703–305–2437.

SUPPLEMENTARY INFORMATION:

Title: Quality Control Review Schedule.

Form Number: FNS 380–1.

OMB Number: 0584–0299.

Expiration Date: February 29, 2016.

Type of Request: Revision of a currently approved collection.

Abstract: Form FNS 380–1 is the Supplemental Nutrition Assistance Program's (SNAP) Quality Control (QC) Review Schedule which collects QC and household characteristics data. The information needed to complete this form is obtained from the SNAP case record and state quality control findings. The information is used to monitor and reduce errors, develop policy strategies and analyze household characteristic data. We estimate that it takes 1.05 hours per response and .0236 hours per record for recordkeeping to complete the form.

Affected Public: State, Local and Tribal Government: Respondent groups identified include: 53 State agencies.

Estimated Number of Responses per Respondent: The total estimated number of responses per respondent is 1,039.02.

Estimated Frequency per Respondent: 1.9980769.

Estimated Total Annual Responses: The estimated total annual responses are 110,136. This includes 55,068 sampled active cases for QC review and the same 55,068 records being kept by the 53 State agencies.

Estimated Time per Response: The estimated time of response for State agencies to report is approximately 63.36 minutes and the estimated response time for State agencies to do recordkeeping is approximately 1.42 minutes. Therefore, the total time per response is approximately 64.78 minutes.

Estimated Total Annual Burden on Respondents: 3,567,055.8 minutes (59,450.93 hours). See the table below for estimated total annual burden for each type of respondent.

REPORTING AND RECORDKEEPING BURDEN

Respondent	Estimated number respondents	Responses annually per respondent	Total annual responses (col. bxc)	Estimated average number of hours per response	Estimated total hours (col. dxe)
State Agencies *Reporting*	53	1,039.02	55,068	1.056	58,151.87
State Agencies *Recordkeeping*	53	1,039.02	55,068	0.0236	1,299.60
Total Reporting Burden	106	.....	110,136	1.0796	59,450.93

Dated: October 2, 2015.

Audrey Rowe,

Administrator, Food and Nutrition Service.

[FR Doc. 2015–26292 Filed 10–14–15; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Fremont-Winema National Forest; Chiloquin Ranger District; Oregon: Lobert Restoration Project Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement (EIS) to disclose the environmental effects of commercial and non-commercial vegetation management activities, prescribed burning, road activities, recreation opportunity improvements, and other restoration activities. Other design criteria are included to protect resources and facilitate management activities. The project is located on the Chiloquin Ranger District, Fremont-Winema National Forest, Klamath County, Oregon.

DATES: Comments concerning the scope of the analysis must be received by November 16, 2015. The draft environmental impact statement is expected September 2016 and the final environmental impact statement is expected December 2016.

ADDRESSES: Send written comments to Constance Cummins, Forest Supervisor, Fremont-Winema National Forest, c/o Kelly Ware, 38500 Highway 97 North, Chiloquin, OR 97624. Comments may also be sent via email to *comments-pacificnorthwest-winema-chiloquin@fs.fed.us*, or via facsimile to 541–783–2134.

FOR FURTHER INFORMATION CONTACT: Kelly Ware, NEPA Planner, Chiloquin Ranger District, 38500 Highway 97 North, Chiloquin, OR 97624. Phone: 541–783–4039. Email: *kware@fs.fed.us*.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Lobert project area encompasses approximately 97,500 acres of National Forest System lands and is located within the Klamath Tribes' former 1954 reservation. The project lies within portions of the Sprague River, Hog Creek-Williamson River, Swan Lake Valley, Long Lake Valley-Upper Klamath Lake, Yonna Valley-Lost River, and Wood River watersheds. The project area is in Klamath County, generally located between the communities of Fort Klamath and Chiloquin, south to Hagelstein Park, and east to Swan Lake Point and Saddle Mountain. The legal description for the project planning area includes Townships 33, 34, 35, 36, 37 South, and Ranges 07, 08, 09, 10 East, Willamette Meridian, Klamath County, Oregon.

Purpose and Need for Action

The purpose and need for the Lobert Restoration Project was developed by comparing the management objectives and desired conditions of the Winema Forest Plan to the existing conditions in the project planning area related to watershed and forest resiliency and function. Where plan information was not explicit, best available science and local research, including the Klamath Tribes' Management Plan, were utilized. Comparison of the existing and desired condition indicates the specific needs to: (1) Restore forest structure, composition, and density toward more resistance and resilient vegetative conditions given the historic fire regime by reducing the horizontal and vertical connectivity and density of standing

vegetation, surface fuels, and/or ladder fuels; (2) protect and release large and old trees from competition; (3) reduce uncharacteristic wildfire effects within the project planning area including the Saddle Mountain Cultural Resource Area and WUI; (4) Maintain and improve habitat for fish and wildlife species present in the project planning area, particularly mule deer; (5) restore degraded physical and biological stream processes that sustain floodplain ecosystem structure, function and diversity; (6) implement recovery plans for federally listed species; (7) reduce risk of northern spotted owl habitat degradation and loss from uncharacteristic wildfire and/or insect and disease outbreak; (8) conserve and restore cultural plants and maintain habitat for two rare endemic plant populations; (9) provide for a variety of social and cultural values and opportunities in the project area, including availability of traditional use plants, a variety of wood products, enhanced recreation experiences and opportunities, and a safe road system that moves toward current public access and resource management objectives.

Proposed Action

The Forest proposed action includes restoration activities for the following resources: Vegetation management, aquatic restoration, recreation interpretive site improvement, and associated road management activities to address the purpose and need. These activities would occur over approximately the next 10 years.

Vegetation management will include a mix of commercial thinning, small tree thinning, prescribed fire, and other fuels treatments. The use of different methods would be determined by site conditions, accessibility and specific resource protection needs. The proposal includes 9 different restoration treatments: (1) Dry ponderosa pine restoration; (2) dry mixed conifer restoration; (3) moist mixed conifer restoration; (4) xeric ponderosa pine restoration; (5) dispersal habitat for northern spotted owl (NSO); (6) foraging habitat (NSO); (7) wildland urban interface fuels reduction; (8) riparian restoration; (9) endemic plant enhancement.

The proposed action will include large wood and spawning gravel placement in six stream reaches that are deficient in wood, riparian hardwood species planting, headcut repair, and spring enhancement. Spring enhancement may include: (1) Removal or repair of spring boxes or other spring development equipment; (2) installation of protective fencing; (3) vegetation treatments to improve hydrologic conditions (4) planting/sowing riparian species.

Approximately 13.2 miles of roads are proposed to be closed post-implementation, 162 miles of roads are proposed for decommissioning, and 4.5 miles of roads would have their operational maintenance levels upgraded.

Recreation activities proposed include removal of three flush facilities from the Spring Creek Campground and picnic area and installation of one vault toilet. Two vault toilets that no longer meet water quality standards would be removed from the Oux Kanee Overlook; one would be replaced with a vault toilet that meets current standards.

The Lobert Restoration Project will also include a variety of project design criteria that serve to mitigate impacts of activities to forest resources, including wildlife, soils, watershed condition, aquatic species, riparian habitat conservation areas, heritage resources, visuals, rangeland, botanical resources, and invasive plants. The proposed action may also include amendments to the Winema National Forest Land and Resource Management Plan, as amended.

Possible Alternatives

The Forest Service will consider a range of alternatives. One of these will be the ''no action'' alternative in which none of the proposed action would be implemented. Additional alternatives may be included in response to issues raised by the public during the scoping process or due to additional concerns for resource values identified by the interdisciplinary team.

Responsible Official

The Forest Supervisor of the Fremont-Winema National Forest, 1301 South G Street, Lakeview, OR 97630, is the Responsible Official. As the Responsible Official, I will decide if the proposed action will be implemented. I will document the decision and rationale for the decision in the Record of Decision. I have delegated the responsibility for preparing the draft EIS and final EIS to the District Ranger, Chiloquin Ranger District.

Nature of Decision To Be Made

Based on the purpose and need, the Responsible Official reviews the proposed action, the other alternatives, the environmental consequences, and public comments on the analysis in order to make the following decision: (1) Whether to implement timber harvest and associated fuels treatments, prescribed burning, and watershed work, including the design features and potential mitigation measures to protect resources; and if so, how much and at what specific locations; (2) What, if any, specific project monitoring requirements are needed to assure design features and potential mitigation measures are implemented and effective, and to evaluate the success of the project objectives. A project specific monitoring plan will be developed.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. The interdisciplinary team will continue to seek information, comments, and assistance from Federal, State, and local agencies, Tribal governments, and other individuals or organizations that may be interested in, or affected by, the proposed action.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered.

Dated: October 1, 2015.

Constance Cummins,

Forest Supervisor.

[FR Doc. 2015–26288 Filed 10–14–15; 8:45 am]

BILLING CODE 3410–11–P

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Sunshine Act Meeting

TIME AND DATE: October 21, 2015, 1 p.m. EDT.

PLACE: Palomar Hotel, 2121 P St. NW., Phillips Ballroom, Washington, DC 20037.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Chemical Safety and Hazard Investigation Board (CSB) will convene a public meeting on October 21, 2015, starting at 1 p.m. EDT in Washington, DC at the Palomar Hotel, 2121 P St. NW., in the Phillips Ballroom. The Board will discuss the final report and recommendations on the Caribbean Petroleum incident. The Board may then vote on the Caribbean Petroleum

report. The Board will discuss the status of several current CSB investigations, including ExxonMobil Torrance, West Fertilizer, Freedom Industries, DuPont LaPorte, Macondo, and Williams Olefins. The Board will also discuss the agency action plan for FY 15 in addition to the newly confirmed Chairperson's overview of her first 60 days. An opportunity for public comment will be provided.

Additional Information

The meeting is free and open to the public. If you require a translator or interpreter, please notify the individual listed below as the ''Contact Person for Further Information,'' at least three business days prior to the meeting.

This meeting will be webcast for those who cannot attend in person. Please visit *www.csb.gov* for access to the live webcast.

The CSB is an independent federal agency charged with investigating accidents and hazards that result, or may result, in the catastrophic release of extremely hazardous substances. The agency's Board Members are appointed by the President and confirmed by the Senate. CSB investigations look into all aspects of chemical accidents and hazards, including physical causes such as equipment failure as well as inadequacies in regulations, industry standards, and safety management systems.

Public Comment

The time provided for public statements will depend upon the number of people who wish to speak. Speakers should assume that their presentations will be limited to three minutes or less, but commenters may submit written statements for the record.

Contact Person for Further Information

Shauna Lawhorne, Public Affairs Specialist, *public@csb.gov* or (202) 384–2839. Further information about this public meeting can be found on the CSB Web site at: *www.csb.gov.*

Dated: October 9, 2015.

Kara Wenzel,

Acting General Counsel, Chemical Safety and Hazard Investigation Board.

[FR Doc. 2015–26322 Filed 10–13–15; 11:15 am]

BILLING CODE 6350–01–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: U.S. Census Bureau.

Title: Redistricting Data Program.

OMB Control Number: 0607–XXXX.

Form Number(s): N/A.

Type of Request: Regular Submission.

Number of Respondents: 416.

FY 2016: 156.

FY 2017: 52.

FY 2018: 156.

FY 2019: 52.

Average Hours per Response: Varies.

Average Time per Response Phase 1: Block Boundary Suggestion Project (BBSP) Annotation: 124 hours.

BBSP Verification: 62 hours.

Average Time per Response Phase 2: Voting District Project (VTDP) Delineation: 248 hours.

VTDP Verification: 124 hours.

Average Time per Response Phase 4: 115th Congressional Districts (CDs) & State Legislative Districts (SLDs) Collection: 2 hours.

115th CDs & SLDs Verification: 2 hours.

116th CDs & SLDs Collection: 2 hours.

116th CDs & SLDs Verification: 2 hours.

Burden Hours: 29,432 (All Phases, All FYs).

FY 2016 Burden Hours: 6,656.

FY 2017 Burden Hours: 3,224.

FY 2018 Burden Hours: 13,104.

FY 2019 Burden Hours: 6,448.

Burden Hours Phase 1:

BBSP Annotation (FY 2016): 6,448 hours.

BBSP Verification (FY 2017): 3,224 hours.

Phase 1 Total Burden Hours: 9,672 hours.

Burden Hours Phase 2:

VTD Delineation (FY 2018): 12,896 hours.

VTD Verification (FY 2019): 6,448 hours.

Phase 2 Total Burden Hours: 19,344 hours.

Burden Hours Phase 4:

115th CDs & SLDs Collection (FY 2016): 104 hours.

115th CDs & SLDs Verification (FY 2016): 104 hours.

116th CDs & SLDs Collection (FY 2018): 104 hours.

116th CDs & SLDs Verification (FY 2018): 104 hours.

Phase 4 Total Burden Hours: 416 hours.

Needs and Uses: The mission of the Geography Division (GEO) within the U.S. Census Bureau is to plan, coordinate, and administer all geographic and cartographic activities needed to facilitate Census Bureau statistical programs throughout the United States and its territories. GEO manages programs that continuously update features, boundaries, addresses, and geographic entities in the Master Address File/Topologically Integrated Geographic Encoding and Referencing (MAF/TIGER) System. GEO, also, conducts research into geographic concepts, methods, and standards needed to facilitate Census Bureau data collection and dissemination programs.

The Census Bureau is requesting a new collection to cover the five phases of the Redistricting Data Program (RDP) that was originally part of the Geographic Partnership Programs (GPPs) generic clearance. The Census Bureau requests a three-year clearance and a project specific OMB Control Number for RDP. GEO is creating a separate clearance for this critical program. A project specific clearance allows the Census Bureau to provide RDP specific materials, burden hours, and procedures. The need to only provide RDP materials ensures the program phases are uninterrupted by other program clearances unrelated to RDP. The RDP specific clearance provides flexibility in the timing, allowing the program to establish the schedule for RDP clearance needs and renewal.

Under the provisions of Title 13, Section 141(c) of the United States Code (U.S.C.), the Secretary of Commerce (Secretary) is required to provide the ''officers or public bodies having initial responsibility for the legislative apportionment or districting of each state . . .'' with the opportunity to specify geographic areas (*e.g.,* voting districts) for which they wish to receive Decennial Census population counts for the purpose of reapportionment or redistricting.

By April 1 of the year following the Decennial Census, the Secretary is required to furnish the state officials or their designees with population counts for American Indian areas (AIAs), counties, cities, census blocks, and state-specified congressional, legislative, and voting districts.

The Census Bureau has issued an invitation to the officers or public bodies having initial responsibility for legislative reapportionment and redistricting, through the Census Redistricting and Voting Rights Data Office (CRVRDO), inviting states to identify a non-partisan liaison that will work directly with the Census Bureau on the 2020 Census RDP.

Since the 1990 Census, participation in the Census RDP BBSP and VTDP, 2020 Census RDP Phases 1 and 2 under

Title 13, U.S.C., is voluntary on the part of each state. However, if states choose not to participate in Phase 1 and Phase 2, the Census Bureau cannot ensure that the 2020 Decennial Census tabulation geography will support the redistricting needs of their state.

The RDP invites respondent participation in the following phases of the program:

Phase 1: BBSP

The purpose of the BBSP is to afford states the opportunity to identify non-standard Features often used as electoral boundaries (such as a power line or stream, rather than a street centerline, which might divide voters on different sides of a street into two districts) as Census block boundaries. The BBSP option affords the state liaison the opportunity to provide suggestions for 2020 Census tabulation block boundaries, resulting in more meaningful block data for the state. Liaisons are able to work with local officials including county election officers and others to ensure local geography is represented in the 2020 Census tabulation block inventory. In addition, the liaison, on behalf of the state, will make suggestions for features not desirable as census tabulation blocks. By identifying undesirable features, the liaison may assist the Census Bureau in reducing the overall number of census tabulation blocks from the 2010 inventory. Beginning in late fall of 2015, states that choose to participate in Phase 1 will begin receiving guidelines and training for providing their suggestions for the 2020 Census tabulation blocks, as well as their suggestions for exclusion of line segments, for consideration in the final 2020 Census tabulation block inventory. For the first time, states will have the opportunity to review legal limits, such as county and incorporated place boundaries, as reported through the Boundary and Annexation Survey (BAS). The Census Bureau conducts the BAS annually to update information about the legal boundaries and names of all governmental units. The alignment of the BAS with the BBSP will facilitate the cooperation between state and local government. A verification phase will occur in early 2017.

Phase 2: VTDP

The VTDP will provide the state liaison, on behalf of the state, to submit the voting Districts (a generic term used to represent areas that administer elections such as precincts, election districts, wards, etc.) to the Census Bureau for representation in the 2020 Census Public Law 94–171 products (data and geographic products). Beginning in late 2017, states that choose to participate in VTDP will receive on a flow basis, geographic products that allow them the opportunity to update the Voting Districts (VTDs) for inclusion in the 2020 Census tabulation geography. State liaisons will continue to align their effort with updates from state and local government officials participating in the BAS. The VTD/BAS update and alignment will continue through spring of 2018. A verification phase will occur in early 2019 for states that participated in VTDP.

Phase 3: Delivery of the 2020 Decennial Census Redistricting Data

By April 1, 2021, the Director of the Census Bureau will, in accordance with Title 13, U.S.C., furnish the Governor and state legislative leaders, both the majority and minority, with 2020 Census population counts for standard census tabulation areas (*e.g.,* state, Congressional district, state legislative district, AIA, county, city, town, census tract, census block group, and census block) regardless of a state's participation in Phase 1 or 2. The Director of the Census Bureau will provide 2020 Census population counts for those states participating in Phase 2, for both the standard tabulation areas and for VTDs. For each state, this delivery will occur prior to general release and no later than April 1, 2021.

Phase 4: Collection of Post-Census Redistricting Data Plans

The Census Bureau requests from every state, the newly drawn Legislative and Congressional district plans and prepares appropriate data sets based on new districts. Between the 2010 Census and the 2020 Census, the effort began in 2011 using the 2010 Census as a baseline. Beginning in 2021, the Census Bureau will use the 2020 Census as a baseline. This effort will occur every two years in advance of the next Census in order to update these boundaries with new or changed plans. A verification phase will occur with each update.

Phase 5: Review of the 2020 Census RDP and Recommendations for the 2030 Census RDP

As the final phase of the 2020 Census RDP, the Census Bureau will work with the states to conduct a thorough review of the RDP. The intent of this review, and the final report that results, is to provide guidance to the Secretary and the Census Bureau Director in planning the 2030 Census RDP.

Affected Public: All fifty states, the District of Columbia, and the Commonwealth of Puerto Rico.

Frequency: Annually.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, U.S.C., Sections 16, 141, and 193.

This information collection request may be viewed at *www.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 8, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–26127 Filed 10–14–15; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–853]

Citric Acid and Certain Citrate Salts From Canada: Final Results of Antidumping Duty Administrative Review; 2013–2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On June 8, 2015, the Department of Commerce (the Department) published the preliminary results of the fifth administrative review of the antidumping duty order on citric acid and certain citrate salts (citric acid) from Canada.[1] The review covers one producer and exporter of the subject merchandise, Jungbunzlauer Canada Inc. (JBL Canada).

Based on our analysis of the comments received, we made changes to our margin calculations. The final weighted-average dumping margin for JBL Canada is listed below in the ''Final Results of the Review'' section of this notice.

DATES: Effective Date: October 15, 2015.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Kate Johnson, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution

[1] *See Citric Acid and Certain Citrate Salts from Canada: Preliminary Results of Antidumping Duty Administrative Review; 2013–2014*, 80 FR 32342 (June 8, 2015) (*Preliminary Results*).

Avenue NW., Washington, DC 20230; telephone (202) 482–4007 or (202) 482–4929, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 8, 2015, the Department published the *Preliminary Results.* We invited parties to comment on the preliminary results of the review. We received a case brief from Archer Daniels Midland Company, Cargill, Incorporated, and Tate & Lyle Ingredients Americas LLC (collectively, the petitioners) on July 8, 2015, and a rebuttal brief from JBL Canada on July 13, 2015. The Department conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise covered by this order is citric acid and certain citrate salts from Canada. The product is currently classified under subheadings 2918.14.0000, 2918.15.1000, 2918.15.5000, and 3824.90.9290 of the Harmonized Tariff System of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of merchandise subject to the scope is dispositive.[2]

Period of Review

The POR is May 1, 2013, through April 30, 2014.

Analysis of Comments Received

All issues raised by parties in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as Appendix I. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov;* the Issues and Decision Memorandum is available to all parties in the Central Records Unit (CRU), Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we recalculated JBL Canada's weighted-average dumping margin. Our calculations are discussed in detail in the accompanying final calculation memorandum.[3]

Final Results of the Review

We determine that a weighted-average dumping margin of 0.00 percent exists for entries of subject merchandise that were produced and/or exported by JBL Canada and that entered, or were withdrawn from warehouse, for consumption during the POR.

Assessment Rates

The Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212(b). The Department intends to issue appropriate assessment instructions to CBP 41 days after publication of these final results of review. Because we have calculated a zero margin for JBL Canada in the final results of this review, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003.[4] This clarification applies to entries of subject merchandise during the POR produced by JBL Canada for which it did not know that the merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate effective during the POR if there is no rate for the intermediate company(ies) involved in the transaction. *See Assessment Policy Notice* for a full discussion of this clarification.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for JBL Canada will be that established in the final results of this review, (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a previous review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 23.21 percent, the all-others rate made effective by the LTFV investigation.[5] These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

In accordance with 19 CFR 351.305(a)(3), this notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

[2] A full description of the scope of the order is contained in the memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Issues and Decision Memorandum for the Final Results of the 2013–2014 Antidumping Duty Administrative Review of Citric Acid and Certain Citrate Salts from Canada'' (Issues and Decision Memorandum), dated concurrently with, and hereby adopted by, this notice.

[3] *See* Memorandum to the File entitled, ''Final Results Margin Calculations for Jungbunzlauer Canada Inc.,'' dated concurrently with, and hereby adopted by, this notice.

[4] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*).

[5] *See Citric Acid and Certain Citrate Salts from Canada and the People's Republic of China: Antidumping Duty Orders,* 74 FR 25703 (May 29, 2009)

Dated: October 6, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2015–26278 Filed 10–14–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–952]

Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China: Final Results of Antidumping Duty Administrative Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On June 9, 2015, the Department of Commerce (the ''Department'') published in the **Federal Register** the preliminary results of the 2013–2014 administrative review of the antidumping duty order on narrow woven ribbons with woven selvedge (''NWR'') from the People's Republic of China (''PRC''), in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (''the Act'').[1] This review covers one company, Yama Ribbons Co., Ltd. (''Yama Ribbons'').[2] The Department preliminarily found that Yama Ribbons did not have reviewable transactions during the POR.

The Department invited interested parties to comment on the *Preliminary Results.* No parties commented. Accordingly, our *Preliminary Results* remain unchanged in these final results of review and are adopted as the final results of the review.

DATES: *Effective Date:* October 15, 2015.

FOR FURTHER INFORMATION CONTACT: Karine Gziryan and Robert Bolling, AD/CVD Operations, Office 4, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4081 and (202) 482–3434, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 16, 2015, the Department published the *Preliminary Results* in the **Federal Register**. We invited interested parties to submit comments on the *Preliminary Results,* but no comments were received.

Scope of the Order

The products covered by the order are narrow woven ribbons with woven selvedge. The merchandise subject to the order is classifiable under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings 5806.32.1020; 5806.32.1030; 5806.32.1050 and 5806.32.1060. Subject merchandise also may enter under HTSUS subheadings 5806.31.00; 5806.32.20; 5806.39.20; 5806.39.30; 5808.90.00; 5810.91.00; 5810.99.90; 5903.90.10; 5903.90.25; 5907.00.60; and 5907.00.80 and under statistical categories 5806.32.1080; 5810.92.9080; 5903.90.3090; and 6307.90.9889. Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description in the *Order* remains dispositive.[3]

Methodology

The Department has conducted this review in accordance with section 751(a)(1)(B) of the Act. For a full description of the methodology underlying our conclusions, *see* Preliminary Decision Memorandum, which is hereby incorporated in, and adopted by, these final results. This memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS''). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://www.trade.gov/enforcement/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Period of Review

The period of review is September 1, 2013, through August 31, 2014.

Final Determination of No Shipments

As noted the in *Preliminary Results,* Yama Ribbons had no reviewable transactions of merchandise during the POR.[4] As there are no changes from, or comments upon, the *Preliminary Results,* the Department finds that there is no reason to modify its analysis. Therefore, we continue to find that Yama Ribbons did not have reviewable transactions during the POR.

Assessment

The Department will determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries covered by this review.[5] The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review. Pursuant to the Department's practice in non-market economy cases, because Yama Ribbons had no shipments of the subject merchandise during the POR, the Department intends to instruct CBP to liquidate entries of subject merchandise that entered under Yama Ribbons' rate at the PRC-wide rate of 247.65 percent. For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or

[1] *See Narrow Woven Ribbons with Woven Selvedge From the People's Republic of China: Preliminary Results of Antidumping Administrative Review; 2013–2014,* 80 FR 32534 (June 9, 2015) (''*Preliminary Results*'').

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 79 FR 64565 (October 30, 2014) (''*Initiation Notice*''). The Department determined in the underlying investigation that merchandise produced and exported by Yama Ribbons is excluded from the antidumping duty order. *See Notice of Antidumping Duty Orders: Narrow Woven Ribbons With Woven Selvedge From Taiwan and the People's Republic of China: Antidumping Duty Orders,* 75 FR 53632 (September 1, 2010), as amended in *Narrow Woven Ribbons With Woven Selvedge From Taiwan and the People's Republic of China: Amended Antidumping Duty Orders,* 75 FR 56982 (September 17, 2010) (''*Order*''). However, merchandise which Yama exports but did not produce, as well as merchandise Yama produces but is exported by another company, remain subject to the *Order.*

[3] For a complete description of the scope of the order, please see ''Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Narrow Woven Ribbons With Woven Selvedge from the People's Republic of China,'' from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance (''Preliminary Decision Memorandum''), dated May 29, 2015.

[4] *See* Preliminary Decision Memorandum at 5.

[5] *See* 19 CFR 351.212(b) (1).

withdrawn from warehouse, for consumption on or after the publication date of the final results of review, as provided by section 751(a)(2)(C) of the Act: (1) For exports of merchandise made by Yama Ribbons of merchandise it did not produce, the cash deposit rate is the PRC-wide rate of 247.65, as stated in the *Order;*[6] (2) for previously investigated or reviewed PRC and non-PRC exporters which are not under review in this segment of the proceeding but which have been determined by Commerce to have a separate rate, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate the cash deposit rate will be the PRC-wide rate of 247.65 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of doubled antidumping duties.

Notification to Interested Parties

This notice also serves as a reminder to parties subject to the administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results and this notice in accordance with sections 751(a)(1) and 777(i) of the Act.

[6] *See Order.*

Dated: October 2, 2015.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–26265 Filed 10–14–15; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–855]

Certain Polyethylene Terephthalate Resin From Canada: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Effective Date: October 15, 2015.

SUMMARY: The Department of Commerce (''Department'') preliminarily determines that certain polyethylene terephthalate resin (''PET resin'') from Canada is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733(b) of the Tariff Act of 1930, as amended (the ''Act''). The period of investigation is January 1, 2014, through December 31, 2014. The estimated weighted-average dumping margins are shown in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination.

FOR FURTHER INFORMATION CONTACT: Karine Gziryan, Cara Lofaro, or Krisha Hill, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4081, (202) 482–5720, or (202) 482–4037, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this investigation on April 6, 2015.[1] Pursuant to section 733(c)(1)(A) of the Act, the Department postponed this preliminary LTFV determination by 50 days until October 6, 2015.[2]

[1] *See Certain Polyethylene Terephthalate Resin From Canada, the People's Republic of China, India, and the Sultanate of Oman: Initiation of Less-Than-Fair-Value Investigations,* 80 FR 18376 (April 6, 2015) (''*Initiation Notice*'').

[2] *See Certain Polyethylene Terephthalate Resin from Canada, the People's Republic of China, India, and the Sultanate of Oman: Postponement of Preliminary Determinations of Antidumping Duty Investigations,* 80 FR 45640 (July 31, 2015).

Scope of the Investigation

The merchandise covered by this investigation is polyethylene terephthalate (PET) resin. The merchandise subject to this investigation is properly classified under subheading 3907.60.00.30 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

For a full description of the scope of this investigation, *see* the Preliminary Decision Memorandum, hereby adopted by this notice.[3] The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and is available to all parties in the Department's Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at *http://enforcement.trade.gov/frn/.* The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope Comments

The *Initiation Notice* provided interested parties an opportunity to raise issues regarding product coverage (scope). However, no party to the proceeding provided scope comments.

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. Export price (''EP'') is calculated in accordance with section 772 of the Act. Normal value (''NV'') has been calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum, hereby adopted by this notice.

[3] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary, Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary, Enforcement and Compliance ''Decision Memorandum for Preliminary Determination of Sales at Less Than Fair Value: Certain Polyethylene Terephthalate Resin from Canada,'' (''Preliminary Decision Memorandum'') dated concurrently with and hereby adopted by this notice. A list of the topics discussed in the Preliminary Decision Memorandum appears in Appendix I, below.

All Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated ''all others'' rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely under section 776 of the Act. We based our calculation of the ''all others'' rate on the margin calculated for Selenis Canada Inc. (''Selenis Canada''), the only mandatory respondent in this investigation.

Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist during the period January 1, 2014, through December 31, 2014:

Producer or exporter	Weighted-average dumping margin (percent)
Selenis Canada Inc.	13.29
All Others	13.29

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will direct U.S. Customs and Border Protection (''CBP'') to suspend liquidation of all entries of PET resin from Canada as described in the ''Scope of the Investigation'' section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), we will instruct CBP to require a cash deposit equal to the weighted-average amount by which the NV exceeds EP as indicated in the chart above.[4] These suspension of liquidation instructions will remain in effect until further notice.

Disclosure and Public Comment

We intend to disclose the calculations performed to parties in this proceeding within five days of any public announcement of this notice in accordance with 19 CFR 351.224(b). Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for submitting case briefs.[5] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. All documents must be filed electronically using ACCESS. An electronically filed request must be received successfully in its entirety by ACCESS, by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.[6] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Verification

As provided in section 782(i)(1) of the Act, the Department intends to verify the information submitted by Selenis Canada prior to making a final determination in this investigation.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

Selenis Canada requested that, contingent upon an affirmative preliminary determination of sales at LTFV for Selenis Canada, the Department postpone its final determination pursuant to section 735(a)(2) of the Act.[7] In addition, Selenis Canada requested to extend the application of the provisional measures, from a four-month period to a period not to exceed six months.

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because: (1) Our preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.[8]

U.S. International Trade Commission (''ITC'') Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our preliminary affirmative determination of sales at LTFV. Because the preliminary determination in this proceeding is affirmative, section 735(b)(2) of the Act requires that the ITC make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of PET resin from Canada before the later of 120 days after the date of this preliminary determination or 45 days after our final determination. Because we are postponing the deadline for our final determination to 135 days from the date of publication of this preliminary determination, as discussed above, the ITC will make its final determination no later than 45 days after our final determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

[4] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

[5] *See* 19 CFR 351.309(c); *see also* 19 CFR 351.303 (for general filing requirements).

[6] *See* 19 CFR 351.310(c).

[7] *See* Letter from the Selenis Canada to the Department regarding, ''Polyethylene Terephthalate Resin (''PET Resin'') from Canada Request to Extend the Due Date of the Final Determination,'' dated September 30, 2015.

[8] *See* 19 CFR 351.210(e).

Dated: October 6, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I: List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2015–26263 Filed 10–14–15; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–307–820]

Silicomanganese from Venezuela: Rescission of Antidumping Duty Administrative Review; 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is rescinding the administrative review of the antidumping duty order on silicomanganese from Venezuela for the period May 1, 2014, through April 30, 2015.

DATES: Effective Date: October 15, 2015.

FOR FURTHER INFORMATION CONTACT: Scott Hoefke or Robert James, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4947 and (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2015, based on a timely request for review by Eramet Marietta, Inc. (Eramet) and Felman Production, LLC (Felman) (collectively, Petitioners), the Department published in the **Federal Register** a notice of initiation of an administrative review of the antidumping duty order on silicomanganese from Venezuela covering the period May 1, 2014, through April 30, 2015.[1] On August 25, 2015, Petitioners withdrew its request for an administrative review of all of the companies listed in its review request.[2]

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the publication of the notice of initiation of the requested review. In this case, Petitioners timely withdrew its review request by the 90-day deadline, and no other party requested an administrative review of the antidumping duty order. As a result, we are rescinding the administrative review of silicomanganese from Venezuela for the period May 1, 2014, through April 30, 2015.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Because the Department is rescinding this administrative review in its entirety, the entries to which this administrative review pertained shall be assessed antidumping duties at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after the publication of this notice.

Notifications

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: October 7, 2015.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duties.

[FR Doc. 2015–26256 Filed 10–14–15; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 80 FR 37588 (July 1, 2015).

[2] *See* letter from Petitioners to the Secretary of Commerce entitled, ''Silicomanganese from Venezuela: Withdrawal of Request for Administrative Review of Antidumping Order,'' dated August 25, 2015.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–523–810]

Certain Polyethylene Terephthalate Resin From the Sultanate of Oman: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Effective Date: October 15, 2015.

SUMMARY: The Department of Commerce (''Department'') preliminarily determines that certain polyethylene terephthalate resin (''PET resin'') from the Sultanate of Oman (''Oman'') is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733(b) of the Tariff Act of 1930, as amended (the ''Act''). The period of investigation is January 1, 2014, through December 31, 2014. The estimated weighted-average dumping margins are shown in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination.

FOR FURTHER INFORMATION CONTACT: Jonathan Hill, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3518.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this investigation on April 6, 2015.[1] Pursuant to section 733(c)(1)(A) of the Act, the Department postponed this preliminary LTFV determination by 50 days until October 6, 2015.[2]

Scope of the Investigation

The merchandise covered by this investigation is polyethylene terephthalate (''PET'') resin. The merchandise subject to this investigation is properly classified under subheading 3907.60.00.30 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

For a full description of the scope of this investigation, *see* the Preliminary Decision Memorandum, hereby adopted by this notice.[3] The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and is available to all parties in the Department's Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at *http://enforcement.trade.gov/frn/.* The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope Comments

The *Initiation Notice* provided interested parties an opportunity to raise issues regarding product coverage (scope). However, no party to the proceeding provided scope comments.

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. Export prices (''EP'') and constructed export prices (''CEP'') have been calculated in accordance with section 772 of the Act. Normal value (''NV'') has been calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum, hereby adopted by this notice.

All Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated ''all others'' rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* dumping margins, and any dumping margins determined entirely under section 776 of the Act. We based our calculation of the ''all others'' rate on the dumping margin calculated for OCTAL SAOC—FZC (''OCTAL''), the only mandatory respondent in this investigation. This margin was not zero or *de mininis* and it was not determined entirely under section 776 of the Act.

Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist during the period January 1, 2014, through December 31, 2014:

Producer or exporter	Weighted-average dumping margin (percent)
OCTAL SAOC—FZC	6.62
All Others	6.62

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will direct U.S. Customs and Border Protection (''CBP'') to suspend liquidation of all entries of PET resin from Oman, as described in the ''Scope of the Investigation'' section, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), we will instruct CBP to require a cash deposit [4] equal to the weighted-average amount by which the NV exceeds EP, or CEP as indicated in the chart above. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure and Public Comment

We intend to disclose the calculations performed to parties in this proceeding within five days after public announcement of the preliminary determination in accordance with 19 CFR 351.224(b). Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for submitting case briefs.[5] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. All documents must be filed electronically using ACCESS. An electronically filed hearing request must be received successfully in its entirety by ACCESS, by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.[6] Hearing requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the

[1] *See Certain Polyethylene Terephthalate Resin From Canada, the People's Republic of China, India, and the Sultanate of Oman: Initiation of Less-Than-Fair-Value Investigations,* 80 FR 18376 (April 6, 2015) (''*Initiation Notice*'').

[2] *See Certain Polyethylene Terephthalate Resin from Canada, the People's Republic of China, India, and the Sultanate of Oman: Postponement of Preliminary Determinations of Antidumping Duty Investigations,* 80 FR 45640 (July 31, 2015).

[3] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary, Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary, Enforcement and Compliance ''Certain Polyethylene Terephthalate Resin From the Sultanate of Oman: Decision Memorandum for the Preliminary Determination in the Antidumping Duty Investigation,'' (''Preliminary Decision Memorandum'') dated concurrently with and hereby adopted by this notice. A list of the topics discussed in the Preliminary Decision Memorandum appears in Appendix I, below.

[4] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

[5] *See* 19 CFR 351.309(c); *see also* 19 CFR 351.303 (for general filing requirements).

[6] *See* 19 CFR 351.310(c).

date, time, and location of the hearing two days before the scheduled date.

Verification

As provided in section 782(i)(1) of the Act, the Department intends to verify the information submitted by OCTAL and its affiliates prior to making a final determination in this investigation.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

OCTAL requested that, contingent upon an affirmative preliminary determination of sales at LTFV for OCTAL, the Department postpone its final determination pursuant to 19 CFR 351.210(e)(2).[7] In addition, OCTAL requested to extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a period not to exceed six months.

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because: (1) Our preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.[8]

[7] *See* Letter from OCTAL to the Secretary of Commerce ''OCTAL's Request for Extension of Final Determination and Provisional Measures Certain Polyethylene Terephthalate (PET) Resin from the Sultanate of Oman,'' dated September 24, 2015.

[8] *See* 19 CFR 351.210(e).

U.S. International Trade Commission (''ITC'') Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our preliminary affirmative determination of sales at LTFV. Because the preliminary determination in this proceeding is affirmative, section 735(b)(2) of the Act requires that the ITC make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of PET resin from Oman before the later of 120 days after the date of this preliminary determination or 45 days after our final determination. Because we are postponing the deadline for our final determination to 135 days from the date of publication of this preliminary determination, as discussed above, the ITC will make its final determination no later than 45 days after our final determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: October 6, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I: List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2015–26261 Filed 10–14–15; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–825]

Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Turkey: Postponement of Preliminary Determination in the Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* October 15, 2015.

FOR FURTHER INFORMATION CONTACT: Reza Karamloo at (202) 482–4470 or Rebecca Trainor at (202) 482–4007, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On August 10, 2015, the Department of Commerce (the Department) initiated the countervailing duty (CVD) investigation of heavy walled rectangular welded carbon steel pipes and tubes from the Republic of Turkey.[1] Currently, the preliminary determination is due no later than October 14, 2015.

Postponement of the Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary determination in a CVD investigation within 65 days after the date on which the Department initiated the investigation. However, if the Department concludes that the parties concerned are cooperating, and that the case is extraordinarily complicated such that additional time is necessary to make the preliminary determination, section 703(c)(1)(B) of the Act allows the Department to postpone making the preliminary determination until no later than 130 days after the date on which the administering authority initiated the investigation. We have concluded that the parties concerned are cooperating and that the case is extraordinarily complicated, such that we need more time to make the preliminary determination. Specifically, the analysis will involve not only the usual consideration of financial contribution and specificity for numerous programs,

[1] *See Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Initiation of Countervailing Duty Investigation,* 80 FR 49207 (August 17, 2015).

but will also involve the more complex consideration of the provision for less than adequate remuneration for several inputs. The deadline for completion of the preliminary determination is now December 18, 2015.

We also note that, on September 30, 2015, the petitioners [2] in this investigation, requested that the deadline for the preliminary determination be postponed to 130 days from the date of initiation in accordance with 19 CFR 351.205(b)(2).

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(l).[3]

Dated: October 7, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–26274 Filed 10–14–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–024]

Certain Polyethylene Terephthalate Resin From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* October 15, 2015.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that certain polyethylene terephthalate resin (PET resin) from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is July 1, 2014, through December 31, 2014. The estimated margins of sales at LTFV are shown in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination.

FOR FURTHER INFORMATION CONTACT: Steve Bezirganian or Tyler Weinhold, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1131 or (202) 482–1121, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this investigation on April 6, 2015.[1] Pursuant to section 733(c)(1)(A) of the Act, the Department postponed this preliminary LTFV determination by 50 days until October 6, 2015.[2]

Scope of the Investigation

The merchandise covered by this investigation is polyethylene terephthalate (PET) resin. The merchandise subject to this investigation is properly classified under subheading 3907.60.00.30 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

For a full description of the scope of this investigation, *see* the Preliminary Decision Memorandum hereby adopted by this notice.[3] The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://trade.gov/enforcement/frn/.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Scope Comments

The *Initiation Notice* provided interested parties an opportunity to raise issues regarding product coverage (scope). However, no interested party provided scope comments.

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. We calculated export prices and constructed export prices in accordance with section 772 of the Act. Because the PRC is a non-market economy within the meaning of section 771(18) of the Act, normal value (NV) was calculated in accordance with section 773(c) of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum hereby adopted by this notice.

Combination Rates

In the *Initiation Notice,*[4] the Department stated that it would calculate combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.[5]

Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist during the period July 1, 2014, through December 31, 2014:

[2] The petitioners are Atlas Tube, a division of JMC Steel Group, Bull Moose Tube Company, EXLTUBE, Hannibal Industries, Inc., Independence Tube Corporation, Maruichi American Corporation, Searing Industries, Southland Tube, and Vest, Inc.

[3] We acknowledge that the Department inadvertently did not notify the parties to this investigation of this postponement within the timeframe provided in section 703(c)(2) of the Act.

[1] *See Certain Polyethylene Terephthalate Resin From Canada, the People's Republic of China, India, and the Sultanate of Oman: Initiation of Less-Than-Fair-Value Investigations,* 80 FR 18376 (April 6, 2015) (*Initiation Notice*).

[2] *See Certain Polyethylene Terephthalate Resin from Canada, the People's Republic of China, India, and the Sultanate of Oman: Postponement of Preliminary Determinations of Antidumping Duty Investigations,* 80 FR 45640 (July 31, 2015).

[3] *See* ''Decision Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Certain Polyethylene Terephthalate Resin from the People's Republic of China from the People's Republic of China,'' from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated concurrently with this notice (Preliminary Decision Memorandum).

[4] *See Initiation Notice,* 80 FR at 18381–82.

[5] *See* Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, ''Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,'' (April 5, 2005) (Policy Bulletin 05.1), available on the Department's Web site at *http://enforcement.trade.gov/policy/bull05-1.pdf.*

Exporter	Producer	Weighted-average margin (percent)
Far Eastern Industries (Shanghai) Ltd. or Oriental Industries (Suzhou) Limited.	Far Eastern Industries (Shanghai) Ltd. or Oriental Industries (Suzhou) Limited.	125.12
Jiangyin Xingyu New Material Co., Ltd. or Jiangsu Xingye Plastic Co., Ltd. or Jiangyin Xingjia Plastic Co., Ltd. or Jiangyin Xingtai New Material Co., Ltd. or Jiangsu Xingye Polytech Co., Ltd.	Jiangyin Xingyu New Material Co., Ltd. or Jiangsu Xingye Plastic Co., Ltd. or Jiangyin Xingjia Plastic Co., Ltd. or Jiangyin Xingtai New Material Co., Ltd. or Jiangsu Xingye Polytech Co., Ltd.	131.16
Dragon Special Resin (XIAMEN) Co., Ltd	Hainan Yisheng Petrochemical Co., Ltd	129.42
Hainan Yisheng Petrochemical Co., Ltd	Zhejiang Wankai New Materials Co., Ltd	129.42
Shanghai Hengyi Polyester Fiber Co., Ltd	Dragon Special Resin (XIAMEN) Co., Ltd	129.42
Zhejiang Wankai New Materials Co., Ltd	Shanghai Hengyi Polyester Fiber Co., Ltd	129.42
PRC-Wide Entity		145.94

Disclosure and Public Comment

We intend to disclose the calculations performed to parties in this proceeding within five days after public announcement of the preliminary determination in accordance with 19 CFR 351.224(b). Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[6] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.[7] Hearing requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues parties intend to present at the hearing. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined. Prior to the date of the hearing, the Department will contact all parties that submitted case or rebuttal brief to determine if they wish to participate in the hearing. The Department will then distribute a hearing schedule to the parties prior to the hearing and only those parties listed on the schedule may present issues raised in their briefs.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of PET resin from the PRC, as described in the ''Scope of the Investigation'' section, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Pursuant to 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit [8] equal to the weighted-average amount by which NV exceeds U.S. price, adjusted where appropriate for export subsidies and estimated domestic subsidy pass-through,[9] as follows: (1) The cash deposit rate for the exporter/producer combinations listed in the table above will be the rate the Department determines in this preliminary determination; (2) for all combinations of PRC exporters/producers of merchandise under consideration that have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate established for the PRC-wide entity; and (3) for all non-PRC exporters of merchandise under consideration which have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate applicable to the PRC exporter/producer combination that supplied that non-PRC exporter.

As stated previously, we will adjust cash deposit rates by the amount of export subsidies, where appropriate. In the companion CVD investigation, Jiangyin Xingyu New Material Co., Ltd., Jiangsu Xingye Plastic Co., Ltd., Jiangyin Xingjia Plastic Co., Ltd., Jiangyin Xingtai New Material Co., Ltd., and Jiangsu Xingye Polytech Co., Ltd. (collectively ''Xingyu Group'') received a calculated export subsidy rate of 0.80 percent, and, thus, we will offset the calculated rate for the Xingyu Group by 0.80 percent. Far Eastern Industries (Shanghai) Ltd. and Oriental Industries (Suzhou) Limited (collectively ''FEIS Group'') was not a mandatory respondent in the companion CVD investigation, so we will offset the calculated rate for the FEIS Group by 1.83 percent, the average of the export subsidy rates for the two mandatory respondents in the companion CVD investigation. Dragon Special Resin (XIAMEN) Co., Ltd., one of the separate rate companies, was a mandatory respondent in the companion CVD investigation and received a calculated export subsidy rate of 2.85 percent, and, thus, we will offset the calculated rate for Dragon by 2.85 percent. The other separate rate companies were not mandatory respondents in the companion CVD investigation, so we will offset the calculated rate for each of them by 1.83 percent, the average of the export subsidy rates for the two mandatory respondents in the companion CVD investigation. Finally, we are adjusting the cash deposit rate for the PRC-wide entity by 0.80 percent,

[6] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[7] *See* 19 CFR 351.310(c).

[8] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

[9] *See* sections 772(c)(1)(C) and 777A(f) of the Act, respectively. Unlike in administrative reviews, the Department calculates the adjustment for export subsidies in investigations not in the margin calculation program, but in the cash deposit instructions issued to CBP. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India,* 71 FR 45012 (August 8, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

the lowest adjustment for any party in the companion CVD investigation.[10]

Pursuant to 777A(f) of the Act, we are also adjusting preliminary cash deposit rates for estimated domestic subsidy pass-through, where appropriate. We will adjust the Xingyu Group's by 0.91 percent, but we are not adjusting the rate for the FEIS Group because it failed to justify such an adjustment. We are adjusting the rates for each of the other separate rate companies by 1.83 percent. Finally, we are not adjusting the PRC-wide entity's rate for estimated domestic subsidy pass-through.[11]

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination by the Department, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination by the Department, a request for such postponement is made by the petitioner. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

In a joint letter dated September 30, 2015, Xingyu, Xingye, Dragon, Hainan Yisheng Petrochemical Co., Ltd., Zhejiang Wankai New Materials Co., Ltd., and Shanghai Hengyi Polyester Fiber Co., Ltd. requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days (*i.e.,* to 135 days after publication of the preliminary determination) pursuant to section 735(a)(2)(A) and 19 CFR 351.210(b)(2)(ii), and agreed to extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a period not to exceed six months.[12] In a letter dated October 2, 2015, FEIS requested the same.[13]

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because (1) our preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.[14]

International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our affirmative preliminary determination of sales at LTFV. Because the preliminary determination in this proceeding is affirmative, section 735(b)(2) of the Act requires that the ITC make its final determination whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of PET resin from the PRC before the later of 120 days after the date of this preliminary determination or 45 days after our final determination. Because we are postponing the deadline for our final determination to 135 days from the date of publication of this preliminary determination, as discussed above, the ITC will make its final determination no later than 45 days after our final determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: October 6, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

List of Topics Discussed in the Preliminary Decision Memorandum:

[FR Doc. 2015–26264 Filed 10–14–15; 8:45 am]

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[10] *See* Preliminary Decision Memorandum.

[11] *Id.*

[12] *See* letter to the Secretary dated September 30, 2015.

[13] *See* letter to the Secretary dated October 2, 2015.

[14] *See also* 19 CFR 351.210(e).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–978]

Certain High Pressure Steel Cylinders From the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is rescinding the administrative review of the countervailing duty (CVD) order on certain high pressure steel cylinders (HPSC) from the People's Republic of China (PRC) for the period of review (POR) January 1, 2014, through December 31, 2014, based on the timely withdrawal of the request for review.

DATES: *Effective Date:* October 15, 2015.

FOR FURTHER INFORMATION CONTACT: Mark Kennedy, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–7883.

SUPPLEMENTARY INFORMATION:

Background

On June 1, 2015, the Department published the notice of opportunity to request an administrative review of the order on HPSC from PRC for the period of review January 1, 2014, through December 31, 2014.[1] On June 15, 2015, Norris Cylinder Company (Norris) requested that the Department conduct an administrative review of Beijing Tianhai Industry Co., Ltd. (BTIC).[2] On

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 80 FR 31017 (June 1, 2015).

[2] *See* Letter from Norris, ''High Pressure Steel Cylinders from the People's Republic of China

June 30, 2015, BTIC requested an administrative review of its POR sales.[3] Pursuant to the requests and in accordance with 19 CFR 351.213(b), the Department published a notice initiating an administrative review of BTIC.[4] On September 9, 2015, both Norris and BTIC timely withdrew their requests for an administrative review of BTIC.[5]

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the party or parties that requested a review withdraws the request within 90 days of the publication date of the notice of initiation of the requested review. As noted above, both Norris and BTIC withdrew their requests, and they did so within 90 days of the publication date of the notice of initiation. No other parties requested an administrative review of the order. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding this review in its entirety.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries of HPSC from PRC. CVDs shall be assessed at rates equal to the cash deposit of estimated CVDs required at the time of entry, or withdrawal from warehouse, for consumption in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after the date of publication of this notice of rescission of administrative review.

Notifications

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under an APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: October 8, 2015.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2015–26281 Filed 10–14–15; 8:45 am]

BILLING CODE 3510–DS–P

Request for Administrative Review,'' dated June 15, 2015.

[3] *See* Letter from BTIC, ''Request for the Third Administrative Review of the Countervailing Duty Order on High Pressure Steel Cylinders from the People's Republic of China, C–570–978 (POR:01/01/14–12/31/14),'' dated June 30, 2015.

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 80 FR 45947 (August 3, 2015).

[5] *See* Letter from Norris, ''Withdrawal of Request for an Administrative Review of the Countervailing Duty Order on High Pressure Steel Cylinders from the People's Republic of China,'' dated September 9, 2015; Letter from BTIC, ''Withdrawal of Review Request in the Third Administrative Review of Countervailing Duty Order on High Pressure Steel Cylinders from the People's Republic of China,'' dated September 9, 2015.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–836]

Glycine From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review; 2013–2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* October 15, 2015.

SUMMARY: On April 8, 2015, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on glycine from the People's Republic of China (PRC).[1] We gave interested parties an opportunity to comment on the *Preliminary Results.* Based upon our analysis of the comments and information we received, we made changes to the margin calculation for Baoding Mantong Fine Chemistry Co., Ltd. (Baoding Mantong) for these final results. The final antidumping duty margin for Baoding Mantong for this review is listed in the ''Final Results of Review'' section below.

FOR FURTHER INFORMATION CONTACT: Dena Crossland or Angelica Townshend, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3362 or (202) 482–3019, respectively.

SUPPLEMENTARY INFORMATION:

[1] *See Glycine from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Intent to Rescind, In Part; 2013–2014,* 80 FR 18814 (April 8, 2015) (*Preliminary Results*).

Background

On April 8, 2015, the Department published the *Preliminary Results.* A summary of the events that occurred since the Department published the *Preliminary Results* may be found in the Issues and Decision Memorandum accompanying this notice, which is hereby adopted by this notice.[2] The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://iaaccess.trade.gov* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the memorandum are identical in content.

Final Partial Rescission of Review

In our *Preliminary Results,* we preliminarily rescinded the review with respect to Evonik.[3] For the *Final Results,* we are continuing to rescind the administrative review with respect to Evonik.[4]

Period of Review

The period of review (POR) is March 1, 2013, through February 28, 2014.

Scope of the Order

The product covered by this antidumping duty order is glycine, which is a free-flowing crystalline material, like salt or sugar. Glycine is currently classified under subheading 2922.49.4020 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.[5]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this review

[2] *See* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations entitled ''Glycine from the People's Republic of China: Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review; 2013–2014'' dated October 5, 2015 (Issues and Decision Memorandum).

[3] *See Preliminary Results.*

[4] *See* Issues and Decision Memorandum at Comment 6.

[5] For a full description of the scope of the order, *see* the Issues and Decision Memorandum.

are addressed in the Issues and Decision Memorandum accompanying this notice, which is hereby adopted by this notice. A list of the issues which the parties raised and to which the Department responded in the memorandum appears in Appendix I of this notice.

Changes Since the Preliminary Results

Based on our review and analysis of the comments received from parties, we made certain changes to Baoding Mantong's margin calculation since the *Preliminary Results.* For a discussion of these changes, *see* the Issues and Decision Memorandum, and accompanying Final Analysis Memorandum for Baoding Mantong, dated concurrently with this notice.

Final Results of Review

The Department determines that the following estimated weighted-average dumping margin exists for the period March 1, 2013, through February 28, 2014:

Exporter	Dumping margin (percent)
Baoding Mantong Fine Chemistry Co. Ltd	143.87

Assessment Rates

The Department determined, and the U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.[6] The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

Cash Deposit Requirements

The following cash-deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice of final results of the administrative review, as provided by section 751(a)(2)(C) of the Tariff Act of 1930, as amended: (1) For any previously investigated or reviewed PRC and non-PRC exporters which are not under review in this segment of the proceeding that received a separate rate in a previous segment of this proceeding, the cash-deposit rate will continue to be the exporter-specific rate published for the most recently-completed period; (2) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, including Evonik, the cash-deposit rate will be that for the PRC-wide entity (*i.e.,* 453.79 percent); and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the rate applicable to the PRC exporter(s) that supplied the non-PRC exporter. These cash-deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period of review. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing these final results and this notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: October 5, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2015–26270 Filed 10–14–15; 8:45 am]

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[6] *See* 19 CFR 351.212(b).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–811]

Purified Carboxymethylcellulose From the Netherlands: Final Results of Changed Circumstances Review and Revocation of the Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On August 31, 2015, the Department of Commerce (the Department) published its initiation and preliminary results [1] of a changed circumstances review (CCR), preliminarily determining to revoke the antidumping duty (AD) *Order* [2] on purified carboxymethylcellulose (CMC) from the Netherlands. We invited interested parties to comment on the *Preliminary Results.* We received no comments. Thus, we make no changes to our preliminary determination in these final results of changed circumstances review and hereby revoke the *Order in toto.*

FOR FURTHER INFORMATION CONTACT: John Drury, or Angelica Townsend, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0195 or (202) 482–3019, respectively.

DATES: *Effective Date:* July 1, 2014.

SUPPLEMENTARY INFORMATION:

Background

On July 8, 2015, in accordance with sections 751(b) and 751(d)(1) of the Tariff Act of 1930, as amended (the Act), 19 CFR 351.216(b); 351.222(g)(1), and 351.221(c)(3)(ii), Ashland Specialty

[1] *See Purified Carboxymethylcellulose From the Netherlands: Initiation and Preliminary Results of Changed Circumstances Review and Intent to Revoke the Antidumping Duty Order,* 80 FR 52447 (August 31, 2015) (*Preliminary Results*).

[2] *See Notice of Antidumping Duty Orders: Purified Carboxymethylcellulose from Finland, Mexico, the Netherlands and Sweden,* 70 FR 39734 (July 11, 2005) (the *Order*).

Ingredients, G.P. (Ashland), the petitioner and sole domestic producer of CMC, requested, effective July 1, 2014, revocation of the *Order* with respect to the Netherlands as part of an expedited CCR. On August 31, 2015, the Department preliminarily determined to revoke the *Order* and invited interested parties to comment on the *Preliminary Results*.

We received no comments from interested parties on the *Preliminary Results*.

Scope of the Order

The merchandise covered by this order is all purified CMC, sometimes also referred to as purified sodium CMC, polyanionic cellulose, or cellulose gum, which is a white to off-white, non-toxic, odorless, biodegradable powder, comprising sodium CMC that has been refined and purified to a minimum assay of 90 percent. Purified CMC does not include unpurified or crude CMC, CMC Fluidized Polymer Suspensions, and CMC that is cross-linked through heat treatment. Purified CMC is CMC that has undergone one or more purification operations which, at a minimum, reduce the remaining salt and other by-product portion of the product to less than ten percent.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States at subheading 3912.31.00. This tariff classification is provided for convenience and customs purposes; however, the written description of the scope of the order is dispositive.

Final Results of Changed Circumstances Review

Section 782(h)(2) of the Act and 19 CFR 351.222(g)(1)(i), provide that the Department may revoke an order (in whole or in part) if it determines that producers accounting for substantially all of the production of the domestic like product have no further interest in the order, in whole or in part. In accordance with 19 CFR 351.222(g)(1), we find that the petitioner's affirmative statement of no interest constitutes good cause to conduct this review. Ashland stated that, as the sole U.S. producer of CMC, it accounts for substantially all of the production of the domestic like product. Ashland also stated that it has no interest in the continuation of the *Order*.[3] Therefore, at the request of Ashland and in accordance with sections 751(b)(1) and 751(d)(1) of the Act, 19 CFR 351.216, and 351.222(g)(1)(i) and (vi), we are revoking the *Order* on CMC from the Netherlands. As stated in the *Preliminary Results,* the revocation will be effective July 1, 2014, which is the effective date requested by Ashland and also the first day of the most recent period not subject to administrative review.[4]

Termination of Suspension of Liquidation

Because we determine that there are changed circumstances that warrant the revocation of the *Order,* we will instruct U.S. Customs and Border Protection to terminate the suspension of liquidation of the merchandise subject to this order entered, or withdrawn from warehouse, on or after July 1, 2014, and to release any cash deposit or bond on all unliquidated entries of the merchandise covered by the revocation that are not covered by the final results of an administrative review or automatic liquidation.[5] Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and antidumping duty deposit requirements.

Return or Destruction of Proprietary Information

This notice serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these final results and notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216, 351.221(b)(5), and 351.222(g)(1)(i) and (g)(3)(vii).

Dated: October 7, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–26260 Filed 10–14–15; 8:45 am]

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[3] *See* Ashland's July 8, 2015, submission to the Department; *see also Preliminary Results,* 80 FR at 52447–48.

[4] *See Preliminary Results,* 80 FR at 52448.

[5] *See* 19 CFR 351.222(g)(4).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–861]

Certain Polyethylene Terephthalate Resin From India: Affirmative Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* October 15, 2015.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that certain polyethylene terephthalate resin (PET resin) products from India are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The period of investigation is January 1, 2014, through December 31, 2014. The estimated weighted-average dumping margins are shown in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Robert James, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2924 or (202) 482–0649.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this investigation on April 6, 2015.[1] Pursuant to section 733(c)(1)(A) of the Act, the Department postponed this preliminary LTFV determination by 50 days until October 6, 2015.[2]

Scope of the Investigation

The merchandise covered by these investigations is polyethylene terephthalate (PET) resin

The merchandise subject to these investigations is properly classified

[1] *See Certain Polyethylene Terephthalate Resin From Canada, the People's Republic of China, India, and the Sultanate of Oman: Initiation of Less-Than-Fair-Value Investigations,* 80 FR 18376 (April 6, 2015) (*Initiation Notice*).

[2] *See Certain Polyethylene Terephthalate Resin from Canada, the People's Republic of China, India, and the Sultanate of Oman: Postponement of Preliminary Determinations of Antidumping Duty Investigations,* 80 FR 45640 (July 31, 2015).

under subheading 3907.60.00.30 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

For a full description of the scope of the investigation, *see* the Preliminary Decision Memorandum, hereby adopted by this notice.[3] The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and is available to all parties in the Department's Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at *http://enforcement.trade.gov/frn/.* The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope Comments

The *Initiation Notice* provided interested parties an opportunity to raise issues regarding product coverage (scope). However, no party to the proceeding provided scope comments.

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. Export price (EP) has been calculated in accordance with section 772 of the Act. Normal value (NV) has been calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Preliminary Affirmative Determination of Critical Circumstances

On July 16, 2015, petitioners filed a timely critical circumstances allegation, pursuant to section 773(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of the merchandise under consideration.[4] In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary finding whether there is a reasonable basis to believe or suspect that critical circumstances exist no later than the date of the preliminary determination. We have conducted an analysis of critical circumstances in accordance with section 733(c) of the Act and 19 CFR 351.206, and preliminarily determine that: (1) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise in accordance with section 733(e)(1)(A)(i) of the Act; and (2) imports of the subject merchandise have been massive over a relatively short period in accordance with section 733(e)(1)(B) of the Act. Therefore, we preliminarily determine that critical circumstances exist. For a full description of the methodology and results of our analysis, *see* the Preliminary Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or *de minimis* margins, and margins determined entirely under section 776 of the Act. In this investigation, we calculated weighted-average dumping margins for both mandatory respondents that are above *de minimis* and which are not based on section 776 of the Act. However, because there are only two relevant weighted-average dumping margins for this final determination, using a weighted-average of these two rates risks disclosure of business proprietary data. Therefore, the Department assigned a margin to the all-others rate companies based on the simple average of the two mandatory respondents' rates.

Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist during the period January 1, 2014, through December 31, 2014:

Producer or exporter	Weighted-average dumping margin (percent)
Dhunseri Petrochem, Ltd.	19.41
Ester Industries, Ltd.	10.68
JBF Industries, Ltd.	19.41
Reliance Industries, Ltd.	6.31
All Others	8.50

Disclosure and Public Comment

We intend to disclose the calculations performed to parties in this proceeding within five days after public announcement of the preliminary determination in accordance with 19 CFR 351.224(b). Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for submitting case briefs.[5] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. All documents must be filed electronically using ACCESS. An electronically filed request must be received successfully in its entirety by ACCESS, by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.[6] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Verification

As provided in section 782(i)(1) of the Act, the Department intends to verify

[3] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary, Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary, Enforcement and Compliance ''Decision Memorandum for the Preliminary Determination in the Antidumping Duty Investigation of Certain Polyethylene Terephthalate Resin from India,'' (Preliminary Decision Memorandum) dated concurrently with and hereby adopted by this notice. A list of the topics discussed in the Preliminary Decision Memorandum appears in the Appendix below.

[4] *See* letter from Petitioners, ''Certain Polyethylene Terephthalate Resin—Critical Circumstances Allegation,'' date July 16, 2015.

[5] *See* 19 CFR 351.309(c); *see also* 19 CFR 351.303 (for general filing requirements).

[6] *See* 19 CFR 351.310(c).

the information submitted by Ester and Reliance prior to making a final determination in this investigation.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of PET resin from India as described in the ''Scope of the Investigation'' section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), we will instruct CBP to require a cash deposit [7] equal to the weighted-average amount by which the NV exceeds EP as indicated in the chart above, adjusted where appropriate for export subsidies.[8] These suspension of liquidation instructions will remain in effect until further notice.

Pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), we will instruct CBP to require a cash deposit [9] equal to the weighted-average amount by which NV exceeds EP, as indicated in the chart above, as follows: (1) The rate for Dhunseri, when adjusted for export subsidies, is 14.28 percent; (2) the rate for Ester, when adjusted for export subsidies, is 5.55 percent; (3) the rate for JBF, when adjusted for export subsidies, is 0.00 percent; (4) the rate for Reliance, when adjusted for export subsidies, is 1.18, (5) if the exporter is not a firm identified in this investigation, but the producer is, then the rate will be the rate established for the producer of the subject merchandise; (6) the rate for all other producers or exporters, when adjusted for export subsidies, will be 3.37 percent. These suspension of liquidation instructions will remain in effect until further notice.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of the investigation was published. As described above, we preliminarily find that critical circumstances exist for imports produced or exported by all Indian exporters. Therefore, in accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

Reliance requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days (*i.e.,* to 135 days after publication of the preliminary determination) pursuant to section 735(a)(2)(A) and 19 CFR 351.210(b)(2)(ii), and agreed to extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a period not to exceed six months.[10]

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because (1) our preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.[11] The suspension of liquidation described above will be extended accordingly.

U.S. International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our preliminary affirmative determination of sales at LTFV. Because the preliminary determination in this proceeding is affirmative, section 735(b)(2) of the Act requires that the ITC make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of PET resin from India before the later of 120 days after the date of this preliminary determination or 45 days after our final determination. Because we are postponing the deadline for our final determination to 135 days from the date of publication of this preliminary determination, as discussed above, the ITC will make its final determination no later than 45 days after our final determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: October 6, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix List of Topics Discussed in the Preliminary Decision Memorandum

[7] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

[8] *See* section 772(c)(1)(C) of the Act. Unlike in administrative reviews, the Department calculates the adjustment for export subsidies in investigations not in the margin calculation program, but in the cash deposit instructions issued to CBP. *See Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India,* 71 FR 45012 (August 8, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

[9] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

[10] *See* letter from Reliance dated September 24, 2015.

[11] *See* 19 CFR 351.210(e).

[FR Doc. 2015–26262 Filed 10–14–15; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE057

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Pier Replacement Project

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that we have issued an incidental harassment authorization (IHA) to the U.S. Navy (Navy) to incidentally harass, by Level B harassment only, marine mammals during construction activities associated with a pier replacement project at Naval Base Point Loma, San Diego, CA.

DATES: This authorization is effective from October 8, 2015, through October 7, 2016.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Availability

An electronic copy of the Navy's application and supporting documents, as well as a list of the references cited in this document, may be obtained by visiting the Internet at: *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* In case of problems accessing these documents, please call the contact listed above.

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the U.S. can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as ''any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

Summary of Request

On June 12, 2015, we received a request from the Navy for authorization to take marine mammals incidental to pile installation and removal associated with a pier replacement project in San Diego Bay at Naval Base Point Loma in San Diego, CA (NBPL). The Navy also submitted a separate monitoring plan and draft monitoring report pursuant to requirements of the previous IHA. The Navy submitted revised versions of the request on July 3 and July 26, 2015, a revised version of the monitoring plan on July 21, 2015, and a revised monitoring report on July 29, 2015. These documents were deemed adequate and complete. The pier replacement project is planned to occur over four years; this IHA covers only the third year of work and is valid for a period of one year, from October 8, 2015, through October 7, 2016. Hereafter, use of the generic term ''pile driving'' may refer to both pile installation and removal unless otherwise noted.

The use of both vibratory and impact pile driving is expected to produce underwater sound at levels that have the potential to result in behavioral harassment of marine mammals. Species with the expected potential to be present during all or a portion of the in-water work window include the California sea lion (*Zalophus californianus*), harbor seal (*Phoca vitulina richardii*), northern elephant seal (*Mirounga angustirostris*), gray whale (*Eschrichtius robustus*), bottlenose dolphin (*Tursiops truncatus truncatus*), Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), Risso's dolphin (*Grampus griseus*), and either short-beaked or long-beaked common dolphins (*Delphinus* spp.). California sea lions are present year-round and are very common in the project area, while bottlenose dolphins and harbor seals are common and likely to be present year-round but with more variable occurrence in San Diego Bay. Gray whales may be observed in San Diego Bay sporadically during migration periods. The remaining species are known to occur in nearshore waters outside San Diego Bay, but are generally only rarely observed near or in the bay. However, recent observations indicate that these species may occur in the project area and therefore could potentially be subject to incidental harassment from the aforementioned activities.

This is the third such IHA, following the IHAs issued effective from September 1, 2013, through August 31, 2014 (78 FR 44539) and from October 8, 2014, through October 7, 2015 (79 FR 65378). Monitoring reports are available on the Internet at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm* and provide environmental information related to issuance of this IHA.

Description of the Specified Activity

Overview

NBPL provides berthing and support services for Navy submarines and other fleet assets. The existing fuel pier serves as a fuel depot for loading and unloading tankers and Navy underway replenishment vessels that refuel ships at sea (''oilers''), as well as transferring fuel to local replenishment vessels and other small craft operating in San Diego Bay, and is the only active Navy fueling facility in southern California. Portions of the pier are over one hundred years old, while the newer segment was constructed in 1942. The pier as a whole is significantly past its design service life and does not meet current construction standards.

Over the course of four years, the Navy plans to demolish and remove the existing pier and associated pipelines and appurtenances while simultaneously replacing it with a generally similar structure that meets relevant standards for seismic strength and is designed to better accommodate modern Navy ships. Demolition and construction are planned to occur in two phases to maintain the fueling capabilities of the existing pier while the new pier is being constructed. During the third year of construction (the specified activity considered under this proposed IHA), approximately 226 piles will be installed (including six 30-in steel pipe piles, 88 30 x 24-in concrete piles, and 132 16-in concrete-filled fiberglass piles). Demolition of the existing pier will continue concurrently, including the removal of approximately one hundred steel and concrete piles and twenty concrete-filled steel caissons. Removals may occur by multiple means, including vibratory removal, pile cutter, dead pull, and diamond belt saw, as determined to be most effective. Construction work under this IHA is anticipated to require a total of 115 days of in-water work. All steel piles will be driven with a vibratory hammer for their initial embedment depths and finished with an impact hammer, as necessary.

The planned actions with the potential to incidentally harass marine mammals within the waters adjacent to NBPL are vibratory and impact pile installation and removal of piles via pile cutter. Vibratory pile removal is not planned but could occur if deemed the most effective technique to remove a given pile; because this technique is not expected to occur we do not consider it separately in this document from vibratory pile driving. Concurrent use of multiple pile driving rigs is not planned; however, pile removal conducted as part of demolition activities (which could occur via a number of techniques) may occur concurrently with pile installation conducted as part of construction activities.

Dates and Duration

The entire project is scheduled to occur from 2013–17; the planned activities that are planned to occur during the period of validity for this IHA, during the third year of work, would occur for one year. Under the terms of a memorandum of understanding (MOU) between the Navy and the U.S. Fish and Wildlife Service (FWS), all noise- and turbidity-producing in-water activities in designated least tern foraging habitat are to be avoided during the period when least terns are present and engaged in nesting and foraging (a window from approximately May 1 through September 15). However, it is possible that in-water work, as described below, could occur at any time during the period of validity of this IHA. The conduct of any such work would be subject to approval from FWS under the terms of the MOU. We expect that in-water work will primarily occur from October through April. In-water pile driving and removal work using pile cutters or vibratory drivers is limited to 115 days in total under this IHA. Pile driving will occur during normal working hours (approximately 7 a.m. to 6 p.m.).

Specific Geographic Region

NBPL is located on the peninsula of Point Loma near the mouth and along the northern edge of San Diego Bay (see Figures 1–1 and 1–2 in the Navy's application). San Diego Bay is a narrow, crescent-shaped natural embayment oriented northwest-southeast with an approximate length of 24 km and a total area of roughly 4,500 ha. The width of the bay ranges from 0.3 to 5.8 km, and depths range from 23 m mean lower low water (MLLW) near the tip of Ballast Point to less than 2 m at the southern end (see Figure 2–1 of the Navy's application). San Diego Bay is a heavily urbanized area with a mix of industrial, military, and recreational uses. The northern and central portions of the bay have been shaped by historic dredging to support large ship navigation. Dredging occurs as necessary to maintain constant depth within the navigation channel. Outside the navigation channel, the bay floor consists of platforms at depths that vary slightly. Sediments in northern San Diego Bay are relatively sandy as tidal currents tend to keep the finer silt and clay fractions in suspension, except in harbors and elsewhere in the lee of structures where water movement is diminished. Much of the shoreline consists of riprap and manmade structures. San Diego Bay is heavily used by commercial, recreational, and military vessels, with an average of over 80,000 vessel movements (in or out of the bay) per year (not including recreational boating within the Bay) (see Table 2–2 of the Navy's application). For more information about the specific geographic region, please see section 2.3 of the Navy's application.

Detailed Description of Activities

In order to provide context, we described the entire project in our **Federal Register** notice of proposed authorization associated with the first-year IHA (78 FR 30873; May 23, 2013). Please see that document for an overview of the entire fuel pier replacement project, or see the Navy's Environmental Assessment (2013) for more detail. In the notice of proposed authorization associated with the third-year IHA (80 FR 53115; September 2, 2015) we provided an overview of relevant construction methods before describing only the specific project portions scheduled for completion during the third work window. We do not repeat that information here; please refer to that document for more information. Approximately 498 piles in total are planned to be installed for the project, including steel, concrete, and plastic piles. For the third year of work, approximately 226 steel and concrete piles will be installed. Tables 1 and 2 detail the piles to be installed and removed, respectively, under this IHA.

TABLE 1—DETAILS OF PILES TO BE INSTALLED

Purpose	Location	Planned timing	Pile type	Pile number
Dolphin batter piles	North mooring	Fall 2015	30-in steel pipe	6
Fender piles	Bayward side of new pier	Fall–Winter 2015	24 x 30-in concrete	88

TABLE 1—DETAILS OF PILES TO BE INSTALLED—Continued

Purpose	Location	Planned timing	Pile type	Pile number
Fender piles	Bayward side of new pier	Fall–Winter 2015	16-in concrete-filled fiberglass	132

TABLE 2—DETAILS OF PILES TO BE REMOVED

Pile type	Number
Concrete fender piles (14-, 16-, and 24-in)	56
Plastic fender piles (13-in)	34
Temporary steel piles (30-in)	12
Concrete-filled steel caissons	20

Description of Work Accomplished

During the first in-water work season, two primary activities were conducted: relocation of the Marine Mammal Program and the Indicator Pile Program (IPP). During the second in-water work season, the IPP was concluded and simultaneous construction of the new pier and demolition of the old pier begun. These activities were detailed in our **Federal Register** notice of proposed authorization (80 FR 53115; September 2, 2015) and are not repeated here.

Comments and Responses

We published a notice of receipt of the Navy's application and proposed IHA in the **Federal Register** on September 2, 2015 (80 FR 53115). We received a letter from the Marine Mammal Commission; the Commission's comments and our responses are provided here, and the comments have been posted on the Internet at: *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* Please see the Commission's letter for background and rationale regarding these recommendations.

Comment 1: The Commission recommends that we (1) authorize a small number of Level A harassment takes of California sea lions for construction activities at NBPL and (2) take a consistent approach in authorizing Level A harassment for other activities in which there is a potential for Level A harassment to occur (*i.e.,* impact pile driving and seismic surveys).

Response: California sea lions are abundant in the vicinity of the project area, and it is therefore difficult to assume as is typical that all animals will be observed either prior to entering the shutdown zone or immediately upon surfacing within the shutdown zone. Therefore, the Navy evaluated use of a buffered shutdown zone during the course of Year 2 construction activities. The Navy ultimately proposed use of a pinniped shutdown zone with radial distance twice as large as the modeled Level A harassment zone in its request for authorization related to Year 3 construction activities. The Commission commends the Navy for amending its mitigation measures using an adaptive approach, but notes that four of 107 sea lion sightings resulting in shutdown involved animals observed within the modeled zone, rather than within the larger buffered zone. We have previously authorized Level A harassment for activities where we believe that such take is likely unavoidable. The Commission therefore believes that authorization of Level A harassment is warranted and, further, that we should take a consistent approach to such authorizations across projects.

We do not believe that the authorization of Level A harassment is warranted in this case. These four observations, within the relevant zone for impact driving of 30- and 36-in steel pipe piles, occurred over one hundred days of such activity and 238 driven piles. This gives a rate of 0.02 animals observed within the actual Level A zone per driven pile. While this rate would likely be highly variable, it does give an indication of the rarity of the event (*i.e.,* an animal was not observed prior to traversing the buffer zone and entering the actual modeled zone). Only six days of similar pile driving (*i.e.,* impact driving of 30-in steel pipe piles) is planned for Year 3. Based on the small number of piles associated with source levels that exceed the Level A harassment threshold, the low likelihood of an animal entering the actual Level A harassment zone, and the demonstrated success in implementation of the buffered shutdown zone, the Navy did not request authorization of Level A harassment, and we concur with that decision.

We agree with the Commission's recommendation that we consider the need for authorization of Level A harassment consistently, but disagree that our decision here displays an inconsistent approach. We consider the need for authorization of Level A harassment on a case-by-case basis. Consistency does not demand that we reach the same outcome in all cases, but merely that we consider like factors consistently across actions.

Comment 2: The Commission recommends that we develop criteria and provide guidance to applicants regarding the circumstances under which we will consider requests for Level A harassment takes under section 101(a)(5)(D) of the MMPA.

Response: We do not agree that formal criteria are necessary, but will continue to provide guidance to applicants regarding the need to consider Level A harassment authorization. As has been our practice, we will consider relevant factors consistently in reaching action-specific decisions.

Description of Marine Mammals in the Area of the Specified Activity

There are four marine mammal species which are either resident or have known seasonal occurrence in the vicinity of San Diego Bay, including the California sea lion, harbor seal, bottlenose dolphin, and gray whale (see Figures 3–1 through 3–4 and 4–1 in the Navy's application). In addition, common dolphins (see Figure 3–4 in the Navy's application), the Pacific white-sided dolphin, Risso's dolphin, and northern elephant seals are known to occur in deeper waters in the vicinity of San Diego Bay and/or have been recently observed within the bay. Although the latter three species of cetacean would not generally be expected to occur within the project area, the potential for changes in occurrence patterns due to developing El Niño conditions in conjunction with recent observations leads us to believe that authorization of incidental take is warranted. Common dolphins have been documented regularly at the Navy's nearby Silver Strand Training Complex, and were observed in the project area during both previous years of project activity. The Pacific white-sided dolphin has been sighted along a previously used transect on the opposite side of the Point Loma peninsula (Merkel and Associates, 2008) and there were several observations of Pacific white-sided dolphins during Year 2 monitoring. Risso's dolphin is fairly common in southern California coastal waters (*e.g.,* Campbell *et al.,* 2010), and could occur in the bay. Northern elephant seals are included based on their continuing increase in numbers along the Pacific coast (Carretta *et al.,* 2015) and the likelihood that animals that reproduce on the islands offshore of

Baja California and mainland Mexico—where the population is also increasing—could move through the project area during migration, as well as the observation of a juvenile seal near the Fuel Pier in April 2015.

Note that common dolphins could be either short-beaked (*Delphinus delphis delphis*) or long-beaked (*D. capensis capensis*). While it is likely that common dolphins observed in the project area would be long-beaked, as it is the most frequently stranded species in the area from San Diego Bay to the U.S.-Mexico border (Danil and St. Leger, 2011), the species distributions overlap and it is unlikely that observers would be able to differentiate them in the field. Therefore, we consider that any common dolphins observed—and any incidental take of common dolphins—could be either species.

In addition, other species that occur in the Southern California Bight may have the potential for isolated occurrence within San Diego Bay or just offshore. In particular, a short-finned pilot whale (*Globicephala macrorhynchus*) was observed off Ballast Point, and a Steller sea lion (*Eumetopias jubatus monteriensis*) was seen in the project area during Year 2. These species are not typically observed near the project area and, unlike the previously mentioned species, we do not believe it likely that they will occur in the future. Given the unlikelihood of their exposure to sound generated from the project, these species are not considered further.

We have reviewed the Navy's detailed species descriptions, including life history information, for accuracy and completeness and refer the reader to Sections 3 and 4 of the Navy's application instead of reprinting the information here. Please also refer to NMFS' Web site (*www.nmfs.noaa.gov/pr/species/mammals*) for generalized species accounts and to the Navy's Marine Resource Assessment for the Southern California and Point Mugu Operating Areas, which provides information regarding the biology and behavior of the marine resources that may occur in those operating areas (DoN, 2008). The document is publicly available at *www.navfac.navy.mil/products_and_services/ev/products_and_services/marine_resources/marine_resource_assessments.html* (accessed August 21, 2015). In addition, we provided information for the potentially affected stocks, including details of stock-wide status, trends, and threats, in our **Federal Register** notices of proposed authorization associated with the first- and second-year IHAs (78 FR 30873; May 23, 2013 and 79 FR 53026; September 5, 2014) and refer the reader to those documents rather than reprinting the information here.

Table 3 lists the marine mammal species with expected potential for occurrence in the vicinity of NBPL during the project timeframe and summarizes key information regarding stock status and abundance. See also Figures 3–1 through 3–5 of the Navy's application for observed occurrence of marine mammals in the project area. Taxonomically, we follow Committee on Taxonomy (2014). Please see NMFS' Stock Assessment Reports (SAR), available at *www.nmfs.noaa.gov/pr/sars,* for more detailed accounts of these stocks' status and abundance. All potentially affected species are addressed in the Pacific SARs (Carretta *et al.,* 2015).

TABLE 3—MARINE MAMMALS POTENTIALLY PRESENT IN THE VICINITY OF NBPL

Species	Stock	ESA/MMPA status; Strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR [3]	Annual M/SI [4]	Relative occurrence in San Diego Bay; season of occurrence
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales) Family Eschrichtiidae						
Gray whale	Eastern North Pacific.	-; N	20,990 (0.05; 20,125; 2011).	624	132[6]	Occasional migratory visitor; winter.
Superfamily Odontoceti (toothed whales, dolphins, and porpoises) Family Delphinidae						
Bottlenose dolphin	California coastal	-; N	323[5] (0.13; 290; 2005).	2.4	0.2	Common; year-round.
Short-beaked common dolphin.	California/Oregon/Washington.	-; N	411,211 (0.21; 343,990; 2008).	3,440	64	Occasional; year-round (but more common in warm season).
Long-beaked common dolphin.	California	-; N	107,016 (0.42; 76,224; 2009).	610	13.8	Occasional; year-round (but more common in warm season).
Pacific white-sided dolphin.	California/Oregon/Washington.	-; N	26,930 (0.28; 21,406; 2008).	171	17.8	Uncommon; year-round.
Risso's dolphin	California/Oregon/Washington.	-; N	6,272 (0.3; 4,913; 2008).	39	1.6	Rare; year-round (but more common in cool season).
Order Carnivora—Superfamily Pinnipedia Family Otariidae (eared seals and sea lions)						
California sea lion	U.S	-; N	296,750 (n/a; 153,337; 2011).	9,200	389	Abundant; year-round.

TABLE 3—MARINE MAMMALS POTENTIALLY PRESENT IN THE VICINITY OF NBPL—Continued

Species	Stock	ESA/MMPA status; Strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR [3]	Annual M/SI [4]	Relative occurrence in San Diego Bay; season of occurrence
Family Phocidae (earless seals)						
Harbor seal	California	-; N	30,968 (n/a; 27,348; 2012).	1,641	43	Common; year-round.
Northern elephant seal.	California breeding	-; N	179,000 (n/a; 81,368; 2010).	4,882	8.8	Rare; year-round.

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR (see footnote 3) or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable. For certain stocks of pinnipeds, abundance estimates are based upon observations of animals (often pups) ashore multiplied by some correction factor derived from knowledge of the species (or similar species) life history to arrive at a best abundance estimate; therefore, there is no associated CV. In these cases, the minimum abundance may represent actual counts of all animals ashore.

[3] Potential biological removal, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population size (OSP).

[4] These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, subsistence hunting, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value.

[5] This value is based on photographic mark-recapture surveys conducted along the San Diego coast in 2004–05, but is considered a likely underestimate, as it does not reflect that approximately 35 percent of dolphins encountered lack identifiable dorsal fin marks (Defran and Weller, 1999). If 35 percent of all animals lack distinguishing marks, then the true population size would be closer to 450–500 animals (Carretta *et al.,* 2015).

[6] Includes annual Russian harvest of 127 whales.

Potential Effects of the Specified Activity on Marine Mammals and Their Habitat

We provided discussion of the potential effects of the specified activity on marine mammals and their habitat in our **Federal Register** notices of proposed authorization associated with the first- and second-year IHAs (78 FR 30873; May 23, 2013 and 79 FR 53026; September 5, 2014). The specified activity associated with this IHA is substantially similar to those considered for the first- and second-year IHAs and the potential effects of the specified activity are the same as those identified in those documents. Therefore, we do not reprint the information here but refer the reader to those documents. We also provided brief definitions of relevant acoustic terminology in our notice of proposed authorization associated with this IHA (80 FR 53115; September 2, 2015).

Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses.

The mitigation strategies described below largely follow those required and successfully implemented under the first- and second-year IHAs. For this IHA, data from acoustic monitoring conducted during the first two years of work was used to estimate zones of influence (ZOIs; see ''Estimated Take by Incidental Harassment''); these values were used to develop mitigation measures for pile driving activities at NBPL. The ZOIs effectively represent the mitigation zone that would be established around each pile to prevent Level A harassment to marine mammals, while providing estimates of the areas within which Level B harassment might occur. In addition, the Navy has defined buffers to the estimated Level A harassment zones to further reduce the potential for Level A harassment. In addition to the measures described later in this section, the Navy would conduct briefings between construction supervisors and crews, marine mammal monitoring team, acoustic monitoring team, and Navy staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

Monitoring and Shutdown for Pile Driving

The following measures apply to the Navy's mitigation through shutdown and disturbance zones:

Shutdown Zone—For all pile driving and removal activities, the Navy will establish a shutdown zone intended to contain the area in which SPLs equal or exceed the 180/190 dB rms acoustic injury criteria. The purpose of a shutdown zone is to define an area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area), thus preventing injury of marine mammals (serious injury or death are unlikely outcomes even in the absence of mitigation measures). Estimated radial distances to the relevant thresholds are shown in Table 4. For certain activities, the shutdown zone would not exist because source levels are lower than the threshold, or the source levels indicate that the radial distance to the threshold would be less than 10 m. However, a minimum shutdown zone of 20 m will be established during all pile driving and removal activities, regardless of the estimated zone. This represents a buffer of 10 m added to the previously implemented 10 m minimum shutdown zone. In addition the Navy will effect a buffered shutdown zone that is intended to significantly reduce the potential for Level A harassment given that, in particular, California sea lions are quite abundant in the project area and bottlenose dolphins may surface unpredictably and move erratically in an area with a large amount of construction equipment. The Navy considered typical swim speeds (Godfrey, 1985; Lockyer and Morris, 1987; Fish, 1997; Fish *et al.,* 2003; Rohr *et al.,* 2002; Noren *et al.,* 2006) and past field experience (*e.g.,* typical elapsed time from observation of an animal to

shutdown of equipment) in initially defining these buffered zones, and then evaluated the practicality and effectiveness of the zones during the Year 2 construction period. The Navy will add a buffer of 75 m to the 190 dB zone for impact driving of steel piles (doubling the effective zone to 150 m radius) and will add a buffer of 100 m to the 180 dB zone for impact driving of steel piles (increasing the effective zone to 450 m). These zones are also shown in Table 5. These precautionary measures are intended to prevent the already unlikely possibility of physical interaction with construction equipment and to establish a precautionary minimum zone with regard to acoustic effects.

Disturbance Zone—Disturbance zones are the areas in which SPLs equal or exceed 160 and 120 dB rms (for impulse and continuous sound, respectively). Disturbance zones provide utility for monitoring conducted for mitigation purposes (*i.e.,* shutdown zone monitoring) by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring of disturbance zones enables observers to be aware of and communicate the presence of marine mammals in the project area but outside the shutdown zone and thus prepare for potential shutdowns of activity. However, the primary purpose of disturbance zone monitoring is for documenting incidents of Level B harassment; disturbance zone monitoring is discussed in greater detail later (see ''Monitoring and Reporting''). Nominal radial distances for disturbance zones are shown in Table 4.

In order to document observed incidents of harassment, monitors record all marine mammal observations, regardless of location. The observer's location, as well as the location of the pile being driven, is known from a GPS. The location of the animal is estimated as a distance from the observer, which is then compared to the location from the pile. If acoustic monitoring is being conducted for that pile, a received SPL may be estimated, or the received level may be estimated on the basis of past or subsequent acoustic monitoring. It may then be determined whether the animal was exposed to sound levels constituting incidental harassment in post-processing of observational and acoustic data, and a precise accounting of observed incidences of harassment created. Therefore, although the predicted distances to behavioral harassment thresholds are useful for estimating incidental harassment for purposes of authorizing levels of incidental take, actual take may be determined in part through the use of empirical data.

Acoustic measurements will continue during the third year of project activity and zones would be adjusted as indicated by empirical data. Please see the Navy's Acoustic and Marine Species Monitoring Plan (Monitoring Plan; available at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm*) for full details.

Monitoring Protocols—Monitoring will be conducted before, during, and after pile driving activities. In addition, observers will record all incidents of marine mammal occurrence, regardless of distance from activity, and will document any behavioral reactions in concert with distance from piles being driven. Observations made outside the shutdown zone will not result in shutdown; that pile segment would be completed without cessation, unless the animal approaches or enters the shutdown zone, at which point all pile driving activities would be halted. Monitoring will take place from fifteen minutes prior to initiation through thirty minutes post-completion of pile driving activities. Pile driving activities include the time to remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than thirty minutes. Please see the Monitoring Plan for full details of the monitoring protocols.

The following additional measures apply to visual monitoring:

(1) Monitoring will be conducted by qualified observers, who will be placed at the best vantage point(s) practicable (as defined in the Monitoring Plan) to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. Qualified observers are trained biologists, with the following minimum qualifications:

- Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;
- Advanced education in biological science or related field (undergraduate degree or higher is required);
- Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience);
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior; and
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

(2) Prior to the start of pile driving activity, the shutdown zone will be monitored for fifteen minutes to ensure that it is clear of marine mammals. Pile driving will only commence once observers have declared the shutdown zone clear of marine mammals; animals will be allowed to remain in the shutdown zone (*i.e.,* must leave of their own volition) and their behavior will be monitored and documented. The shutdown zone may only be declared clear, and pile driving started, when the entire shutdown zone is visible (*i.e.,* when not obscured by dark, rain, fog, etc.). In addition, if such conditions should arise during impact pile driving that is already underway, the activity would be halted.

(3) If a marine mammal approaches or enters the shutdown zone during the course of pile driving operations, activity will be halted and delayed until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or fifteen minutes have passed without re-detection of the animal. Monitoring will be conducted throughout the time required to drive a pile and for thirty minutes following the conclusion of pile driving.

Timing Restrictions

In-order to avoid impacts to least tern populations when they are most likely to be foraging and nesting, in-water work will be concentrated from October 1–April 1 or, depending on circumstances, to April 30. However, this limitation is in accordance with agreements between the Navy and FWS, and is not a requirement of this IHA. All in-water construction activities will occur only during daylight hours (sunrise to sunset).

Soft Start

The use of a soft start procedure is believed to provide additional protection to marine mammals by warning or providing a chance to leave the area prior to the hammer operating at full capacity, and typically involves a requirement to initiate sound from the hammer at reduced energy followed by a waiting period. This procedure is repeated two additional times. It is difficult to specify the reduction in energy for any given hammer because of variation across drivers and, for impact hammers, the actual number of strikes at reduced energy will vary because operating the hammer at less than full power results in ''bouncing'' of the hammer as it strikes the pile, resulting in multiple ''strikes.'' The project will utilize soft start techniques for both impact and vibratory pile driving of steel piles. We require the Navy to initiate sound from vibratory hammers for fifteen seconds at reduced energy followed by a thirty-second waiting period, with the procedure repeated two additional times. For impact driving, we require an initial set of three strikes from the impact hammer at reduced energy, followed by a thirty-second waiting period, then two subsequent three strike sets. Soft start will be required at the beginning of each day's pile driving work and at any time following a cessation of pile driving of thirty minutes or longer; these requirements are specific to both vibratory and impact driving and the requirement. For example, the requirement to implement soft start for impact driving is independent of whether vibratory driving has occurred within the past thirty minutes.

We have carefully evaluated the Navy's proposed mitigation measures and considered their effectiveness in past implementation to determine whether they are likely to effect the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another: (1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals, (2) the proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and (3) the practicability of the measure for applicant implementation.

Any mitigation measure(s) we prescribe should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(1) Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

(2) A reduction in the number (total number or number at biologically important time or location) of individual marine mammals exposed to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing takes by behavioral harassment only).

(3) A reduction in the number (total number or number at biologically important time or location) of times any individual marine mammal would be exposed to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing takes by behavioral harassment only).

(4) A reduction in the intensity of exposure to stimuli expected to result in incidental take (this goal may contribute to 1, above, or to reducing the severity of behavioral harassment only).

(5) Avoidance or minimization of adverse effects to marine mammal habitat, paying particular attention to the prey base, blockage or limitation of passage to or from biologically important areas, permanent destruction of habitat, or temporary disturbance of habitat during a biologically important time.

(6) For monitoring directly related to mitigation, an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of the Navy's proposed measures, as well as any other potential measures that may be relevant to the specified activity, we have determined that the planned mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking''. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for incidental take authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area.

Any monitoring requirement we prescribe should improve our understanding of one or more of the following:

- Occurrence of marine mammal species in action area (*e.g.,* presence, abundance, distribution, density).
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) Affected species (*e.g.,* life history, dive patterns); (3) Co-occurrence of marine mammal species with the action; or (4) Biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas).
- Individual responses to acute stressors, or impacts of chronic exposures (behavioral or physiological).
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of an individual; or (2) Population, species, or stock.
- Effects on marine mammal habitat and resultant impacts to marine mammals.
- Mitigation and monitoring effectiveness.

Please see the Monitoring Plan (available at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm*) for full details of the requirements for monitoring and reporting. Notional monitoring locations (for biological and acoustic monitoring) are shown in Figures 3–1 and 3–2 of the Plan. The purpose of this Plan is to provide protocols for acoustic and marine mammal monitoring implemented during pile driving and removal activities. We have determined this monitoring plan, which is summarized here and which largely follows the monitoring strategies required and successfully implemented under the previous IHAs, to be sufficient to meet the MMPA's monitoring and reporting requirements. The previous monitoring plan was modified to integrate adaptive changes to the monitoring methodologies as well as updates to the scheduled construction activities. Monitoring objectives are as follows:

- Monitor in-water construction activities, including the implementation of in-situ acoustic monitoring efforts to continue to measure SPLs from in-water construction and demolition activities not previously monitored or validated during the previous IHAs. At minimum, acoustic sound levels would be collected and evaluated acoustic for five

piles of each type of fender pile to be installed.

- Monitor marine mammal occurrence and behavior during in-water construction activities to minimize marine mammal impacts and effectively document marine mammals occurring within ZOI boundaries.
- Continue the collection of ambient underwater sound measurements in the absence of project activities to develop a rigorous baseline for the project area.

Acoustic Measurements

The primary purpose of acoustic monitoring is to empirically verify modeled injury and behavioral disturbance zones (defined at radial distances to NMFS-specified thresholds of 160–, 180–, and 190–dB (rms) for underwater sound (where applicable) and 90– and 100–dB (unweighted) for airborne sound; see ''Estimated Take by Incidental Harassment'' below). For non-pulsed sound, distances will continue to be evaluated for attenuation to the point at which sound becomes indistinguishable from background levels. Empirical acoustic monitoring data will be used to document transmission loss values determined from measurements collected during the IPP and to examine site-specific differences in SPL and affected ZOIs on an as needed basis.

Should monitoring results indicate it is appropriate to do so, marine mammal mitigation zones would be revised as necessary to encompass actual ZOIs in subsequent years of the fuel pier replacement project. Acoustic monitoring will be conducted as specified in the approved Monitoring Plan. Please see Table 2–2 of the Plan for a list of equipment to be used during acoustic monitoring. Monitoring locations will be determined based on results of previous acoustic monitoring effort and the best professional judgment of acoustic technicians.

Some details of the methodology include:

- No acoustic data to be collected for 30-in steel piles as sufficient data has been collected for 36-in steel piles during previous two years. One airborne sound monitoring station will be maintained.
- Hydroacoustic monitoring to be conducted at source for impact driving of a minimum of five of each type of fender pile in order to document SPLs.
- Sound level meters to be deployed to continue validation of source SPLs and 160/120 dB ZOIs as documented from previous acoustic monitoring efforts.
- Source SPLs for all construction or demolition activities will be measured for the first five events of each size or type of pile or activity if not sufficiently measured and/or validated previously; Navy would conduct additional monitoring if source unexpectedly exceeds any assumed values.
- For underwater recordings, sound level meter systems will follow methods in accordance with NMFS' 2012 guidance for the collection of source levels.
- For airborne recordings, to the extent that logistics and security allow, reference recordings will be collected at approximately 15 m from the source via a sound meter with integrated microphone. Other distances may also be utilized to obtain better data if the signal cannot be isolated clearly due to other sound sources (*e.g.,* barges or generators).
- Ambient conditions will be measured at the project site in the absence of construction activities to determine background sound levels. Ambient levels will be recorded over the frequency range from 7 Hz to 20 kHz. Ambient conditions will be recorded at least three times during the IHA period consistent with NMFS' 2012 guidance for the measurement of ambient sound. Each time, data will be collected for eight-hour periods for three days during typical working hours (7 a.m. to 6 p.m., Monday through Saturday) in the absence of in-water construction activities. The three recording periods will be spaced to adequately capture variation across the notional work window (October-March).
- Environmental data would be collected including but not limited to: wind speed and direction, air temperature, humidity, surface water temperature, water depth, wave height, weather conditions and other factors that could contribute to influencing the airborne and underwater sound levels (*e.g.,* aircraft, boats).
- From all the strikes associated with each pile occurring during the Level 4 (highest energy) phase these measures will be made:
  - Mean, minimum, and maximum rms pressure level in dB.
  - Mean duration of a pile strike (based on the ninety percent energy criterion).
  - Number of hammer strikes.
  - Mean, minimum, and maximum single strike SEL in dB re μPa^2 sec.
  - Cumulative SEL as defined by the mean single strike SEL + 10*log (# hammer strikes) in dB re μPa^2 sec.
  - A frequency spectrum (pressure spectral density) in [dB re μPa^2 per Hz] based on the average of up to eight successive strikes with similar sound. Spectral resolution will be 1 Hz and the spectrum will cover nominal range from 7 Hz to 20 kHz.

Full details of acoustic monitoring requirements may be found in section 3.2 of the Navy's approved Monitoring Plan and in section 13 of the Navy's application.

Visual Marine Mammal Observations

The Navy will collect sighting data and behavioral responses to construction for marine mammal species observed in the region of activity during the period of activity. All observers will be trained in marine mammal identification and behaviors and are required to have no other construction-related tasks while conducting monitoring. The Navy will monitor the shutdown zone and disturbance zone before, during, and after pile driving as described under ''Mitigation'' and in the Monitoring Plan, with observers located at the best practicable vantage points. Notional monitoring locations are shown in Figures 3–1 and 3–2 of the Navy's Plan. Please see that plan, available at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm,* for full details of the required marine mammal monitoring. Section 4.2 of the Plan and section 13 of the Navy's application offer more detail regarding monitoring protocols. Based on our requirements, the Navy would implement the following procedures for pile driving:

- MMOs would be located at the best vantage point(s) in order to properly see the entire shutdown zone and as much of the disturbance zone as possible.
- During all observation periods, observers will use binoculars and the naked eye to search continuously for marine mammals.
- If the shutdown zones are obscured by fog or poor lighting conditions, pile driving at that location will not be initiated until that zone is visible. Should such conditions arise while impact driving is underway, the activity would be halted.
- The shutdown and disturbance zones around the pile will be monitored for the presence of marine mammals before, during, and after any pile driving or removal activity.

One MMO will be placed on the active construction/demolition platform in order to observe the respective shutdown zones for vibratory and impact pile driving or for applicable demolition activities. Monitoring will be primarily dedicated to observing the shutdown zone; however, MMOs would record all marine mammal sightings beyond these distances provided it did not interfere with their effectiveness at carrying out the shutdown procedures.

Additional land, pier, or vessel-based MMOs will be positioned to monitor the shutdown zones and the buffer zones, as notionally indicated in Figures 3–1 and 3–2 of the Navy's application. Up to five additional MMOs will be deployed during driving of steel piles, and at least one additional MMO will be deployed during driving of fender piles and during applicable demolition activities.

Because there are different threshold distances for different types of marine mammals (pinniped and cetacean), the observation platform at the shutdown zone will concentrate on the 190 dB rms and 180 dB rms isopleths locations and station the observers and vessels accordingly. The MMOs associated with these platforms will record all visible marine mammal sightings. Confirmed takes will be registered once the sightings data has been overlaid with the isopleths identified in Table 4 and visualized (for steel piles) in Figure 6–2 of the Navy's application, or based on refined acoustic data, if amendments to the ZOIs are needed. The acousticians on board will be noting SPLs in real-time, but, to avoid biasing the observations, will not communicate that information directly to the MMOs. These platforms may move closer to, or farther from, the source depending on whether received SPLs are less than or greater than the regulatory threshold values. All MMOs will be in radio communication with each other so that the MMOs will know when to anticipate incoming marine mammal species and when they are tracking the same animals observed elsewhere.

If any species for which take is not authorized is observed by a MMO during applicable construction or demolition activities, all construction will be stopped immediately. If a boat is available, MMOs will follow the animal(s) at a minimum distance of 100 m until the animal has left the Level B ZOI. Pile driving will commence if the animal has not been seen inside the Level B ZOI for at least one hour of observation. If the animal is resighted again, pile driving will be stopped and a boat-based MMO (if available) will follow the animal until it has left the Level B ZOI.

Individuals implementing the monitoring protocol will assess its effectiveness using an adaptive approach. Monitoring biologists will use their best professional judgment throughout implementation and seek improvements to these methods when deemed appropriate. Any modifications to protocol will be coordinated between NMFS and the Navy.

Data Collection

We require that observers use approved data forms. Among other pieces of information, the Navy will record detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any. In addition, the Navy will attempt to distinguish between the number of individual animals taken and the number of incidents of take. We require that, at a minimum, the following information be collected on the sighting forms:

- Date and time that monitored activity begins or ends;
- Construction activities occurring during each observation period;
- Weather parameters (*e.g.,* percent cover, visibility);
- Water conditions (*e.g.,* sea state, tide state);
- Species, numbers, and, if possible, sex and age class of marine mammals;
- Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving activity, and if possible, the correlation to measured SPLs;
- Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;
- Description of implementation of mitigation measures (*e.g.,* shutdown or delay);
- Locations of all marine mammal observations; and
- Other human activity in the area.

In addition, photographs would be taken of any gray whales observed. These photographs would be submitted to NMFS' West Coast Regional Office for comparison with photo-identification catalogs to determine whether the whale is a member of the WNP population.

Reporting

A draft report will be submitted to NMFS within 45 calendar days of the completion of marine mammal monitoring, or sixty days prior to the issuance of any subsequent IHA for this project, whichever comes first. The report will include marine mammal observations pre-activity, during-activity, and post-activity during pile driving days, and will also provide descriptions of any behavioral responses to construction activities by marine mammals and a complete description of all mitigation shutdowns and the results of those actions. A final report will be prepared and submitted within thirty days following resolution of comments on the draft report. Required contents of the monitoring reports are described in more detail in the Navy's Acoustic and Marine Species Monitoring Plan.

Monitoring Results From Previously Authorized Activities

The Navy complied with the mitigation and monitoring required under the previous authorizations for this project. Acoustic and marine mammal monitoring was implemented as required, with marine mammal monitoring occurring before, during, and after each pile driving event. During the course of Year 2 activities, the Navy did not exceed the take levels authorized under the IHA. However, the Navy did record four observations of California sea lions within the defined 190-dB shutdown zone. Previous acoustic and marine mammal monitoring results were detailed in our **Federal Register** notice of proposed authorization (80 FR 53115; September 2, 2015) and are not repeated here.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: ''. . . any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

All anticipated takes would be by Level B harassment resulting from vibratory and impact pile driving or demolition and involving temporary changes in behavior. The planned mitigation and monitoring measures (*i.e.,* buffered shutdown zones) are expected to minimize the possibility of Level A harassment such that we believe it is unlikely. We do not expect that injurious or lethal takes would occur even in the absence of the planned mitigation and monitoring measures.

If a marine mammal responds to a stimulus by changing its behavior (*e.g.,* through relatively minor changes in locomotion direction/speed or vocalization behavior), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a

prolonged period, impacts on animals or on the stock or species could potentially be significant (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007). Given the many uncertainties in predicting the quantity and types of impacts of sound on marine mammals, it is common practice to estimate how many animals are likely to be present within a particular distance of a given activity, or exposed to a particular level of sound. In practice, depending on the amount of information available to characterize daily and seasonal movement and distribution of affected marine mammals, it can be difficult to distinguish between the number of individuals harassed and the instances of harassment and, when duration of the activity is considered, it can result in a take estimate that overestimates the number of individuals harassed. In particular, for stationary activities, it is more likely that some smaller number of individuals may accrue a number of incidences of harassment per individual than for each incidence to accrue to a new individual, especially if those individuals display some degree of residency or site fidelity and the impetus to use the site (*e.g.,* because of foraging opportunities) is stronger than the deterrence presented by the harassing activity.

The project area is not believed to be particularly important habitat for marine mammals, nor is it considered an area frequented by marine mammals (with the exception of California sea lions, which are attracted to nearby haul-out opportunities). Sightings of other species are relatively rare. Therefore, behavioral disturbances that could result from anthropogenic sound associated with these activities are expected to affect only a relatively small number of individual marine mammals, although those effects could be recurring over the life of the project if the same individuals remain in the project vicinity.

The Navy requested authorization for the potential taking of small numbers of California sea lions, harbor seals, bottlenose dolphins, common dolphins, Pacific white-sided dolphins, Risso's dolphins, northern elephant seals, and gray whales in San Diego Bay and nearby waters that may result from pile driving during construction activities associated with the fuel pier replacement project described previously in this document. In order to estimate the potential incidents of take that may occur incidental to the specified activity, we typically first estimate the extent of the sound field that may be produced by the activity and then consider in combination with information about marine mammal density or abundance in the project area.

We provided detailed information on applicable sound thresholds for determining effects to marine mammals and described the information used in estimating the sound fields, the available marine mammal density or abundance information, and the method of estimating potential incidents of take, in our **Federal Register** notice of proposed authorization (80 FR 53115; September 2, 2015). That information is unchanged, and our take estimates were calculated in the same manner and on the basis of the same information as what was described in the **Federal Register** notice. Measured distances to relevant thresholds are shown in Table 4, assumed ZOIs and days of activity are shown in Table 5, and total estimated incidents of take are shown in Table 6. Please see our **Federal Register** notice of proposed authorization (80 FR 53115; September 2, 2015) for full details of the process and information used in estimating potential incidents of take.

TABLE 4—MEASURED DISTANCES TO RELEVANT THRESHOLDS

Activity	Distance to threshold in meters					
	190 dB	180 dB	160 dB	120 dB	100 dB	90 dB
Impact driving, steel piles [1]	75 [2]	350 [2]	2,000	n/a	78	182
Vibratory driving, steel piles	<10	<10	n/a	3,000	.....	.....
Impact driving, 24×30 concrete piles	<10	<10	505	n/a	.....	.....
Impact driving, 16-in concrete-filled fiberglass piles	<10	<10	259	n/a	.....	.....
Pile cutting (demolition)	<10	<10	n/a	1,500	.....	.....

[1] Note that, for underwater zones, these values are based on data for bayside piles and will be precautionary for shoreside piles.
[2] The buffered zones for use in mitigation will be 150 m and 450 m, respectively. The minimum zone for other activities listed here will be 20 m.

Description of Take Calculation

The following assumptions are made when estimating potential incidences of take:

- All marine mammal individuals potentially available are assumed to be present within the relevant area, and thus incidentally taken;
- An individual can only be taken once during a 24-h period;
- The assumed ZOIs and days of activity are as shown in Table 5; and,
- Exposures to sound levels at or above the relevant thresholds equate to take, as defined by the MMPA.

The estimation of marine mammal takes typically uses the following calculation:

Exposure estimate = (n * ZOI) * days of total activity

where:

n = density estimate used for each species/season
ZOI = sound threshold ZOI area; the area encompassed by all locations where the SPLs equal or exceed the threshold being evaluated
n * ZOI produces an estimate of the abundance of animals that could be present in the area for exposure, and is rounded to the nearest whole number before multiplying by days of total activity.

The ZOI impact area is estimated using the relevant distances in Table 4, assuming that sound radiates from a central point in the water column slightly offshore of the existing pier and taking into consideration the possible affected area due to topographical constraints of the action area (*i.e.,* radial distances to thresholds are not always reached). When local abundance is the best available information, in lieu of the density-area method described above, we may simply multiply some number of animals (as determined through counts of animals hauled-out) by the number of days of activity, under the assumption that all of those animals will be present and incidentally taken on each day of activity.

TABLE 5—ACTIVITY-SPECIFIC DAYS AND CALCULATED ZOIS

Activity	Number of days	ZOI (km^2)
Impact and vibratory driving, 30-in steel piles [1] ..	6	5.6572
Vibratory removal	6	5.6572
Impact driving, 24×32-in concrete piles	22	0.1914
Impact driving, 16-in concrete-filled fiberglass piles	33	0.0834
Hydraulic pile cutting/diamond saw cutting	48	3.0786

[1] We assume that impact driving of 30-in steel piles would always occur on the same day as vibratory driving of the same piles. Therefore, the impact driving ZOI (3.8894 km^2) would always be subsumed by the vibratory driving ZOI.

Where appropriate, we use average daily number of individuals observed within the project area during Navy marine mammal surveys converted to a density value by using the largest ZOI as the effective observation area. It is the opinion of the professional biologists who conducted these surveys that detectability of animals during these surveys, at slow speeds and under calm weather and excellent viewing conditions, approached one hundred percent.

There are a number of reasons why estimates of potential incidents of take may be conservative, assuming that available density or abundance estimates and estimated ZOI areas are accurate (aside from the contingency correction discussed above). We assume, in the absence of information supporting a more refined conclusion, that the output of the calculation represents the number of individuals that may be taken by the specified activity. In fact, in the context of stationary activities such as pile driving and in areas where resident animals may be present, this number more realistically represents the number of incidents of take that may accrue to a smaller number of individuals. While pile driving can occur any day throughout the period of validity, and the analysis is conducted on a per day basis, only a fraction of that time (typically a matter of hours on any given day) is actually spent pile driving. The potential effectiveness of mitigation measures in reducing the number of takes is typically not quantified in the take estimation process. For these reasons, these take estimates may be conservative. See Table 6 for total estimated incidents of take.

TABLE 6—CALCULATIONS FOR INCIDENTAL TAKE ESTIMATION

Species	Density	Impact driving, steel [1]	Vibratory driving, steel	Impact driving, concrete	Impact driving, concrete/ fiberglass	Vibratory removal	Pile cutting	Total authorized takes (% of total stock)
California sea lion	15.9201	372	540	22	33	540	2,352	3,487 (1.2)
Harbor seal	0.4987	12	18	0	0	18	96	132 (0.4)
Bottlenose dolphin	1.2493	30	42	0	0	42	192	[2] 276 (55.2)
Common dolphin	1.5277	36	54	0	0	54	240	[3] 348 (0.3 [LB]/0.1 [SB])
Gray whale	0.115	0	6	0	0	6	0	12 (0.1)
Northern elephant seal [4]	0.0508	1	1	0	0	1	1	3 (0.002)
Pacific white-sided dolphin [5]	0.0493	1	1	0	0	1	1	21 (0.04)
Risso's dolphin	0.2029	6	6	0	0	6	48	60 (1.0)

[1] We assume that impact driving of steel piles would occur on the same day as vibratory driving of the same piles. Therefore, these estimates are provided for reference only and are not included in the total take authorization.
[2] Total stock assumed to be 500 for purposes of calculation. See Table 3.
[3] LB = long-beaked; SB = short-beaked.
[4] Although the density calculation gives a result of zero for all scenarios, we assume one occurrence of one northern elephant seal will occur in the relevant ZOI for each indicated activity.
[5] Although the density calculation gives a result of zero for all scenarios, we assume one occurrence of a group of Pacific white-sided dolphins will occur in the relevant ZOI for each indicated activity, with a group size of seven.

Analyses and Determinations

Negligible Impact Analysis

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of Level B harassment takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, we consider other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and effects on habitat.

Pile driving activities associated with the pier replacement project have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment (behavioral disturbance) only, from underwater sounds generated from pile driving. Potential takes could occur if individuals of these species are present in the ensonified zone when pile driving is happening.

No injury, serious injury, or mortality is anticipated given the nature of the activity and measures designed to minimize the possibility of injury to marine mammals. The potential for these outcomes is minimized through the construction method and the implementation of the planned mitigation measures. For example, use of vibratory hammers does not have significant potential to cause injury to marine mammals due to the relatively low source levels produced (site-specific acoustic monitoring data show no source level measurements above 180 dB rms) and the lack of potentially injurious source characteristics. Impact pile driving produces short, sharp pulses with higher peak levels and much sharper rise time to reach those peaks. When impact driving is necessary, required measures (implementation of buffered shutdown zones) significantly reduce any possibility of injury. Given sufficient ''notice'' through use of soft start (for impact driving), marine mammals are

expected to move away from a sound source that is annoying prior to its becoming potentially injurious. The likelihood that marine mammal detection ability by trained observers is high under the environmental conditions described for San Diego Bay (approaching one hundred percent detection rate, as described by trained biologists conducting site-specific surveys) further enables the implementation of shutdowns to avoid injury, serious injury, or mortality.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from past years of this project and other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff, 2006; HDR, 2012; Lerma, 2014). Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. In response to vibratory driving, pinnipeds (which may become somewhat habituated to human activity in industrial or urban waterways) have been observed to orient towards and sometimes move towards the sound. The pile driving activities analyzed here are similar to, or less impactful than, numerous other construction activities conducted in San Francisco Bay and in the Puget Sound region, which have taken place with no reported injuries or mortality to marine mammals, and no known long-term adverse consequences from behavioral harassment. Repeated exposures of individuals to levels of sound that may cause Level B harassment are unlikely to result in hearing impairment or to significantly disrupt foraging behavior. Thus, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in fitness for the affected individuals, and thus would not result in any adverse impact to the stock as a whole. Level B harassment will be reduced to the level of least practicable impact through use of mitigation measures described herein and, if sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the project area while the activity is occurring.

In summary, this negligible impact analysis is founded on the following factors: (1) The possibility of injury, serious injury, or mortality may reasonably be considered discountable; (2) the anticipated incidents of Level B harassment consist of, at worst, temporary modifications in behavior; (3) the absence of any significant habitat within the project area, including rookeries, significant haul-outs, or known areas or features of special significance for foraging or reproduction; (4) the presumed efficacy of the planned mitigation measures in reducing the effects of the specified activity to the level of least practicable impact. In addition, these stocks are not listed under the ESA or considered depleted under the MMPA. In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activity will have only short-term effects on individuals. The specified activity is not expected to impact rates of recruitment or survival and will therefore not result in population-level impacts. Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, we find that the total marine mammal take from Navy's pier replacement activities will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers Analysis

The number of incidents of take authorized for these stocks, with the exception of the coastal bottlenose dolphin (see below), would be considered small relative to the relevant stocks or populations (see Table 6) even if each estimated taking occurred to a new individual. This is an extremely unlikely scenario as, for pinnipeds occurring at the NBPL waterfront, there will almost certainly be some overlap in individuals present day-to-day and in general, there is likely to be some overlap in individuals present day-to-day for animals in estuarine/inland waters.

The numbers of authorized take for bottlenose dolphins are higher relative to the total stock abundance estimate and would not represent small numbers if a significant portion of the take was for a new individual. However, these numbers represent the estimated incidents of take, not the number of individuals taken. That is, it is likely that a relatively small subset of California coastal bottlenose dolphins would be incidentally harassed by project activities. California coastal bottlenose dolphins range from San Francisco Bay to San Diego (and south into Mexico) and the specified activity would be stationary within an enclosed water body that is not recognized as an area of any special significance for coastal bottlenose dolphins (and is therefore not an area of dolphin aggregation, as evident in Navy observational records). We therefore believe that the estimated numbers of takes, were they to occur, likely represent repeated exposures of a much smaller number of bottlenose dolphins and that, based on the limited region of exposure in comparison with the known distribution of the coastal bottlenose dolphin, these estimated incidents of take represent small numbers of bottlenose dolphins.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, we find that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, we have determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

The Navy initiated informal consultation under section 7 of the ESA with NMFS Southwest Regional Office (now West Coast Regional Office) on March 5, 2013. NMFS concluded on May 16, 2013, that the proposed action may affect, but is not likely to adversely affect, WNP gray whales. The Navy has not requested authorization of the incidental take of WNP gray whales and no such authorization was proposed, and there are no other ESA-listed marine mammals found in the action area. Therefore, no consultation under the ESA is required.

National Environmental Policy Act (NEPA)

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), as implemented by the regulations published by the Council on Environmental Quality (40 CFR parts 1500–1508), the Navy prepared an Environmental Assessment (EA) to consider the direct, indirect and cumulative effects to the human environment resulting from the pier

replacement project. NMFS made the Navy's EA available to the public for review and comment, in relation to its suitability for adoption by NMFS in order to assess the impacts to the human environment of issuance of an IHA to the Navy. Also in compliance with NEPA and the CEQ regulations, as well as NOAA Administrative Order 216–6, NMFS has reviewed the Navy's EA, determined it to be sufficient, and adopted that EA and signed a Finding of No Significant Impact (FONSI) on July 8, 2013.

We have reviewed the Navy's application for a renewed IHA for ongoing construction activities for 2015–16 and the 2014–15 monitoring report. Based on that review, we have determined that the proposed action is very similar to that considered in the previous IHAs. In addition, no significant new circumstances or information relevant to environmental concerns have been identified. Thus, we have determined that the preparation of a new or supplemental NEPA document is not necessary, and, after review of public comments reaffirm our 2013 FONSI. The 2013 NEPA documents are available for review at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.*

Authorization

As a result of these determinations, we have issued an IHA to the Navy for conducting the described pier replacement activities in San Diego Bay, from October 8, 2015 through October 7, 2016, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: October 6, 2015.

Perry F. Gayaldo,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–26226 Filed 10–14–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE246

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting (webinar).

SUMMARY: The Pacific Fishery Management Council (Pacific Council) will convene a webinar meeting of its Coastal Pelagic Species Management Team (CPSMT). The meeting is open to the public.

DATES: The webinar will be held Tuesday, October 27, 2015, from 3 p.m. to 4:30 p.m. Pacific Daylight Time.

ADDRESSES: To attend the webinar, visit: *http://www.gotomeeting.com/online/webinar/join-webinar.* The Webinar ID and call-in information will be available on the Council's Web site in advance of the meeting.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Kerry Griffin, Staff Officer; telephone: (503) 820–2409.

SUPPLEMENTARY INFORMATION: The primary purpose of the meeting is to discuss agenda items on the November 2015 Pacific Council meeting agenda. Topics may include the Pacific sardine distribution workshop report, anchovy general status, data-limited stock assessments for CPS, and/or methodology review topic selection.

Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the CPSMT's intent to take final action to address the emergency.

Special Accommodations

The public listening station is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (503) 820–2280 at least 5 days prior to the meeting date.

Dated: October 9, 2015.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2015–26238 Filed 10–14–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE243

Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fisheries; Notice That Vendor Will Provide 2016 Cage Tags

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of vendor to provide fishing year 2016 cage tags.

SUMMARY: NMFS informs surfclam and ocean quahog individual transferable quota (ITQ) allocation holders that they will be required to purchase their fishing year 2016 (January 1, 2016–December 31, 2016) cage tags from the National Band and Tag Company. The intent of this notice is to comply with regulations for the Atlantic surfclam and ocean quahog fisheries and to promote efficient distribution of cage tags.

FOR FURTHER INFORMATION CONTACT: Anna Macan, Fishery Management Specialist, (978) 281–9165; fax (978) 281–9161.

SUPPLEMENTARY INFORMATION: The Federal Atlantic surfclam and ocean quahog fishery regulations at 50 CFR 648.77(b) authorize the Regional Administrator of the Greater Atlantic Region, NMFS, to specify in the **Federal Register** a vendor from whom cage tags, required under the Atlantic Surfclam and Ocean Quahog Fishery Management Plan (FMP), shall be purchased. Notice is hereby given that National Band and Tag Company of Newport, Kentucky, is the authorized vendor of cage tags required for the fishing year 2016 Federal surfclam and ocean quahog fisheries. Detailed instructions for purchasing these cage tags will be provided in a letter to ITQ allocation holders in these fisheries from NMFS within the next several weeks.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 9, 2015.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2015–26253 Filed 10–14–15; 8:45 am]

BILLING CODE 3510–22–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: Annual Economic Survey of Federal Gulf and South Atlantic Shrimp Permit Holders.

OMB Control Number: 0648–0591.

Form Number(s): None.

Type of Request: Regular (revision and extension of a currently approved information collection).

Number of Respondents: 1,850.

Average Hours per Response: Vessel owner survey, 45 minutes; crew survey, 15 minutes

Burden Hours: 788.

Needs and Uses: his request is for revision and extension of a currently approved information collection.

NOAA Fisheries, Southeast Fisheries Science Center, annually collects socioeconomic data from commercial fishermen in the Gulf of Mexico and South Atlantic shrimp fisheries who hold one or more permits for harvesting shrimp from federal waters (U.S. Exclusive Economic Zone). Information about revenues, variable and fixed costs, capital investment and other socioeconomic information is collected from a random sample of permit holders. Additionally, we will pilot a short demographic/socioeconomic survey of shrimp vessel crews. Next to nothing is known about the 4–5 thousand individuals crewing federally permitted shrimp vessels. These data are needed to conduct socioeconomic analyses in support of management of the shrimp fishery and to satisfy legal requirements. The data will be used to assess how fishermen will be impacted by and respond to federal regulation likely to be considered by fishery managers.

Affected Public: Business or other for-profit organizations; individuals or households.

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: October 8, 2015.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015–26133 Filed 10–14–15; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection: Rules Relating to Review of National Futures Association Decisions in Disciplinary, Membership Denial, Registration, and Member Responsibility Actions

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (''CFTC'') is announcing an opportunity for public comment on the renewal of a collection of certain information by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on rules relating to review of National Futures Association decisions in disciplinary, membership denial, registration, and member responsibility actions.

DATES: Comments must be submitted on or before December 14, 2015.

ADDRESSES: You may submit comments, identified by ''OMB Control No. 3038–0043'' by any of the following methods:

- The Agency's Web site, at *http://comments.cftc.gov/*. Follow the instructions for submitting comments through the Web site.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.
- *Federal eRulemaking Portal: http://www.regulations.gov/*. Follow the instructions for submitting comments through the Portal.

Please submit your comments using only one method.

FOR FURTHER INFORMATION CONTACT: Melissa Chiang, Counsel, Office of General Counsel, Commodity Futures Trading Commission, (202) 418–5578; email: *mchiang@cftc.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (''OMB'') for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below.

Title: Rules Relating to Review of National Futures Association Decisions in Disciplinary, Membership Denial, Registration, and Member Responsibility Actions (OMB Control No. 3038–0043). This is a request for extension of a currently approved information collection.

Abstract: 17 CFR part 171 rules require a registered futures association to provide fair and orderly procedures for membership and disciplinary actions. The Commission's review of decisions of registered futures associations in disciplinary, membership denial, registration, and member responsibility actions is governed by Section 17(h)(2) of the Commodity Exchange Act, 7 U.S.C. 21(h)(2). The rules establish procedures and standards for Commission review of such actions, and the reporting requirements included in the procedural rules are either directly required by Section 17 of the Commodity Exchange Act or are necessary to the type of appellate review role Congress intended the Commission to undertake when it adopted that provision.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the CFTC's regulations were published on December 30, 1981. *See* 46 FR 63035 (Dec. 30, 1981). The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on June 1, 2012 (77 FR 32593).

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

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

Burden Statement: The respondent burden for this collection is estimated to average 1 hour per response. This estimate includes the time needed to transmit decisions of disciplinary, membership denial, registration, and member responsibility actions to the Commission for review. The estimated burden of 1 hour is determined by the following:

Respondents/Affected Entities: Individuals or entities filing appeals from disciplinary and membership decisions by National Futures Association.

Estimated number of respondents per year: 1.

Estimated number of responses: 3.

Estimated total annual burden on respondents: 3 hours.

Frequency of collection: On occasion.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: October 8, 2015.

Robert N. Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2015–26121 Filed 10–14–15; 8:45 am]

BILLING CODE 6351–01–P

[1] 17 CFR 145.9.

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant a Partially Exclusive License; Envoy Flight Systems, Inc.

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Envoy Flight Systems, Inc. located at 201 Ruthar Drive, Suite 3, Newark, Delaware 19711, a revocable, nonassignable, partially exclusive license throughout the United States (U.S.) in the fields of use for Portable Firefighting Systems, Portable Cleaning Systems and Water Desalination in the Government-Owned inventions described in U.S. Patent number 5,520,331 issued on May 28, 1996 entitled ''Liquid Atomizing Nozzle'' and U.S. Patent number 7,523,876 B2 issued on April 28, 2009 entitled ''Adjustable Liquid Atomization Nozzle''.

ADDRESSES: Written objections are to be filed with the Naval Air Warfare Center Aircraft Division, Technology Transfer Office, Attention Michelle Miedzinski, Code 5.0H, 22347 Cedar Point Road, Building 2185, Room 2160, Patuxent River, Maryland 20670.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, within fifteen (15) days of the date of this published notice.

FOR FURTHER INFORMATION CONTACT: Michelle Miedzinski, 301–342–1133, Naval Air Warfare Center Aircraft Division, 22347 Cedar Point Road, Building 2185, Room 2160, Patuxent River, Maryland 20670.

Authority: 35 U.S.C. 207, 37 CFR part 404.

Dated: October 6, 2015.

N. A. Hagerty-Ford,

Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2015–26216 Filed 10–14–15; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy.

ACTION: Notice.

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is available for domestic and foreign licensing by the Department of the Navy.

The following patent is available for licensing: U.S. Provisional Patent No. 62/038569: SPINDLE LOCATOR TOOL

ADDRESSES: Requests for a copy of the invention cited should be directed to NAVFAC Engineering & Expeditionary Warfare Center, RDT&E C19, 1100 23rd Avenue, Port Hueneme, CA 93043–4370.

FOR FURTHER INFORMATION CONTACT: Victor Cai, Technology Transfer Office, NAVFAC–EXWC RDT&E C19, 1100 23rd Avenue, Port Hueneme, CA 93043–4370 telephone 805–982–3009, FAX 805–982–1253, email: *victor.cai@navy.mil.*

SUPPLEMENTARY INFORMATION: The Spindle Locator Tool enables identification of proper and improper placement of a spindle in a locking mechanism. Specifically, it will be used for the X–10 electromechanical lock which has experienced a spindle and cam interface issue that can result in lockouts requiring neutralization.

(Authority: 35 U.S.C. 207, 37 CFR part 404)

Dated: October 6, 2015.

N. A. Hagerty-Ford,

Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2015–26215 Filed 10–14–15; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice Inviting Postsecondary Educational Institutions To Participate in Experiments Under the Experimental Sites Initiative; Federal Student Financial Assistance Programs Under Title IV of the Higher Education Act of 1965, as Amended

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Secretary invites postsecondary educational institutions (institutions) that participate in the student financial assistance programs authorized under title IV of the Higher Education Act of 1965, as amended (HEA), to apply to participate in a new institutionally based experiment under the Experimental Sites Initiative (ESI). Under the ESI, the Secretary has authority to grant waivers from certain title IV, HEA statutory or regulatory requirements to allow a limited number of institutions to participate in experiments to test alternative methods for administering the title IV, HEA programs. The alternative methods of title IV, HEA program administration that the Secretary is permitting under the ESI are designed to facilitate efforts by institutions to test certain innovative practices aimed at improving student outcomes and the delivery of services.

The Experiment

The Educational Quality through Innovative Partnerships (EQUIP) experiment is intended to encourage increased innovation in higher education through partnerships between the participating institutions and non-traditional providers in order to learn whether those partnerships increase access to innovative and effective educational programs, particularly for students from low-income backgrounds; assess quality assurance processes appropriate for non-traditional providers and programs; and identify ways to protect students and taxpayers from risk in this emerging area of post-secondary education. Under this experiment, participating title IV-eligible postsecondary institutions will be provided a waiver to allow them to provide some types of Federal student aid under the title IV, HEA programs (title IV aid) to otherwise eligible students who are pursuing a program of study offered by the institution where 50 percent or more of the educational program is provided by one or more entities that are not traditionally eligible to participate in the title IV programs (non-traditional providers), through a contractual agreement with the participating institution. A requirement of these partnerships between the participating institution and the non-traditional provider is that the educational program must have been approved by a quality assurance entity (QAE), engaged by the institution, that has expertise and capacity as described in this notice.

DATES: Letters of interest to participate in the proposed experiment described in this notice must be received by the Department no later than December 14, 2015 in order for an institution to ensure that it is considered for participation in the experiment. Institutions submitting letters that are received after December 14, 2015 may still be considered for participation, at the discretion of the Secretary.

ADDRESSES: Letters of interest must be submitted by electronic mail to the following email address: *experimentalsites@ed.gov.* For formats and other required information, see ''Instructions for Submitting Letters of Interest'' under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Warren Farr, U.S. Department of Education, Federal Student Aid, 830 First Street NE., Washington, DC 20002. Telephone: (202) 377–4380 or by email at: *Warren.Farr@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Instructions for Submitting Letters of Interest: Letters of interest must be submitted as a PDF attachment to an email message sent to the email address provided in the **ADDRESSES** section of this notice. The subject line of the email should read ''ESI 2015—Educational Quality through Innovative Partnerships (EQUIP).'' The text of the email should include the name and address of the institution.

The letter of interest must include the institution's official name and Department of Education Office of Postsecondary Education Identification (OPEID) number, as well as the name, mailing address, email address, FAX number, and telephone number of a contact person at the institution. Additional details on the application process requirements are provided in the ''Application and Selection'' section in this notice.

The letter of interest should be on institutional letterhead and should be signed by at least two officials of the institution. One of these officials should be the institution's financial aid administrator, and the other should be an academic official of the institution.

Content of the Letter of Interest: The letter of interest should include a brief description of the educational program or programs that the institution is considering for inclusion in this experiment. For each of those programs, we are interested in information such as the name(s) of the non-traditional provider(s) with whom the institution intends to partner, an estimate of the number of title IV-eligible students who will be enrolled in the program, and the name of the QAE to be engaged, if known. The letter should indicate which of the following two title IV student aid program options the institution will choose (in all cases providing title IV aid only to otherwise eligible students): (1) Allowing students to be eligible for Pell Grants only; or (2) allowing students to be eligible for Pell Grants, undergraduate Direct Subsidized Loans and Direct Unsubsidized Loans, and the Campus-Based Programs. Direct PLUS Loans for parents and graduate students and Direct Unsubsidized Loans for graduate students are not included in this experiment. See ''Application for Pell Grants Alone or for Pell Grants and Certain Other Title IV Aid'' below for further information. The Department understands that the specific components of the actual programs developed may vary from the information submitted in the letter of interest.

Background: The landscape for learning in postsecondary education is undergoing tremendous development. Innovations in technology, pedagogy, and business models are driving rapid change. While much of this development has been led by traditional postsecondary institutions, there are also significant educational changes occurring outside of the traditional educational sector. Non-traditional providers have begun to offer educational opportunities to students in new ways, such as through intensive short-term programs, online or blended approaches, or personalized/adaptive learning. These opportunities have the potential to advance goals such as increased equity and access, more flexible and personalized learning, high-quality student outcomes, and reduced costs.

Although some of these educational opportunities show promise in advancing these priorities, they remain out of reach for many students, particularly those from low-income backgrounds, in part because they generally do not provide students with

access to title IV aid. The unavailability of title IV aid could increase the potential for educational inequity, because only those students with significant financial resources are able to enroll in these innovative programs, and it may constrain the growth of promising new approaches to learning.

Moreover, many of these non-traditional providers and educational opportunities are not subject to review by the traditional postsecondary accrediting agencies that historically have held the primary responsibility for ensuring academic quality in higher education. Since the purview of those accrediting agencies typically does not extend to non-traditional providers, these new providers lack the broadly recognized mechanisms for ensuring quality that are required for the Department to make title IV aid available. The lack of those structures may also reduce opportunities for external review and sharing of best practices in general that traditional accreditation can offer.

In general, under the Department's regulations, an eligible institution may enter into a contractual agreement with an institution or organization that is not eligible to participate in the title IV programs, under which the ineligible institution or organization provides part of an educational program of study. However, the regulations provide that the ineligible institution or organization cannot provide 50 percent or more of the title IV eligible educational program. The experiment outlined in this notice will allow participating institutions to provide title IV aid to otherwise eligible students pursuing a program of study for which 50 percent or more of the content and instruction is provided by one or more title IV-ineligible organizations (non-traditional providers). As part of the experiment, the Secretary will provide participating institutions with certain statutory and regulatory waivers, which are listed in the section of this notice titled ''Waivers.''

The experiment is intended to encourage increased innovation in higher education through partnerships between the participating institutions and non-traditional providers. In doing so, the Department hopes to:

- Learn whether permitting partnerships between institutions and non-traditional providers increases equity by providing access to innovative educational programs for students from diverse backgrounds, particularly those from low-income backgrounds;
- Examine student outcomes to evaluate the effectiveness of these non-traditional providers;
- Assess quality-assurance processes that are appropriate for non-traditional providers and the programs they offer; and
- Identify ways to protect students and taxpayers from risks in an innovative and emerging area of postsecondary education.

The experiment is intended to focus predominantly on low-cost, short-term programs serving students who do not yet have an undergraduate degree.

The Experiment

Background: The regulations in 34 CFR 668.8(a) require that an eligible program be provided by an eligible institution. The regulations in 34 CFR 668.5(c) provide, with certain exceptions, that an eligible institution may enter into a contractual agreement with an ineligible institution or organization under which the ineligible organization provides part of the educational program of study to students enrolled at the eligible institution. However, the ineligible institution or organization cannot provide 50 percent or more of the eligible educational program. In addition, if the amount of the educational program provided by the ineligible institution or organization is more than 25 percent but less than 50 percent, the ineligible institution or organization and the eligible institution cannot be owned or controlled by the same individual, partnership, or corporation. Finally, the regulations provide that the eligible institution's recognized accrediting agency must determine and confirm in writing that the agreement meets its standards for contracting out education services. Other restrictions apply as well.

Title I, part A of the HEA and federal regulations describe other conditions for an institution and its educational programs to be eligible for title IV aid. In general, for an educational program to be title IV-eligible, it must be included in the accreditation of the institution by the institution's recognized accrediting agency and in the institution's legal authorization to provide an educational program beyond secondary education in the State in which the institution is located. In addition, the program must prepare students for gainful employment in a recognized occupation as described in Department regulations, except if it is offered by a public or non-profit institution and either leads to a degree or is at least a two-year program acceptable at the institution for full credit towards a degree. In general, under section 481(b)(1)(A) of the HEA and 34 CFR 668.8(d), title IV-eligible programs must be at least 15 weeks in duration and provide at least 600 clock hours, 16 semester or trimester hours, or 24 quarter hours of academic credit. These statutes and regulations play a critical role in protecting students and taxpayers from abuse by low-quality higher education programs.

Under current regulations, institutions are prevented from building partnerships to create programs of study comprised of content and instruction provided largely by one or more non-traditional providers. In some cases, an institution may believe it has identified a non-traditional provider whose expertise or approach complements that of the institution and could work effectively with particular student populations or toward desired student outcomes. These limitations on partnerships could constrain innovation and make high-quality educational opportunities offered by non-traditional providers accessible only to students who do not need title IV aid.

In accordance with the waiver authority granted to the Secretary under section 487A(b) of the HEA, the Secretary will waive for this experiment the restriction on providing title IV aid to students enrolled in programs that an eligible institution offers through partnerships with title IV-ineligible entities (non-traditional providers) that, with oversight, are delivered to students primarily by those non-traditional providers. Through this and other waivers described in this notice, this experiment will examine whether extending eligibility for title IV aid to non-traditional postsecondary programs offered through these partnerships increases access to high-quality academic programs for students from a diversity of backgrounds, particularly students from low-income backgrounds. In addition, the experiment will examine student outcomes at these promising non-traditional providers to determine whether they are effective. The experiment will also examine whether the waivers create any challenges or obstacles to an institution's administration of the title IV, HEA programs.

Description: The Secretary will grant institutions participating in this experiment limited waivers of statutory and regulatory requirements in order to support innovative educational programs developed through partnerships between title IV-eligible institutions and non-traditional providers. Specifically, through this experiment the Secretary will waive the provision of 34 CFR 668.5(c)(3) that provides that an ineligible entity may not provide 50 percent or more of a title

IV-eligible educational program. The Secretary will also waive the requirement under 34 CFR 668.8(a) that an eligible program must be provided by a participating institution.

In order for an institution to provide title IV aid to students in a program that is provided primarily by one or more non-traditional providers under the experiment, the Department will require that, in addition to being included in the institution's recognized accreditation, the program must be reviewed, approved, and monitored by an independent quality assurance entity (QAE) that is appropriately qualified to review and monitor such programs. These requirements are further described later in this notice.

The Secretary will also waive or modify the following statutory and regulatory provisions that might otherwise limit participation in flexible, high-quality programs of study offered through contractual agreements between postsecondary institutions and non-traditional providers. To participate in the experiment, an applicant institution must use at least one of the waivers in this experiment but need not use all of them.

• *Minimum Program Length:* The Secretary will waive the requirement that a title IV-eligible program must include at least 15 weeks of instructional time and at least 600 clock hours, 16 semester or trimester hours, or 24 quarter hours. The Secretary will allow title IV aid to be received by otherwise eligible students who are enrolled in a program of at least eight weeks in length that, at a minimum, includes at least 12 semester or trimester hours, 18 quarter hours, or 450 clock hours. The normal proration requirements for each title IV aid program apply. The Department's definition of ''credit hour'' in 34 CFR 600.2 applies to credit hour programs offered under the experiment.

• *Satisfactory Academic Progress (SAP):* Through this experiment, the Secretary will modify the requirements for monitoring a title IV aid recipient's SAP. An institution will be required to evaluate a student's SAP upon the student's completion of each of the program's academic years, as measured in weeks of instructional time, though an institution will be permitted and is encouraged to evaluate a student's SAP more frequently. For programs that are less than one academic year in length, the institution will be required to evaluate a student's SAP upon the completion of each payment period. Institutions will not be required to determine the student's SAP pace by dividing the number of hours the student has completed by the number of hours the student has attempted. Instead, the institution will determine whether the student has completed sufficient credit hours, clock hours, or the equivalent to complete the program within the maximum timeframe (no more than 150 percent of the program's published length), as provided in the definition of ''maximum timeframe'' in the regulations in 34 CFR 668.34(b), as of the point in time when the institution conducts the evaluation of a student's pace.

Additionally, under this experiment, if the institution accepts any transfer credit to meet the requirements of a student's program, it may, but is not required to, prorate the student's maximum timeframe based on the remaining amount of the program after the transfer credit has been applied.

Application for Pell Grants Alone or for Pell Grants and Certain Other Title IV Aid: The costs of postsecondary programs where all or a portion of the program is provided by non-traditional providers vary widely; for some programs, Pell Grants alone might cover direct costs (tuition, fees, books, and supplies), while others may require a combination of Pell Grants and loans to cover those costs. Some programs may wish to focus solely on Pell Grant-eligible students. While this experiment aims to focus primarily on low-cost programs, it may also seek to learn from programs that may have a range of costs. Institutions must choose one of two title IV student aid program options: (1) Allowing students to be eligible for Pell Grants only, or (2) allowing students to be eligible for Pell Grants, undergraduate Direct Subsidized Loans and Direct Unsubsidized Loans, and the Campus-Based Programs. Direct PLUS Loans for parents and graduate students and Direct Unsubsidized Loans for graduate students are not included in this experiment. Existing statutory and regulatory awarding requirements for the Campus-Based Programs are not changed under this experiment. For an institution choosing to provide only Pell Grants, any title IV aid recipients enrolled in the program must be Pell-grant eligible and be advised before enrollment that their title IV aid awards will be limited to Pell Grants. Similarly, for an institution choosing to provide Pell and the other title IV aid available in this experiment, any title IV aid recipients enrolled in the program must be otherwise eligible for that title IV aid and must be advised before enrollment of the limitations on their title IV aid eligibility for the program. Additional requirements for student protections will also be in place for institutions choosing to utilize title IV aid in addition to Pell Grants in the experiment (see ''Requirements for Participation'').

Requirements for Participation: The Department intends to select a limited number of institutions to participate in this experiment. Each institution will curate a program of study comprised of educational programming that may be provided by one or more non-traditional providers. The Department intends to select some institutions that will make only Pell Grant funding available to otherwise eligible students enrolled in the program, and some institutions that will make Pell Grant funding and certain other types of title IV aid program funding available to otherwise eligible students enrolled in the program as described elsewhere in this notice.

An institution participating in this experiment will be required to do the following:

• *Program design:* Create one or more coherent programs of study by curating educational content from one or more non-traditional providers of postsecondary education that are not currently participating in the title IV, HEA programs. At least 50 percent, and up to 100 percent, of the program's content and instruction must be provided by one or more non-traditional providers through a contractual arrangement with the participating institution. The institution must award a certificate, degree, or other recognized credential to students who successfully complete the program, and the certificate, degree, or credential must have externally validated value in the workforce, for academic transfer, or both. The program must meet applicable title I, HEA requirements, including that the program must prepare students for gainful employment in a recognized occupation as described in Department regulations, unless it is offered by a public or private non-profit institution and either leads to a degree or is at least two years in length and acceptable for full credit towards a degree at the institution. The certificate, degree, or credential resulting from the program must represent the equivalent of at least 12 semester or trimester hours, 18 quarter hours, or 450 clock hours over a minimum of eight weeks. An institution's contractual agreement with a non-traditional provider must stipulate that the non-traditional provider agrees to provide information to the institution necessary for the institution to carry out its duties related to the administration of title IV aid. Upon request, the institution will provide evidence regarding its

compliance with the terms of the experiment. Contractual agreements under which a non-traditional provider provides 50 percent or more of the instruction in a program must be reviewed and approved by the participating institution's accrediting agency.

- *Quality assurance:* Identify a QAE with the capacity to review, monitor, and report on the proposed program and ensure the quality of the providers and their program components as outlined in this notice under ''Quality Assurance Questions and QAE Role.'' The institution must demonstrate that the QAE is an independent organization that is free from conflicts of interest with the institution and the non-traditional providers.
- *Accreditor review:* Submit the program created in collaboration with one or more non-traditional providers to the applicant institution's recognized institutional accrediting agency for consideration for inclusion in the institution's existing accreditation. The program must fall within the accreditor's scope of recognition, and the eligible institution must obtain a determination from its accrediting agency that the institution's arrangement meets the standards and procedures the agency considers appropriate. The Department is not requiring the accrediting agency to provide specific program approval.
- *Disclosure:* Clearly disclose to prospective students information about the experimental nature of the programs, the possibility of termination of the programs, and how a teach-out to provide the remainder of the program will be conducted should a program or the relationship with the non-traditional provider(s) be terminated.
- *Title IV disbursement:* Only disburse title IV aid to otherwise eligible students under the option chosen by the institution.
- *Consequences of low quality:* Take immediate action to improve, suspend, or terminate programs or non-traditional providers that the Department, the QAE, the accreditor, or the institution determines are not meeting the quality standards established by the QAE. In the event that a program is suspended or terminated, a teach-out plan, as generally defined under 34 CFR 600.2, must be developed to provide the remainder of the program by the institution, or for the provision of the remainder of the program by another title IV-eligible institution, at no additional cost to students.
- *Protections for students and taxpayers:* For those programs in which students will have access to Federal student loans in addition to Pell Grants, submit detailed plans describing how students and taxpayers will be protected in cases where programs are suspended, terminated, or otherwise limited in their participation in the experiment by the Department, the QAE, the accreditor, or the institution, for any reason, including poor student outcomes and low quality. Institutions will be required to describe in detail what actions they will take, such as loan repayments and refunds to students (in addition to what is normally required of them under the existing title IV, HEA program regulations), and the conditions under which they will take these actions. In its review of experimental site applications that would allow access to both Pell Grants and other title IV aid programs, the Department will give preference to those applications that offer the strongest student and taxpayer protections.

The Department will monitor programs based on regular reports from the institution and the QAE, along with any data available to the Secretary, including information provided by the accreditor, students, or others regarding the performance of the participating entities, student enrollment, and student outcomes. Based on this information, the Department may take a number of actions, including removal of the institution from the experiment and any enforcement actions authorized by the HEA.

Quality Assurance Questions and QAE Role

As part of this experiment, the Department is interested in understanding how a QAE will determine the quality of a program of study through a set of largely outcome-based questions, rigorous and timely monitoring, and accountability processes.

While the Department continues to refine this set of quality assurance questions, participating institutions must ensure that the QAE in this experiment has established a thorough quality assurance process that defines and monitors outcome-based standards for the numbered questions below. Draft questions are included here to provide an overview; the final set of questions will be provided to applicants in Phase Two of the application process.

A. Claims for Learning

1. What measurable claims is the institution making about the learning outcomes of students participating in the program? For example:
- What is the evidence that the learning claims are commensurate with postsecondary- or post-baccalaureate-level work?
- Do the institution's statements about student outcomes capture requisite knowledge and skills? How?

2. How are the value and relevance of those claims established? For example, what external stakeholders have been consulted to verify the value and relevance of the claims?

3. How will the claims be measured?

4. How will institutions be held accountable for meeting those claims?

5. How do all the claims for learning come together into a meaningful and coherent set of overall program outcomes and goals?

B. Assessments and Student Work

1. How does the institution assess whether students enrolled in the program can meet the claims outlined in Section A? For example:
- How are assessments aligned with the specific tasks, expectations, and contexts for which programs claim to be preparing students?
- Beyond one-time assessments, is student work reviewed as part of the assessment of student learning and program outcomes? Do external stakeholders review students' work? How are examples of student work made available to outside parties (with appropriate privacy and other protections)?

2. How has the reliability of these assessments been established?

3. How has the validity of these assessments been established, for example, in terms of the following?
- *Face validity:* Does the assessment appear to measure what it says it measures?
- *Content validity:* Does the assessment accurately measure the knowledge and skills covered by the program?
- *Predictive validity:* Does the assessment accurately predict the student's ability to demonstrate a given competency in the future?
- *Concurrent validity:* Does the assessment correlate with other measures of the desired performance meant to be assessed?

4. How and how often does the QAE review these assessments?

C. Outputs, Which, Where Applicable, Must Be Disaggregated To Show Outcomes Specifically for Low-Income Students

1. How are students performing on program assessments?

2. How are students progressing through the program? For example:
- Retention rate?
- Withdrawal rate?

• Average time to completion?
• Completion rate (within 100 percent and 150 percent of expected time)?

3. What are the actual program outcomes for students (*e.g.,* entry into subsequent phase of study, career, etc.)? For example:

• Employment outcomes, for all programs that have a stated mission focused on employment (include method for how these outcomes are measured):
• Job placement rates in field of study?
• Average length of time between completion of program and employment in field of study?
• Job retention rates?
• Median starting salaries?
• Transfer rates to other academic or vocational programs, where applicable.
• Certifications and licensure exam passage rates, where applicable.

4. What are the following ratios for the program, where relevant?

• Published tuition and fees versus earnings.
• Average net price versus earnings.
• Median student debt versus earnings.

5. How does the program rate on measures of student satisfaction? For example, how does the program rate in the following:

• Comments from students about what made them successful or unsuccessful in the program?
• A rigorous and transparent methodology for gathering and synthesizing customer satisfaction measures?

D. Management

1. How has the stability of the non-traditional provider(s) been evaluated (*e.g.,* longevity and past outcomes, leadership/board, etc.)?
2. How are privacy, security, and student authentication managed?
3. Are activities related to student recruitment appropriate and transparent?
4. How is pricing made transparent?
5. Are all materials accessible to learners with disabilities?
6. What is the process for continuous improvement of all aspects of the learning experience (content, platform, student support, faculty engagement, etc.)?

Based on the standards developed by the QAE, the QAE must establish a rigorous and timely process to assess the program before students are enrolled, monitor and report on an approved program's performance, and take action based on the program's performance. The institution must require the QAE to perform the following functions:

• Develop a process to review the proposed program, including its components and providers, based on clear, specific, and measurable standards consistent with the questions listed above, among others.
• Monitor the proposed program, including its components and providers, to confirm the program is being implemented and assessed as proposed, and to confirm the achievement of provider claims for learning and student outcomes; and have a written policy that outlines timely and significant consequences for lack of performance. If groups of students enroll in a program at distinct and regularly scheduled points in time, monitoring must be conducted, at a minimum, at four points in time: An early stage in the program to identify early warning signs of issues related to implementation, quality, or management; the midpoint of a program in order to have sufficient time to correct potential problems that have been identified; at the completion of a program; and at a pre-determined time period after completion of the program (*e.g.,* six months) to monitor post-completion outcomes for participants. If students do not enroll in this manner and a program is instead offered on a ''rolling'' basis, monitoring must be conducted at regular intervals that represent the average time it takes a student to reach an early stage, the midpoint, the completion of the program, and some pre-determined time period after completion.
• Report on the performance of the non-traditional providers to the institution, accreditor, and the Department every six months, as well as at any time the QAE identifies program quality concerns or determines that the program is at risk of or subject to any adverse action.

This notice refers to a single QAE for each participating institution because the Department believes it is important to have a single organization ultimately responsible for affirming the quality of a program and taking action based on its assessment. However, given the range and depth of expertise and knowledge required for the quality assurance process, we expect that some applicants may wish to have two or more organizations working together to fulfill the requirements of this role. Subcontracts for specific portions of the role would be acceptable as long as one organization is clearly designated as having the lead role and final responsibility for quality determination and consequences, and the respective roles and responsibilities of the organizations are clearly delineated along with the means of coordination among all the partners. QAEs could be any of a number of kinds of organizations, including employer associations, new entities created for this specific purpose, existing accreditors (as long as the proposed quality assurance process is new, meets the stated requirements, and does not create conflicts of interest), accounting firms, or others.

Waivers: Institutions selected for this experiment will be granted waivers of any or all of the following statutory and regulatory provisions. As mentioned earlier under ''Application for Pell Grants Alone or for Pell Grants and Certain Other Title IV Aid,'' each institution will need to choose between two options: (1) Allowing students to be eligible for Pell Grants only; or (2) allowing students to be eligible for Pell Grants, undergraduate Direct Subsidized Loans and Direct Unsubsidized Loans, and the Campus-Based Programs. Direct PLUS Loans for parents and graduate students and Direct Unsubsidized Loans for graduate students are not included in this experiment.

To participate in the experiment, an applicant institution must use at least one of the waivers in this experiment but need not use all of them.

• 34 CFR 668.8(a), to the extent that the regulation requires that an eligible program be provided by the participating institution.
• 34 CFR 668.5(c)(3), to the extent that the regulation restricts the amount of an eligible program that may be provided by an ineligible institution or organization. Notwithstanding this waiver, the eligible institution must provide documentation from its accrediting agency confirming that the accrediting agency considers the program within its accreditation of the eligible institution. The waiver does not apply to the prohibition on the eligible institution and the ineligible institution or organization (non-traditional provider) being owned or controlled by the same individual, partnership, or corporation.[1]
• Section 481(b)(1)(A) of the HEA and 34 CFR 668.8(d)(1)(i) and (ii), which establish minimum timeframes for non-degree programs and programs offered by proprietary and postsecondary vocational institutions. Under the experiment the program may be no less than 12 semester or trimester credit hours, 18 quarter hours, or 450 clock hours, all offered over a minimum of eight weeks.

[1] If the non-traditional provider provides any services that would qualify it as a third-party servicer, the institution should notify the Department and disclose this information in its letter of interest and in its application.

• Section 484(c) of the HEA and 34 CFR 668.34(a)(3)(ii), (a)(5)(ii), and (b), to the extent these provisions relate to the timeframe when the institution must determine whether a student is making satisfactory academic progress and to the method by which an institution must calculate the pace of a student's academic progression.

All other provisions and regulations of the title IV, HEA programs will apply to institutions participating in this experiment.

Reporting and Evaluation: With this experiment, the Department is interested in evaluating three main areas: (1) The extent to which new programs provide access for students from low-income backgrounds to high-quality postsecondary education and training programs; (2) whether the partnerships between participating institutions and non-traditional providers provide low-cost and high-value postsecondary education and training programs that produce strong student outcomes; and (3) how innovative and effective processes are developed to assure the quality of these types of programs and protect students and taxpayers. Accordingly, institutions will be asked to provide information to support the Department's evaluation of the experiment.

Institutions that are selected for participation in the experiment will likely be required to provide the Department with identifying information for students who have enrolled in one of the programs included in the experiment and who submitted a Free Application for Federal Student Aid (FAFSA). Additional information may also be required about students who could serve as a comparison group for benchmarking purposes, for example, similar students not enrolled in programs included in the experiment.

In addition, participating institutions will be required to submit reports and/or participate in surveys, interviews, or site visits to provide information about the implementation of the experiment. Institutions will likely be asked to provide information on courses and programs offered, numbers and types of degrees and/or certificates awarded, numbers and types of students served, their experiences in the program, their outcomes after leaving the program (such as employment status, earnings, credits transferred), provider expenditures per student, and information on the cost of the programs and the amounts borrowed by students attending the programs. Institutions will also be required to provide information on how they partnered with the non-traditional providers and the QAEs, the quality assurance process, and any challenges experienced and how those challenges were addressed.

The specific evaluation and reporting requirements will be finalized prior to the start of this experiment.

Application and Selection: From the institutions that submit letters of interest and full applications, the Secretary will select a limited number to participate in the experiment. Applications will be evaluated on five criteria:

(1) The extent to which the proposed activities are innovative and will produce high-quality programs likely to lead to positive student learning and employment outcomes, and for programs focused on student learning outcomes, the Department will give preference to programs that either lead to a degree or demonstrate evidence of transferability of academic credit;

(2) The extent to which programs will provide equitable access to innovative postsecondary education programs, particularly for students from low-income backgrounds;

(3) The extent to which the proposed quality assurance processes have the potential to address the types of quality assurance questions outlined in this notice;

(4) The extent to which the programs are affordable; and

(5) For programs in which students will have access to Federal student loans, the strength of proposed student and taxpayer protections.

The Secretary will also consider institutional diversity in, among other characteristics, institutional type and control, geographic location, enrollment size, and title IV, HEA program participation levels.

Institutions selected to participate in the experiment must have a strong track record with regard to student outcomes, especially in serving students from low-income backgrounds. When selecting institutions, the Secretary will consider not only the information in the institution's application, including the information provided about the QAEs and non-traditional providers that would provide the program in whole or in part, but any additional information available to the Department including, but not limited to, evidence of title IV, HEA program compliance, student completion rates, cohort default rates, financial responsibility ratios, gainful employment data, and, for for-profit institutions, ''90/10'' funding levels. The institution's recognized accrediting agency will also need to provide a notice of inclusion of the program in the applicant institution's accreditation by Phase Three in the application and selection process (described below).

The application and selection process will entail three phases:

Phase One: The institution will submit a letter of interest to the Department, as described above under ''Instructions for Submitting Letters of Interest.'' If all of the institutional qualifications for participation are met and the Department determines this initial letter to be of sufficient quality and alignment with the goals of the experiment, the institution will receive an invitation to submit a full application.

Phase Two: Institutions invited to submit a full application will be required to submit materials addressing questions in areas such as program design, student population, and intended outcomes; provider and QAE selection and roles; process for defining, implementing, monitoring, and taking appropriate actions based on rigorous quality assurance standards; and student supports and protections. Institutions will also need to demonstrate the commitment of the non-traditional provider(s) to offer content and instruction once required approvals are secured, and demonstrate their accrediting agency's agreement to consider including the proposed program in the institution's accreditation.

Full applications will be reviewed based on the stated criteria, including the preferences described in this notice. On this basis, the Secretary will select the institutions to be invited to participate and provide those institutions an amendment to the program participation agreement (PPA) that must be signed by the institution's authorized official and returned to the Department. PPA amendments will reflect the specific statutory or regulatory provisions that the Secretary has waived or modified for the experiment. The institution must acknowledge its commitment to properly administer the experiment by establishing any necessary procedures and by coordinating with other institutional offices and staff. The PPA amendments will also document the agreement between the Secretary and the institution about how the experiment will be conducted, including, for institutions intending to disburse title IV, HEA aid other than Pell Grants, additional student and taxpayer protections.

Phase Three: After signing its PPA amendment document and receiving the Department's countersigned copy, the institution must submit its programs to the Department for review and final

approval through the E-App system, along with documentation that the program has been reviewed and approved by the QAE, is included in the institution's accreditation and State authorization, and meets all other title IV, HEA eligibility requirements. Proposed programs will not be eligible for access to title IV aid until the Department's final review and approval in Phase Three is complete.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Delegation of Authority: The Secretary of Education has delegated authority to Jamienne S. Studley, Deputy Under Secretary, to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

Program Authority: 20 U.S.C. 1094a(b).

Dated: October 9, 2015.

Jamienne S. Studley,

Deputy Under Secretary.

[FR Doc. 2015–26239 Filed 10–14–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Personnel Development To Improve Services and Results for Children With Disabilities—Personnel Preparation in Special Education, Early Intervention, and Related Services

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

Overview Information:

Personnel Development to Improve Services and Results for Children with Disabilities—Personnel Preparation in Special Education, Early Intervention, and Related Services

Notice inviting applications for new awards for fiscal year (FY) 2016.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.325K.

DATES: Applications Available: October 15, 2015.

Deadline for Transmittal of Applications: December 14, 2015.

Deadline for Intergovernmental Review: February 12, 2016.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purposes of this program are to (1) help address State-identified needs for personnel preparation in special education, early intervention, related services, and regular education to work with children, including infants and toddlers, with disabilities; and (2) ensure that those personnel have the necessary skills and knowledge, derived from practices that have been determined through scientifically based research and experience, to be successful in serving those children.

Priority: In accordance with 34 CFR 75.105(b)(2)(iv), this priority is from allowable activities specified in the statute (see sections 662 and 681 of the Individuals with Disabilities Education Act (IDEA)).

Absolute Priority: For FY 2016 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Personnel Preparation in Special Education, Early Intervention, and Related Services.

Background:

The purpose of the Personnel Preparation in Special Education, Early Intervention, and Related Services priority is to improve the quality and increase the number of personnel who are fully credentialed to serve children, including infants and toddlers, with disabilities—especially in areas of chronic personnel shortage—by supporting projects that prepare special education, early intervention, and related services personnel at the baccalaureate, master's, and specialist levels. State demand for fully credentialed special education, early intervention, and related services personnel to serve infants, toddlers, and children with disabilities exceeds the available supply (Bruder, 2004a; Bruder, 2004b; McLeskey & Billingsley, 2008; McLeskey, Tyler, & Flippin, 2004). These shortages of fully credentialed personnel can negatively affect the quality of services provided to infants, toddlers, and children with disabilities and their families (McLeskey et al., 2004).

Personnel preparation programs that prepare personnel to enter the fields of special education, early intervention, and related services as fully credentialed personnel who are well qualified, have the necessary competencies, and effectively use evidence-based practices to improve outcomes for children with disabilities are critical to overcoming the personnel shortages in these fields. Federal support of these personnel preparation programs is needed to increase the supply of personnel with the necessary competencies to effectively serve infants, toddlers, and children with disabilities and their families, and to make sure students with disabilities have access to and meet college- and career-ready standards.

Consistent with the Ready to Work Initiative: Job-Driven Training and American Opportunity,[1] the Department is particularly interested in supporting personnel preparation programs that meet the needs of working professionals, people with child care considerations, career switchers, or people living in geographically isolated areas in order to expand the reach of training programs and promote diversity in the special education workforce.

Priority:

Except as provided for Focus Area D projects that allow a one-year planning period, to meet this priority, an applicant must propose a project associated with a pre-existing baccalaureate, master's, or specialist degree personnel preparation program that will prepare and support scholars [2] to complete, within the project period of the grant, a degree, State certification, professional license, or State endorsement in special education, early intervention, or a related services field. Projects also can be associated with personnel preparation programs that (a) prepare individuals to be assistants in

[1] Ready to Work: Job-Driven Training and American Opportunity (July 2014). Available at: *www.whitehouse.gov/sites/default/files/docs/skills_report.pdf.*

[2] For the purposes of this priority, the term ''scholar'' means an individual who is pursuing a degree, license, endorsement, or certification related to special education, related services, or early intervention services and who receives scholarship assistance under section 662 of IDEA (see 34 CFR 304.3(g)).

related services professions (*e.g.,* physical therapist assistants, occupational therapist assistants) or educational interpreters; or (b) provide an alternate route to certification or that support dual certification (special education and regular education) for teachers. For purposes of this priority, the term ''personnel preparation program'' refers to the program with which the applicant's proposed project is associated.

To be considered for funding under the Personnel Preparation in Special Education, Early Intervention, and Related Services absolute priority, all program applicants must meet the application requirements contained in the priority. All projects funded under this absolute priority also must meet the programmatic and administrative requirements specified in the priority.

The requirements of this priority are as follows:

(a) Demonstrate, in the narrative section of the application under ''Significance of the Project,'' how—

(1) The project addresses national, State, regional, or district shortages of personnel who are fully qualified to serve children with disabilities, ages birth through 21, including high-need children with disabilities,[3] by preparing special education, early intervention, or related services personnel at the baccalaureate, master's, or specialist levels. To address this requirement, the applicant must—

(i) Present appropriate and applicable national, State, regional, or district data demonstrating the need for the personnel the applicant proposes to prepare; and

(ii) Present data on the effectiveness of the personnel preparation program to date in areas such as: The average amount of time it takes for program participants to complete the program; the percentage of program graduates finding employment related to their preparation within one year of graduation; the effectiveness of program graduates in providing special education, early intervention, or related services, which could include data on the learning and developmental outcomes of children with disabilities they serve; and the percentage of program graduates who maintain employment for three or more years in the area for which they were prepared and who are fully qualified under IDEA.

Note: Data on the effectiveness of a personnel preparation program should be no older than five years prior to the start date of the project proposed in the application. When reporting percentages, the denominator (*i.e.,* total number of students or program graduates) must be provided.

(2) The project will increase the number of personnel who demonstrate the competencies needed to provide high-quality instruction, evidence-based interventions, and services for children with disabilities, ages birth through 21, including high-need children with disabilities, that result in improvements in learning and developmental outcomes (*e.g.,* academic, social, emotional, behavioral), and successful transition to postsecondary education and the workforce. To address this requirement, the applicant must—

(i) Identify the competencies[4] that special education, early intervention, or related services personnel need in order to provide high-quality services using evidence-based instruction and interventions that will: Lead to improved learning and developmental outcomes; ensure access to college- and career-ready standards; lead to successful transition to college and career for children with disabilities, including high-need children with disabilities; and maximize the use of effective technology to deliver instruction, interventions, and services;

(ii) Demonstrate that the identified competencies are supported by evidence of promise[5] that they will result in improved outcomes for children with disabilities; and

(iii) Provide the conceptual framework of the personnel preparation program, including any empirical support, that will promote the acquisition of the identified competencies (see paragraph (a)(2)(i) of this priority) needed by special education, early intervention, or related services personnel, and how these competencies relate to the proposed project.

(b) Demonstrate, in the narrative section of the application under ''Quality of Project Services,'' how—

(1) The project will recruit and retain high-quality scholars and ensure equal access and treatment for eligible project participants who are members of groups who have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must—

(i) Describe the selection criteria the applicant will use to identify high-quality applicants for admission in the program;

(ii) Describe the recruitment strategies the applicant will use to attract high-quality applicants and any specific recruitment strategies targeting high-quality applicants from traditionally underrepresented groups, including individuals with disabilities;

(iii) Describe strategies the applicant would use to recruit and retain working professionals, people with child care considerations, career switchers, or people living in geographically isolated areas to more easily participate in the proposed personnel preparation program, using the Job-Driven Checklist[6] as a tool to maximize opportunities for job-driven training; and

(iv) Describe the approach, including mentoring, monitoring, and accommodations, the applicant will use to support scholars to complete the personnel preparation program.

[3] For the purposes of this priority, ''high-need children with disabilities'' refers to children (ages birth through 21, depending on the State) who are eligible for services under IDEA, and who may be further disadvantaged and at risk of educational failure because they: (1) Are living in poverty, (2) are far below grade level, (3) are at risk of not graduating with a regular high school diploma on time, (4) are homeless, (5) are in foster care, (6) have been incarcerated, (7) are English learners, (8) are pregnant or parenting teenagers, (9) are new immigrants, (10) are migrant, or (11) are not on track to being college- or career-ready by graduation.

[4] For the purposes of this priority, the term ''competencies'' means what a person knows and can do: The knowledge, skills, and dispositions necessary to effectively function in a role (National Professional Development Center on Inclusion, 2011). These competencies should ensure that personnel are able to use challenging national and State content standards, child achievement and functional standards, and State assessments, to improve instructional practices, services, and learning and developmental outcomes (*e.g.,* academic, social, emotional, behavioral) and college- and career-readiness of children with disabilities.

[5] Under 34 CFR 77.1, ''evidence of promise'' means there is empirical evidence to support the theoretical linkage(s) between at least one critical component and at least one relevant outcome presented in the logic model for the proposed process, product, strategy, or practice. Specifically, ''evidence of promise'' means the conditions in both paragraphs (i) and (ii) of this definition are met:

(i) There is at least one study that is a—

(A) Correlational study with statistical controls for selection bias;

(B) Quasi-experimental design study that meets the What Works Clearinghouse Evidence Standards with reservations; or

(C) Randomized controlled trial that meets the What Works Clearinghouse Evidence Standards with or without reservations.

(ii) The study referenced in paragraph (i) of this definition found a statistically significant or substantively important (defined as a difference of 0.25 standard deviations or larger) favorable association between at least one critical component and one relevant outcome presented in the logic model for the proposed process, product, strategy, or practice.

[6] Ready to Work: Job-Driven Training and American Opportunity (July 2014). Available at: *www.whitehouse.gov/sites/default/files/docs/skills_report.pdf.*

(2) The project reflects current research and evidence-based practices, and is designed to prepare scholars in the identified competencies. To address this requirement, the applicant must—

(i) Describe how the project will incorporate current research and evidence-based practices that improve outcomes (*e.g.,* meeting college- and career-ready standards) for children with disabilities (including relevant research citations) into the project's required coursework and clinical experiences; and

(ii) Describe how the project will use current research and evidence-based professional development practices for adult learners to instruct scholars.

(3) The project is of sufficient quality, intensity, and duration to prepare scholars in the identified competencies. To address this requirement, the applicant must describe how—

(i) The components of the proposed project (*e.g.,* coursework, clinical experiences, or internships) will support scholars' acquisition and enhancement of the identified competencies;

(ii) The components of the proposed project (*e.g.,* coursework, clinical experiences, or internships) will be integrated to allow scholars to use their content knowledge in clinical practice, and how scholars will be provided with ongoing guidance and feedback; and

(iii) The proposed project will provide ongoing induction opportunities and support to program graduates after completion of the personnel preparation program.

(4) The project will collaborate with appropriate partners, including—

(i) High-need LEAs;[7] high-poverty schools;[8] low-performing schools, including persistently lowest-achieving schools;[9] priority schools (in the case of States that have received the U.S. Department of Education's (Department's) approval of a request for Elementary and Secondary Education Act of 1965, as amended (ESEA), flexibility);[10] or publicly funded preschool programs, including Head Start programs and programs serving children eligible for services under IDEA Part C and Part B, Section 619, that are located within the geographic boundaries of a high-need LEA. The purpose of these partnerships is to provide clinical practice for scholars aimed at developing the identified competencies; and

(ii) Other programs on campus or at partnering universities for the purpose of sharing resources, supporting program development and delivery, and addressing personnel shortages.

(5) The project will use technology, as appropriate, to promote scholar learning, enhance the efficiency of the project, collaborate with partners, and facilitate ongoing mentoring and support for scholars.

(6) The project will align with and use resources, as appropriate, available through technical assistance centers, which may include centers funded by the Department.

(c) Demonstrate, in the narrative section of the application under ''Quality of Project Evaluation,'' how—

(1) The applicant will use comprehensive and appropriate methodologies to evaluate the effectiveness of the project, including the effectiveness of project processes and outcomes.

(2) The applicant will collect, analyze, and use data related to specific and measurable goals, objectives, and outcomes of the project. To address this requirement, the applicant must describe—

(i) How scholar competencies and other project processes and outcomes will be measured for formative evaluation purposes, including proposed instruments, data collection methods, and possible analyses; and

(ii) How data on the quality of services provided by proposed project graduates, including data on the learning and developmental outcomes (*e.g.,* academic, social, emotional, behavioral, meeting college- and career-ready standards) and on growth toward these outcomes of the children with disabilities that the project graduates serve, will be collected and analyzed.

Note: Following the completion of the project period, grantees are encouraged to engage in ongoing data collection activities.

(3) The methods of evaluation will produce quantitative and qualitative data for objective performance measures that are related to the outcomes of the proposed project.

(4) The methods of evaluation will provide performance feedback and allow for periodic assessment of progress towards meeting the project outcomes. To address this requirement, the applicant must describe how—

(i) Results of the evaluation will be used as a basis for improving the proposed project to prepare special education, early intervention, or related services personnel to provide high-quality interventions and services to improve outcomes of children with disabilities; and

(ii) The grantee will report the evaluation results to the Office of Special Education Programs (OSEP) in its annual and final performance reports.

(d) Demonstrate, in the narrative under ''Project Assurances,'' or appendices, as applicable, that the following program requirements are met. The applicant must—

(1) Include, in the application as Appendix B, syllabi for all required coursework of the proposed project, including syllabi for new or proposed courses.

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[7] For the purposes of this priority, the term ''high-need LEA'' means an LEA (a) that serves not fewer than 10,000 children from families with incomes below the poverty line; or (b) for which not less than 20 percent of the children served by the LEA are from families with incomes below the poverty line.

[8] For the purposes of this priority, the term ''high-poverty school'' means a school in which at least 50 percent of students are eligible for free or reduced-price lunches under the Richard B. Russell National School Lunch Act or in which at least 50 percent of students are from low-income families as determined using one of the criteria specified under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965, as amended (ESEA). For middle and high schools, eligibility may be calculated on the basis of comparable data from feeder schools. Eligibility as a high-poverty school under this definition is determined on the basis of the most currently available data (*www2.ed.gov/legislation/FedRegister/other/2010-4/121510b.html*).

[9] For the purposes of this priority, the term ''persistently lowest-achieving schools'' means, as determined by the State—

(a)(1) Any Title I school in improvement, corrective action, or restructuring that—

(i) Is among the lowest-achieving five percent of Title I schools in improvement, corrective action, or restructuring or the lowest-achieving five Title I schools in improvement, corrective action, or restructuring in the State, whichever number of schools is greater; or

(ii) Is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years; and

(2) Any secondary school that is eligible for, but does not receive, Title I funds that—

(i) Is among the lowest-achieving five percent of secondary schools or the lowest-achieving five secondary schools in the State that are eligible for, but do not receive, Title I funds, whichever number of schools is greater; or

(ii) Is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years.

(b) To identify the lowest-achieving schools, a State must take into account both—

(i) The academic achievement of the ''all students'' group in a school in terms of proficiency on the State's assessments under section 1111(b)(3) of the ESEA in reading/language arts and mathematics combined; and

(ii) The school's lack of progress on those assessments over a number of years in the ''all students'' group.

For the purposes of this priority, the Department considers schools that are identified as Tier I or Tier II schools under the School Improvement Grants Program (see 75 FR 66363 [October 28, 2010]) as part of a State's approved application to be persistently lowest-achieving schools. A list of these Tier I and Tier II schools can be found on the Department's Web site at *www2.ed.gov/programs/sif/index.html.*

[10] For the purposes of this priority, the term ''priority school'' means a school that has been identified by the State as a priority school pursuant to the State's approved request for ESEA flexibility.

(2) Ensure that the proposed number of scholars to be recruited into the program can graduate from the program by the end of the grant's project period. The described scholar recruitment strategies, including recruitment of individuals with disabilities, the program components and their sequence, and proposed budget must be consistent with this project requirement.

(3) Ensure scholars will not be selected based on race or national origin/ethnicity. Per the Supreme Court's decision in Adarand Constructors, Inc. v. Pena, 515 U.S. 200 (1995), the Department does not allow the selection of individuals on the basis of race or national origin/ethnicity. For this reason, grantees must ensure that any discussion of the recruitment of scholars based on race or national origin/ethnicity distinguishes between increasing the pool of applicants and actually selecting scholars.

(4) Ensure that the project will meet the requirements in 34 CFR 304.23, particularly those related to informing all scholarship recipients of their service obligation commitment. Failure by a grantee to properly meet these requirements would be a violation of the grant award that could result in sanctions, including the grantee being liable for returning any misused funds to the Department. Specifically, the grantee must prepare, and ensure that each scholarship recipient signs, the following two documents:

(i) A Pre-Scholarship Agreement prior to the scholar receiving a scholarship for an eligible program (Office of Management and Budget (OMB) Control Number 1820–0686); and

(ii) An Exit Certification immediately upon the scholar leaving, completing, or otherwise exiting that program (OMB Control Number 1820–0686).

(5) Ensure that prior approval from the OSEP project officer will be obtained before admitting additional scholars beyond the number of scholars proposed in the application and before transferring a scholar to another OSEP-funded grant.

(6) Ensure that the project will meet the statutory requirements in section 662(e) through 662(h) of IDEA.

(7) Ensure that at least 65 percent of the total requested budget over the five years will be used for scholar support.

(8) Ensure that the institution of higher education (IHE) will not require scholars enrolled in the program to work (*e.g.,* as graduate assistants) as a condition of receiving support (*e.g.,* tuition, stipends) from the proposed project, unless the work is specifically related to the acquisition of scholars' competencies and the requirements for completion of their personnel preparation program. This prohibition on work as a condition of receiving support does not apply to the service obligation requirements in section 662(h) of IDEA.

(9) Ensure that the budget includes attendance of the project director at a three-day project directors' meeting in Washington, DC, during each year of the project.

(10) Ensure that if the project maintains a Web site, relevant information and documents are in a format that meets government or industry-recognized standards for accessibility.

(11) Ensure that annual data will be submitted on each scholar who receives grant support (OMB Control Number 1820–0686). The primary purposes of the data collection are to track the service obligation fulfillment of scholars who receive funds from OSEP grants and to collect data for program performance measure reporting under the Government Performance and Results Act of 1993 (GPRA). Applicants are encouraged to visit the Personnel Development Program Data Collection System (DCS) Web site at *https://pdp.ed.gov/osep* for further information about this data collection requirement. Typically, data collection begins in January of each year, and grantees are notified by email about the data collection period for their grant, although grantees may submit data as needed, year round. This data collection must be submitted electronically by the grantee and does not supplant the annual grant performance report required of each grantee for continuation funding (see 34 CFR 75.590). Data collection includes the submission of a signed, completed Pre-Scholarship Agreement and Exit Certification for each scholar funded under an OSEP grant (see paragraph (4) of this section, subparagraphs (i) and (ii)).

Focus Areas:

Within this absolute priority, the Secretary intends to support projects under the following four focus areas: (A) Preparing Personnel to Serve Infants, Toddlers, and Preschool-Age Children with Disabilities; (B) Preparing Personnel to Serve School-Age Children with Low Incidence Disabilities; (C) Preparing Personnel to Provide Related Services to Children, Including Infants and Toddlers, with Disabilities; and (D) Preparing Personnel in Minority Institutions of Higher Education to Serve Children, Including Infants and Toddlers, with Disabilities. Interdisciplinary projects are encouraged to apply under Focus Area A, B, C, or D. Interdisciplinary projects are projects that deliver core content through coursework and clinical experiences shared across disciplines.

Note: Applicants must identify the specific focus area (*i.e.,* A, B, C, or D) under which they are applying as part of the competition title on the application cover sheet (SF form 424, line 4). Applicants may not submit the same proposal under more than one focus area.

Focus Area A: Preparing Personnel To Serve Infants, Toddlers, and Preschool-Age Children with Disabilities. OSEP intends to fund six awards under this focus area. For the purpose of Focus Area A, early intervention personnel are those who are prepared to provide services to infants and toddlers with disabilities ages birth to three, and early childhood personnel are those who are prepared to provide services to children with disabilities ages three through five (and in States where the age range is other than ages three through five, we will defer to the State's certification for early childhood). In States where certification in early intervention is combined with certification in early childhood, applicants may propose a combined early intervention and early childhood personnel preparation project under this focus area. We encourage interdisciplinary projects under this focus area. For purposes of this focus area, interdisciplinary projects are projects that deliver core content through coursework and clinical experiences shared across disciplines for early intervention providers or early childhood special educators and related services personnel to serve infants, toddlers, and preschool-age children with disabilities. Projects preparing only related services personnel to serve infants, toddlers, and preschool-age children with disabilities are *not* eligible under this focus area (see Focus Area C). Scholars in the program should be able to demonstrate the competencies outlined in a State's Workforce Knowledge and Competency Framework,[11] as appropriate.

[11] For the purposes of this priority, ''Workforce Knowledge and Competency Framework'' has the meaning given it in the notice inviting applications for new awards for FY 2013 Race to the Top-Early Learning Challenge (78 FR 53992) published in the **Federal Register** on August 30, 2013: a set of expectations that describes what Early Childhood Educators (including those working with children with disabilities and English learners) should know and be able to do. The Workforce Knowledge and Competency Framework, at a minimum (a) is evidence-based; (b) incorporates knowledge and application of the State's Early Learning and Development Standards, the Comprehensive Assessment Systems, child development, health, and culturally and linguistically appropriate strategies for working with families; (c) includes

Focus Area B: Preparing Personnel To Serve School-Age Children with Low Incidence Disabilities. OSEP intends to fund 14 awards under this focus area. For the purpose of Focus Area B, personnel who serve children with low incidence disabilities are special education teachers prepared to serve school-age children with low incidence disabilities, including visual impairments, hearing impairments, simultaneous visual and hearing impairments, significant intellectual disabilities, orthopedic impairments, traumatic brain injury, and persistent and severe learning and behavioral problems that need the most intensive individualized supports. Programs preparing special education teachers to provide services to children with visual impairments or blindness that can be appropriately provided in braille must prepare those individuals to provide those services in braille, including the Unified English Braille Code. Projects preparing educational interpreters are eligible under this focus area. We encourage interdisciplinary projects under this focus area. For purposes of this focus area, interdisciplinary projects are projects that deliver core content through coursework and clinical experiences shared across disciplines for special education teachers and related services personnel to serve school-aged children with low incidence disabilities. Projects preparing early intervention or preschool personnel are *not* eligible under this focus area (see Focus Area A).

Focus Area C: Preparing Personnel To Provide Related Services to Children, Including Infants and Toddlers, with Disabilities. OSEP intends to fund eight awards under this focus area. Programs preparing related services personnel to serve children, including infants and toddlers, with disabilities are eligible within Focus Area C. For the purpose of this focus area, related services include, but are not limited to, psychological services, physical therapy (including therapy provided by personnel prepared at the Doctor of Physical Therapy (DPT) level), adapted physical education, occupational therapy, therapeutic recreation, social work services, counseling services, audiology services (including services provided by personnel prepared at the Doctor of Audiology (AuD) level), speech and language services, and applied behavior analysis services provided by personnel at the Board Certified Behavior Specialists level. Preparation programs in States where personnel prepared to serve children with speech and language impairments are considered to be special educators are eligible under this focus area. We encourage interdisciplinary projects under this focus area. For purposes of this focus area, interdisciplinary projects are projects that deliver core content through coursework and clinical experiences shared across disciplines for related services personnel who serve children, including infants and toddlers, with disabilities. Projects preparing educational interpreters are *not* eligible under this focus area (see Focus Area B).

Focus Area D: Preparing Personnel in Minority Institutions of Higher Education To Serve Children, Including Infants and Toddlers, with Disabilities. OSEP intends to fund 10 awards under this focus area. Programs in minority IHEs are eligible under Focus Area D if they prepare one of the following: (a) Personnel to serve infants, toddlers, and preschool-age children with disabilities; (b) personnel to serve school-age children with low incidence disabilities, including those with persistent and severe learning or behavioral problems that need the most intensive individualized supports; or (c) personnel to provide related services to children, including infants and toddlers, with disabilities. Minority IHEs are IHEs with a minority enrollment of 50 percent or more, which may include Historically Black Colleges and Universities, Tribal Colleges, and Predominantly Hispanic Serving Colleges and Universities. We encourage interdisciplinary projects under this focus area. For purposes of this focus area, interdisciplinary projects are projects that deliver core content through coursework and clinical experiences shared across disciplines for: (a) Early intervention providers or early childhood special educators and related services personnel who serve infants, toddlers, and preschool-age children with disabilities; (b) special education teachers and related services personnel who serve school-age children with low incidence disabilities; or (c) related services personnel who serve children, including infants and toddlers, with disabilities. Programs in minority IHEs preparing personnel in Focus Area A, B, or C are eligible within Focus Area D. Programs preparing high incidence special education personnel are *not* eligible under this priority.

Note: In Focus Area D, OSEP intends to fund in FY 2016 at least three high-quality applications from Historically Black Colleges and Universities and, as a result, may fund applications out of rank order.

Note: A project funded under Focus Area D may budget for less than the 65 percent required for scholar support if the applicant can provide sufficient justification for a designation less than this required percentage. Sufficient justification for proposing less than 65 percent of the budget for scholar support would include support for activities such as program development, program expansion, or the addition of a new area of emphasis. Some examples of projects that may be eligible to designate less than 65 percent of their budget for scholar support include the following:

(1) A project that is proposing to develop and deliver a newly established baccalaureate, master's, and specialist level personnel preparation program or add a new area of emphasis may request up to a year of funding for program development (*e.g.,* hiring of a new faculty member or consultant to assist in course development, providing professional development and training for faculty). In the initial project year, scholar support would not be required. The project must demonstrate that the newly established program or area of emphasis is approved and ready for implementation in order to receive continuation funds in year two.

(2) A project that is proposing to expand or enhance an existing program may request funding for capacity building (*e.g.,* hiring of a clinical practice supervisor, providing professional development and training for faculty) or purchasing needed resources (*e.g.,* additional teaching supplies or specialized equipment to enhance instruction).

Note: Applicants proposing projects to develop, expand, or add a new area of emphasis to special education or related services programs must provide, in their applications, information on how these new areas will be sustained once Federal funding ends.

References:

Bruder, M.B. (December, 2004a). *The National Landscape of Early Intervention in Personnel Preparation Standards under Part C of the Individuals with Disabilities Education Act (IDEA)* (Study I Data Report). Farmington, CT: A. J. Pappanikou Center for Excellence in Developmental Disabilities. Retrieved

knowledge of early mathematics and literacy development and effective instructional practices to support mathematics and literacy development in young children; (d) incorporates effective use of data to guide instruction and program improvement; (e) includes effective behavior management strategies that promote positive social-emotional development and reduce challenging behaviors; and (f) incorporates feedback from experts at the State's postsecondary institutions and other early learning and development experts and Early Childhood Educators.

from: *www.uconnucedd.org/pdfs/projects/per_prep/pp_data_report_study1_partc_11_14_08.pdf.*

Bruder, M.B. (December, 2004b). *The National Landscape of Early Childhood Special Education in Personnel Preparation Standards under 619 of the Individuals with Disabilities Education Act (IDEA)* (Study I Data Report). Farmington, CT: A.J. Pappanikou Center for Excellence in Developmental Disabilities. Retrieved from: *www.uconnucedd.org/pdfs/projects/per_prep/pp_data_report_study1_619_11_19_08%20ccs.pdf.*

McLeskey, J., & Billingsley, B. (2008). How does the quality and stability of the teaching force influence the research-to-practice gap? *Remedial and Special Education, 29*(5), 293–305.

McLeskey, J., Tyler, N., & Flippin, S.S. (2004). The supply and demand for special education teachers: A review of research regarding the chronic shortage of special education teachers. *Journal of Special Education, 38*(1), 5–21.

National Professional Development Center on Inclusion. (August, 2011). *Competencies for early childhood educators in the context of inclusion: Issues and guidance for States.* Chapel Hill, NC: The University of North Carolina, FPG Child Development Institute, Author.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1462 and 1481.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 304.

Note: The regulations in 34 CFR part 86 apply only to IHEs.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration has requested $83,700,000 for the Personnel Development to Improve Services and Results for Children with Disabilities program for FY 2016, of which we intend to use an estimated $9,500,000 for this competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2017 from the list of unfunded applications from this competition.

Estimated Range of Awards: See chart.

Estimated Average Size of Awards: See chart.

Maximum Award: See chart.

Estimated Number of Awards: See chart.

Project Period: See chart.

PERSONNEL DEVELOPMENT TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES (84.325K) APPLICATION NOTICE FOR FISCAL YEAR 2016

CFDA number and name	Applications available	Deadline for transmittal of applications	Deadline for intergovernmental review	Estimated range of awards	Estimated average size of awards	Maximum award for each budget period of 12 months	Estimated number of awards	Project period	Contact person
84.325K Personnel Preparation in Special Education, Early Intervention, and Related Services.	October 15, 2015.	December 14, 2015.	February 12, 2016.						
Focus Area A: Preparing Personnel To Serve Infants, Toddlers, and Preschool-Age Children With Disabilities.	.....	.....	.....	$225,000–$250,000	$237,500	$250,000	6	Up to 60 mos.	Maryann McDermott 202–245–7439 maryann.mcdermott@ed.gov Potomac Center Plaza, Room 4062.
Focus Area B: Preparing Personnel To Serve School-Age Children With Low Incidence Disabilities.	.....	.....	.....	$225,000–$250,000	$237,500	$250,000*	14	Up to 60 mos.	Maryann McDermott 202–245–7439 maryann.mcdermott@ed.gov Potomac Center Plaza, Room 4062.
Focus Area C: Preparing Personnel To Provide Related Services to Children, Including Infants and Toddlers, With Disabilities.	.....	.....	.....	$225,000–$250,000	$237,500	$250,000*	8	Up to 60 mos.	Sarah Allen 202–245–7875 sarah.allen@ed.gov Potomac Center Plaza, Room 4105.
Focus Area D: Preparing Personnel in Minority Institutions of Higher Education To Serve Children, Including Infants and Toddlers, With Disabilities.	.....	.....	.....	$225,000–$250,000	$237,500	$250,000*	10	Up to 60 mos.	Dawn Ellis 202–245–6417 dawn.ellis@ed.gov Potomac Center Plaza, Room 4092.

*We will reject any application that proposes a budget exceeding the maximum award for a single budget period of 12 months.
Note: The Department is not bound by any estimates in this notice.

III. Eligibility Information

1. *Eligible Applicants:* IHEs and private nonprofit organizations.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Eligible Subgrantees:* (a) Under 75.708(b) and (c) a grantee may award subgrants—to directly carry out project activities described in its application—to the following types of entities: IHEs and private nonprofit organizations.

(b) The grantee may award subgrants to entities it has identified in an approved application.

3. *Other General Requirements:* (a) Recipients of funding under this program must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Each applicant for, and recipient of, funding under this program must involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Address To Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.* To obtain a copy from ED Pubs, write, fax, or call: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application package from ED Pubs, be sure to identify this competition as follows: CFDA number 84.325K.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to no more than 50 pages, using the following standards:

- A ''page'' is 8.5″ × 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit and double-spacing requirements do not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the page limit and double-spacing requirements do apply to all of Part III, the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

We will reject your application if you exceed the page limit in the application narrative section or if you apply standards other than those specified in the application package.

3. *Submission Dates and Times:*

Applications Available: October 15, 2015.

Deadline for Transmittal of Applications: December 14, 2015.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to *Other Submission Requirements* in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: February 12, 2016.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following Web site: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please

allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, it may be 24 to 48 hours before you can access the information in, and submit an application through, Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Personnel Preparation in Special Education, Early Intervention, and Related Services competition, CFDA number 84.325K, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the Personnel Preparation in Special Education, Early Intervention, and Related Services competition at *www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.325, not 84.325K).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov. In addition, for specific guidance and procedures for submitting an application through Grants.gov, please refer to the Grants.gov Web site at: *www.grants.gov/web/grants/applicants/apply-for-grants.html.*
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a read-only, non-modifiable Portable Document Format (PDF). Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF (*e.g.,* Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered for funding because the material in question—for example, the project narrative—is critical to a meaningful review of your proposal. For that reason it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF. Additional, detailed information on how to attach files is in the application instructions.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. This notification indicates receipt by Grants.gov only, not receipt by the Department. Grants.gov will also notify you automatically by email if your application met all the Grants.gov validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative, or inclusion of an attachment with a file name that contains special characters). You will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline for submission of applications.

Once your application is successfully validated by Grants.gov, the Department will retrieve your application from

Grants.gov and send you an email with a unique PR/Award number for your application.

These emails do not mean that your application is without any disqualifying errors. While your application may have been successfully validated by Grants.gov, it must also meet the Department's application requirements as specified in this notice and in the application instructions. Disqualifying errors could include, for instance, failure to upload attachments in a read-only, non-modifiable PDF; failure to submit a required part of the application; or failure to meet applicant eligibility requirements. It is your responsibility to ensure that your submitted application has met all of the Department's requirements.

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues With the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. We will contact you after we determine whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system;

and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Mary Ann McDermott, U.S. Department of Education, 400 Maryland Avenue SW., Room 4062, Potomac Center Plaza, Washington, DC 20202–2600. FAX: (202) 245–7617.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.325K), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.325K), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in

reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications. However, if the Department decides to select an equal number of applications in each group for funding, this may result in different cut-off points for fundable applications in each group.

4. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

4. *Performance Measures:* Under GPRA, the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Personnel Development to Improve Services and Results for Children with Disabilities program. These measures include: (1) The percentage of Special Education Personnel Development projects that incorporate evidence-based practices into their curricula; (2) the percentage of scholars completing Special Education Personnel Development funded programs who are knowledgeable and skilled in evidence-based practices for infants, toddlers, children, and youth with disabilities; (3) the percentage of Special Education Personnel Development funded scholars who exit preparation programs prior to completion due to poor academic performance; (4) the percentage of Special Education Personnel Development funded degree/certification recipients who are working in the area(s) for which they were prepared upon program completion; (5) the percentage of Special Education Personnel Development funded degree/certification recipients who are working in the area(s) for which they were prepared upon program completion and who are fully qualified under IDEA; (6) the percentage of Special Education Personnel Development funded degree/certification recipients who maintain employment in the area(s) for which they were prepared for three or more years and who are fully qualified under IDEA; and (7) the Federal cost per fully qualified degree/certification recipient.

In addition, the Department will gather information on the following outcome measures: (1) The number and percentage of degree/certification recipients who are employed in high-need schools; (2) the number and percentage of degree/certification recipients who are employed in a school for at least two years; and (3) the number and percentage of degree/certification recipients who are rated as effective by their employers.

Grantees may be asked to participate in assessing and providing information on these aspects of program quality.

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable

to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contacts

FOR FURTHER INFORMATION CONTACT: See chart in the *Award Information* section in this notice for the name, room number, telephone number, and email address of the contact person for each Focus Area of this competition. You can write to the Focus Area contact person at the following address: U.S. Department of Education, 400 Maryland Avenue SW., Potomac Center Plaza, Washington, DC 20202–2600.

If you use a TDD or a TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5037, Potomac Center Plaza, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: October 9, 2015.

Michael K. Yudin,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2015–26290 Filed 10–14–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF14–21–000]

Alaska Gasline Development Corporation; BP Alaska LNG, LLC; Conoco Phillips Alaska LNG Company; ExxonMobil Alaska LNG, LLC; TransCanada Alaska Midstream, LP; Notice of Public Scoping Meetings for the Planned Alaska LNG Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will conduct public scoping meetings as part of their preparation of an environmental impact statement (EIS) for the Alaska LNG Project involving construction and operation of facilities by Alaska Gasline Development Corporation; BP Alaska LNG, LLC; Conoco Phillips Alaska LNG Company; ExxonMobil Alaska LNG, LLC; and TransCanada Alaska Midstream, LP (Applicants) in Alaska.

More information about the Commission's EIS and the Alaska LNG Project is available in *the Notice of Intent to Prepare an Environmental Impact Statement for the Planned Alaska LNG Project and Request for Comments on Environmental Issues* (NOI), issued March 4, 2015. The NOI describes the scoping process that is under way seeking public participation in the environmental review of this project. The public scoping meetings, listed on page 2, provide an opportunity to submit verbal comments in addition to, or in lieu of, written comments on issues of environmental concern related to the Alaska LNG Project. Both written and verbal comments receive equal consideration. Please note that the scoping period will close on December 4, 2015.

Additional information about the project is available from FERC's Office of External Affairs at (866) 208–FERC (3372) or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* PF14–21). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

Schedule and Locations for the Alaska LNG Project Public Scoping Meetings

The meetings will be recorded by a court reporter to ensure comments are accurately depicted on the public record. The Commission invites you to attend one of the following public scoping meetings in the project area.

Date and Time	Location
October 27, 2015, 6:00 p.m	Nikiski Recreation Center—Banquet Hall, Mile 23.4 Kenai Spur Hwy, Nikiski, AK 99611.
October 27, 2015, 6:00 p.m	Kaktovik Community Center, 2051 Barter Avenue, Kaktovik, AK 99747.
October 28, 2015, 6:00 p.m	Houston High School, 12501 W. Hawk Lane, Houston, AK 99694.
October 28, 2015, 6:00 p.m	Barrow Inupiat Heritage Center–Multipurpose Room, 5421 North Star Street, Barrow, AK 99723.
October 29, 2015, 6:00 p.m	Trapper Creek Elementary School, 6742 Petersville Rd, Trapper Creek, AK 99683.
October 29, 2015, 6:00 p.m	Nuiqsut Kisik Community Center, 2230 2nd Avenue, Nuiqsut, AK 99789.

AK LNG representatives will be present one hour before the scoping meeting at all locations except Barrow, Alaska with maps depicting the project and to answer questions. In Barrow, AK LNG representatives will be present one hour after the scoping meeting. The meetings will end once all speakers have provided their comments or at 9 p.m., whichever comes first.

Additional meetings at other locations are being scheduled. A supplemental notice will be issued, announcing the dates and times for these additional meetings.

Dated: October 8, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–26187 Filed 10–14–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER15–1344–001; ER15–1344–002; ER15–1387–001]

PJM Interconnection, L.L.C.; PJM Interconnection, L.L.C.; Potomac Electric Power Company; Notice of Technical Conference

By order dated September 15, 2015,[1] the Commission directed staff to convene a technical conference regarding PJM Interconnection, L.L.C.'s (PJM) filing, in Docket Nos. ER15–1344–001 and ER15–1344–002, related to cost responsibility assignments for 61 baseline upgrades included in the recent update to the PJM Regional Transmission Expansion Plan (RTEP), and regarding requests for rehearing, submitted in Docket No. ER15–1387–001, related to the PJM Transmission Owners' proposal to change the cost allocation methodology for reliability projects selected in the RTEP solely to address local transmission owner planning criteria. The technical conference will explore issues related to PJM's application of its Order No. 1000-compliant transmission planning process [2] to local transmission facilities, including, but not limited to, the process PJM and the PJM Transmission Owners use to identify local transmission needs and to solicit proposed solutions to identified local transmission needs (such as opening proposal windows),[3] and the process PJM uses to determine whether a transmission solution to an identified local transmission need should be selected in the regional transmission plan for purposes of cost allocation as the more efficient or cost-effective transmission solution.

Take notice that such conference will be held on November 12, 2015, at the Commission's headquarters at 888 First Street NE., Washington, DC 20426 between 10:00 a.m. and 4:00 p.m. (Eastern Time) in Hearing Room 7. Additional information regarding the conference program will be provided in a subsequent supplemental notice of technical conference.

The technical conference will be led by Commission staff. The conference is open to the public. Pre-registration through the Commission's Web site (*https://www.ferc.gov/whats-new/registration/11-12-15-form.asp*) is encouraged but not required.

The technical conference will not be transcribed. However, there will be a free audio cast of the conference. Anyone wishing to listen to the meeting should send an email to Sarah McKinley at *sarah.mckinley@ferc.gov* by November 3, 2015, to request call-in information. Please reference ''call information for ER15–1344/1387 technical conference'' in the subject line of the email. The call-in information will be provided prior to the meeting. Persons listening to the technical conference may participate by submitting questions, either prior to or during the technical conference, by emailing *RTEPconference@ferc.gov*.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–502–8659 (TTY); or send a fax to 202–208–2106 with the required accommodations.

For more information about this technical conference, please contact Katherine Scott, 202–502–6495, *katherine.scott@ferc.gov*, regarding Docket Nos. ER15–1344–001 and ER15–1344–002; Nicole Buell, 202–502–6846, *nicole.buell@ferc.gov*, regarding Docket No. ER15–1387–001; or Sarah McKinley, 202–502–8368, *sarah.mckinley@ferc.gov*, regarding logistical issues.

Dated: October 8, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–26182 Filed 10–14–15; 8:45 am]

BILLING CODE 6717–01–P

[1] *PJM Interconnection, L.L.C.*, 152 FERC ¶ 61,197 (2015).

[2] *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000–A, 139 FERC ¶ 61,132, *order on reh'g*, Order No. 1000–B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

[3] As discussed in the order establishing the technical conference, Dominion Resources Services' revisions to its individual transmission planning criteria will not be discussed at the technical conference. *PJM Interconnection, L.L.C.*, 152 FERC ¶ 61,197 at P15 (2015).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–527–000]

Transcontinental Gas Pipe Line Company, LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed New York Bay Expansion Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the New York Bay Expansion Project involving construction and operation of facilities by Transcontinental Gas Pipe Line Company, LLC (Transco) in Chester, Pennsylvania; Essex and Middlesex, New Jersey; and Richmond, New York. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before November 8, 2015.

If you sent comments on this project to the Commission before the opening of this docket on July 8, 2015, you will need to file those comments in Docket No. CP15–527 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

Transco provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to

participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (*www.ferc.gov*).

Public Participation

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov*. Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings*. This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings*. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.''* If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP15–527–000) with your submission:

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Summary of the Proposed Project

Transco proposes the New York Bay Expansion Project to modify existing facilities and replace existing pipeline to provide an additional 115,000 dekatherms per day of firm transportation service to National Grid New York to meet 2017–2018 winter heating season needs. The project would involve the following activities at existing aboveground facilities in the specified towns and municipalities:

- Uprate Compressor Station 200 from 30,860 horsepower (hp) to 33,000 hp (East Whiteland Township, Chester, Pennsylvania);
- uprate a unit of Compressor Station 303 from 25,000 hp to 27,500 hp (Roseland Borough, Essex, New Jersey);
- add 11,000 hp of electric-driven compression to Compressor Station 207 (Old Bridge Township, Middlesex, New Jersey); and
- install various appurtenances and modifications at three meter and regulation stations in East Brandywine Township (Chester, Pennsylvania), Sayreville Borough (Middlesex, New Jersey), and Staten Island Borough (Richmond, New York).

In addition, Transco proposes to replace three segments of its 42-inch-diameter Lower New York Bay Lateral pipeline, totaling 0.25 mile, and uprate the lateral pipeline's operating pressure from 960 to 1000 pounds per square inch in Middlesex County, NJ.

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

Construction of the project would disturb about 56.70 acres of land for the aboveground facilities and 14.05 acres of land for the pipe replacement; these acres would be restored by Transco and revert to former uses. The permanent footprint for Compressor Stations 200 and 303 would remain unchanged. The permanent footprint of Compressor Station 207 would expand by 0.59 acre, and the three existing meter and regulation stations would expand by combined total of 0.8 acre. No new acreage would be required for the replacement pipe as Transco would replace the pipeline in the same permanent right-of-way.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [2] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- land use;
- water resources, fisheries, and wetlands;
- cultural resources;
- vegetation and wildlife;
- air quality and noise;
- endangered and threatened species;
- public safety; and
- cumulative impacts

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section, on page 2.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the preparation of the EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Offices (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] We will

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at title 40, Code of Federal Regulations, part 1501.6.

[4] The Advisory Council on Historic Preservation's regulations are at title 36, Code of Federal Regulations, part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

define the project-specific Area of Potential Effects (APE) in consultation with the SHPOs as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes: Federal, state, and local government representatives and agencies; elected officials; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If we publish and distribute the EA, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the ''Document-less Intervention Guide'' under the ''e-filing'' link on the Commission's Web site. Motions to intervene are more fully described at *http://www.ferc.gov/resources/guides/how-to/intervene.asp.*

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* CP15–527). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: October 8, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–26185 Filed 10–14–15; 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 and Intention To Hold Public Meetings

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.

In addition to or in lieu of sending written comments, you are invited to attend public meetings that will be held to receive comments on the draft EIS. The agency scoping meeting will focus on resource agency and non-governmental organization input, while the public scoping meeting is primarily for public input. All interested

individuals, organizations, and agencies are invited to attend one or both of the meetings. The time and locations of the meetings are as follows:

Agency Meeting

DATE: Thursday, October 29, 2015
TIME: 9:00 a.m.–12:00 p.m.
PLACE: Robinson Building
ADDRESS: 186 W. 2nd North, Preston, ID 83263

Public Meeting

DATE: Thursday, October 29, 2015
TIME: 6:00 p.m.
PLACE: Robinson Building
ADDRESS: 186 W. 2nd North, Preston, ID 83263

At these meetings, resource agency personnel and other interested persons will have the opportunity to provide oral and written comments and recommendations regarding the draft EIS. The meetings will be recorded by a court reporter, and all statements (verbal and written) will become part of the Commission's public record for the project. These meetings are posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

For further information, please contact Shana Murray at (202) 502–8333 or at *shana.murray@ferc.gov.*

Dated: October 8, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–26183 Filed 10–14–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP15–558–000; PF15–1–000]

PennEast Pipeline Company, LLC; Notice of Application

Take notice that on September 24, 2015, PennEast Pipeline Company, LLC (PennEast), One Meridian Boulevard, Suite 2C01, Wyomissing, Pennsylvania 19610, filed with the Federal Energy Regulatory Commission (Commission) in Docket No. CP15–558–000 an application pursuant section 7(c) of the Natural Gas Act (NGA), as amended, and Parts 157 and 284 of the Commission's regulations, requesting authorization to construct and operate a new natural gas pipeline system, including pipeline facilities, a compressor station, metering and regulating stations and appurtenant facilities in Pennsylvania and New Jersey, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to Anthony C. Cox, Project Manager, PennEast Pipeline Company, LLC, One Meridian Boulevard, Suite 2C01, Wyomissing, Pennsylvania 19610. Phone (610) 406–4322, email *acox@ugies.com.*

PennEast seeks authorization to construct, own and operate a new pipeline system comprising 114 miles of 36-inch diameter mainline transmission pipeline from Luzerne County, Pennsylvania to Mercer County, New Jersey; a 2.1 mile, 24-inch lateral in Northhampton County, Pennsylvania; a 0.6 mile, 12-inch diameter lateral in Huntedon County, New Jersey; a 1.4 mile, 36-inch diameter lateral in Hunterdon County, New Jersey; a 47,700 horsepower compressor station in Carbon County, Pennsylvania; and various aboveground facilities, including interconnects, launchers, receivers and mainline block valves.

PennEast further requests blanket certificates pursuant to Part 157, Subpart F, and Part 284, Subpart G of the Commission's regulations; approval of PennEast's *pro forma* gas tariff; and other appropriate authorizations and waivers.

On October 10, 2014, the Commission staff granted PennEast's request to use the pre-filing process and assigned Docket No. PF15–1–000 for this proceeding during the pre-filing review of the project. Now, as of the filing of the application on September 24, 2015, the pre-filing process for this project has ended. From this time forward, PennEast's proceeding will be conducted in Docket No. CP15–558–000, as noted in the caption of this Notice.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit seven copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be

required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and five copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: October 29, 2015.

Dated: October 8, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–26186 Filed 10–14–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP15–1026–000]

Maritimes & Northeast Pipeline, L.L.C.; Notice of Informal Settlement Conference

Take notice that an informal settlement conference will be convened in this proceeding commencing at 10:00 a.m. on October 20, 2015 at the offices of the Federal Energy Regulatory Commission (Commission), 888 First Street NE., Washington, DC 20426, for the purpose of exploring settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations under 18 CFR 385.214.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or 202–502–8659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

For additional information, please contact John Perkins (202–502–6591) or Frank Kelly (202–502–8185).

Dated: October 8, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–26188 Filed 10–14–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0393; FRL–9934–06]

Registration Review Interim Decisions; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's interim registration review decisions for the pesticides listed in Unit II of this notice. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, that the pesticide can perform its intended function without causing unreasonable adverse effects on human health or the environment. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment. This document also announces the Agency's closure of the registration review docket for flufenpyr-ethyl. All pesticide products containing flufenpyr-ethyl have been cancelled.

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information, contact* the Chemical Review Manager identified in the table in Unit II for the pesticide of interest.

For general information on the registration review program, contact: Richard Dumas, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8015; email address: *dumas.richard@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the pesticide specific contact person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2015–0393, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What action is the Agency taking?

Pursuant to 40 CFR 155.58(c), this notice announces the availability of EPA's interim registration review decision or case closure document for the pesticides in the following table:

Registration review case name and No.	Docket ID No.	Contact and contact information
Carbon and Carbon Dioxide (Case 4019)	EPA–HQ–OPP–2007–0705	James Parker, (703) 306–0469, *parker.james@epa.gov*.

Registration review case name and No.	Docket ID No.	Contact and contact information
Debacarb (2–EEEBC) (Case 4031)	EPA–HQ–OPP–2008–0802	Roy Johnson, (703) 347–0492, *johnson.roy@epa.gov*.
Flufenpyr-ethyl (Case 7262)	EPA–HQ–OPP–2014–0768	Tracy Perry, (703) 308–0128, *perry.tracy@epa.gov*.
Inorganic Nitrate-Nitrite (Case 4052)	EPA–HQ–OPP–2007–1118	Brittany Pruitt, (703) 347–0289, *pruitt.brittany@epa.gov*.
Maleic Hydrazide (Case 0381)	EPA–HQ–OPP–2009–0387	Ricardo Jones, (703) 347–0493, *jones.ricardo@epa.gov*.
Soap Salts (Case 4083)	EPA–HQ–OPP–2008–0519	Tracy Perry, (703) 308–0128, *perry.tracy@epa.gov*.
Sulfur (Case 0031)	EPA–HQ–OPP–2008–0176	Jose Gayoso, (703) 347–8652, *gayoso.jose@epa.gov*.

The registration review final decisions for these cases are dependent on the assessments of threatened and endangered (listed) species under the Endangered Species Act (ESA), determinations on the potential for endocrine disruption, and/or pollinator risk assessments.

Debacarb (Interim Decision). The registration review docket for debacarb (EPA–HQ–OPP–2008–0802) opened in December 2008. Debacarb is a fungicide registered to control diseases in ornamental trees, and is applied via injection into the tree trunk. Because of its limited use and potential exposure, the Agency did not conduct a new human health risk assessment during registration review. There are very little data on adverse effects and potential routes of exposure for wildlife and the environment, so the Agency conducted a qualitative ecological risk assessment. The Agency concluded that debacarb does not pose risk concerns for birds, mammals, and plants (both listed and non-listed). Risk could not be precluded for aquatic organisms (from leaf drop into aquatic habitats) and pollinators (from residues in pollen and nectar). To address these concerns, the Agency proposed prohibitions on treating trees within 20' of water bodies and before and during bloom. More recently, in characterizing exposure, the Agency determined that the pathway from treatment of leaves to receiving waters diluted the potential for adverse effects in aquatic organisms. Concerns about pollinator risks remain, and the Agency is directing the registrant to amend labels to prohibit application before and during bloom. The Agency will likely require pollinator data at a later time. Debacarb has not been evaluated under the Endocrine Disruptor Screening Program (EDSP).

Gas Cartridges; Inorganic Nitrate—Nitrite, Carbon and Carbon Dioxide, and Sulfur (Interim Decision). Potassium and sodium nitrate, carbon and carbon dioxide, and sulfur are ingredients in fumigant gas cartridge products, which are available in small and large sizes. Both sizes are registered to control burrowing mammals, but only the large gas cartridge is registered to also control coyotes, red foxes and skunks. Gas cartridges are registered for outdoor use only. To use the products, the user lights the fuse, places the cartridge in the burrow or den and seals the entrance. Animals within the burrow or den are asphyxiated by the release of carbon dioxide and toxic gases.

The Agency relied on a previous human health risk assessment in making its registration review decisions and determined that no human health risks of concern exist for these compounds. The Agency conducted a new ecological risk assessment for the gas cartridges for registration review. The risk assessment did find the potential for adverse effects to a number of listed species from gas cartridge use. EPA developed mitigation to address the risk to a number of listed species. In most cases, the mitigation involves the use of Endangered Species Protection Bulletins. Because the gas cartridges may contain up to three different active ingredients compounds, these Bulletins are available in the Inorganic Nitrate—Nitrite, Carbon and Carbon Dioxide, and Sulfur Registration Review dockets (EPA–HQ–OPP–2007–1118, EPA–HQ–OPP–2007–0705, and EPA–HQ–OPP–2008–0176, respectively). Although implementation of these Bulletins will address risk to some listed species from gas cartridge use, risk to a number of other listed species remains. Additionally, potassium and sodium nitrate, carbon and carbon dioxide, and sulfur have not been evaluated under the Endocrine Disruptor Screening Program (EDSP). Therefore, the Agency's final registration review decisions are dependent upon the result of ESA Section 7 consultation with the U.S. Fish and Wildlife Service (USFWS) and the evaluation of potential endocrine disruptor risk.

Maleic Hydrazide (Interim Decision). The registration review docket for maleic hydrazide (EPA–HQ–OPP–2009–0387) opened in September 2009. Maleic hydrazide is a systemic plant growth regulator registered for use on tobacco, potato, onions, non-bearing citrus, turf, utility and highway rights-of-way, airports, industrial land, lawns, recreational areas, ornamental/shade trees and ornamental plants. EPA published human health and ecological risk assessments in July 2014, which included a screening-level listed species assessment. No human health risks of concern were identified. The ecological risk assessment indicated potential risks to non-target terrestrial birds, terrestrial invertebrates, and certain species of semi-aquatic and terrestrial monocotyledonous plants. To address findings of the maleic hydrazide registration review, the Agency is reducing maximum application rates for certain uses, requiring additional data on chronic avian effects, and requiring label clarifications. Maleic hydrazide has not been evaluated under the EDSP nor has the EPA completed an ESA section 7 consultation with the USFWS and the National Marine and Fisheries Service (the Services). Therefore, the Agency's final registration review decision is dependent upon the result of the evaluation of potential endocrine disruptor risk and consultation with the Services for potential risk to listed species.

Soap Salts (Interim Decision). The registration review docket for soap salts (EPA–HQ–OPP–2008–0519) opened in September 2008. Soap salts are used as acaricides, herbicides, and insecticides on food and non-food crops in various settings, chiefly residential and agricultural. Ammonium and sodium soap salts are also used as animal repellants. EPA published draft human health and ecological risk assessments in March 2013 for a 60-day public comment period. In March 2015, EPA published a revised ecological risk assessment and the Soap Salts Proposed Interim Registration Review Decision for a 60-day public comment period. In this Soap Salts Interim Decision, the Agency has determined that no additional data are required and no changes to the affected registrations or their labeling are needed at this time. The Agency's

final registration review decision for soap salts will depend upon the results of an ESA section 7 consultation with the services, an EDSP determination, and an assessment of the non-target exposure to bees.

Sulfur (Interim Decision). The registration review docket for sulfur (EPA–HQ–OPP–2008–0176) opened in March 2008. Sulfur is used as an insecticide and fungicide on a wide range of field and greenhouse-grown food and feed crops, livestock, livestock quarters, and indoor and outdoor residential sites. Sulfur is also registered for use in gas cartridge products, along with inorganic nitrate/nitrite, carbon, and carbon dioxide. EPA has conducted a qualitative assessment for both human health and ecological risks, including listed species, for sulfur. Details of the assessment for the gas cartridge use are summarized under the gas cartridge heading in this unit. For uses of sulfur other than gas cartridges, the Agency is making a ''no effect'' determination for all listed aquatic species, and a ''no effect'' determination for direct effects to listed terrestrial vertebrates that do not rely on insects as a primary food source. However, at this time, the Agency is not able to make a listed species determination for effects to terrestrial invertebrates, terrestrial plants, or indirect effects to terrestrial vertebrates with insects as a primary food source. Sulfur has not been evaluated under the EDSP. Therefore, the Agency's final registration review decision is dependent upon the result of an ESA Section 7 consultation with the USFWS and the evaluation of potential endocrine disruptor risk.

Case Closure for Flufenpyr-ethyl (PC Code 108853; Case 7262). Flufenpyr-ethyl is an herbicide which was labeled for post-emergence control of broadleaf weeds in field corn, soybeans, and sugarcane. On March 19, 2015, the Agency received a request for voluntary cancellation of flufenpyr-ethyl from the technical and end-use product registrant, Valent USA Corporation. EPA subsequently issued a **Federal Register** notice announcing receipt of the request (FRL–9928–54) on July 8, 2015 (80 FR 39100), and allowed for a 30-day period for public comment on the request. No comments were received, and on September 22, 2015, EPA issued the cancellation order terminating the last pesticide products containing flufenpyr-ethyl registered in the United States (80 FR 57179) (FRL–9933–58). There were no existing stocks of these products and no requests for existing stocks provisions. Therefore no existing stocks provision was provided for these product registrations. With the cancellation of these remaining products, the Agency is announcing the closure of the registration review case for flufenpyr-ethyl.

Pursuant to 40 CFR 155.57, a registration review decision is the Agency's determination whether a pesticide meets, or does not meet, the standard for registration in FIFRA. EPA has considered the pesticides listed in light of the FIFRA standard for registration. The interim decision documents in the dockets describe the Agency's rationale for issuing registration review interim decisions for these pesticides.

In addition to the interim registration review decision documents, the registration review docket for these pesticides also includes other relevant documents related to the registration review of these cases. The proposed interim registration review decisions were previously posted to each docket and the public was invited to submit any comments or new information.

EPA has addressed the substantive comments or information received during the 60-day comment period in the interim decision document for each pesticide listed in this document.

Pursuant to 40 CFR 155.58(c), the registration review case docket for each pesticide discussed in this notice will remain open until all actions required in the interim decisions have been completed.

Background on the registration review program is provided at: *http://www.epa.gov/oppsrrd1/registration_review.* Links to earlier documents related to the registration review of this pesticide are provided in the Pesticide Chemical Search data base accessible at: *http://iaspub.epa.gov/apex/pesticides/f?p=chemicalsearch.*

Authority: 7 U.S.C. 136 *et seq.*

Dated: September 30, 2015.

Bernard P. Keigwin, Jr.,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2015–26299 Filed 10–14–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0052; FRL–9935–45–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Risk Management Program Requirements and Petitions To Modify the List of Regulated Substances (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''Risk Management Program Requirements and Petitions to Modify the List of Regulated Substances under section 112(r) of the Clean Air Act (CAA)'' (EPA ICR No. 1656.15, OMB Control No. 2050–0144) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through December 31, 2015. Public comments were previously requested via the **Federal Register** (80 FR 33518) on June 12, 2015 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before November 16, 2015.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2003–0052, to (1) EPA online using *www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail code: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: James Belke, Office of Emergency Management, Mail Code 5104A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–564–8023; fax number: 202–564–2625; email address: *belke.jim@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The 1990 CAA Amendments added section 112(r) to provide for the prevention and mitigation of accidental releases. Section 112(r) mandates that EPA promulgate a list of ''regulated substances'' with threshold quantities and establish procedures for the addition and deletion of substances from the list of regulated substances. Processes at stationary sources that contain more than a threshold quantity of a regulated substance are subject to accidental release prevention regulations promulgated under CAA section 112(r)(7). These two rules are codified as 40 CFR part 68. Part 68 requires that sources with more than a threshold quantity of a regulated substance in a process develop and implement a risk management program and submit a risk management plan to EPA. The compliance schedule for the Part 68 requirements, established by rule on June 20, 1996, requires the implementation of the source risk management programs and the submission of initial Risk Management Plans (RMPs) by June 21, 1999, and at least every five years after the initial submission. Sources must resubmit earlier than their next five-year deadline if they undergo certain changes to their covered processes as specified in Part 68. Therefore, after the initial submission, some sources re-submitted their RMPs prior to the next 5-year deadline because they had process changes that required an earlier update. These sources were then assigned a new five-year resubmission deadline based on the date of their revised plan submission. Most covered sources had no significant changes to their covered processes and therefore resubmitted their updated RMP on June 21, 2004. This same pattern continued through the next two submission cycles—some sources updated and resubmitted their RMP prior to their next five-year deadline and were assigned a new (off-cycle) five-year deadline, but a majority of sources submitted their updated RMP on or near the next scheduled five-year resubmission deadlines (June 2009 and June 2014). Similarly, while most sources' next submission is due in June 2019, because of off-cycle resubmission deadlines assigned to sources who have resubmitted RMPs prior to their next 5-year resubmission date, only a portion of the RMP-regulated universe has a submission deadline occurring in June 2019.

Other than the costs for gathering information and filling out the on-line RMP form, the regulations require sources to maintain on-site documentation, perform a compliance audit every three years, provide refresher training to employees, perform a hazard analysis at least every five years, etc. Some of these activities are expected to occur annually or are on-going. Some are required every three years or every five years, unless there are changes at the facility. Therefore, the burden and costs incurred by sources vary from ICR to ICR. The five-year resubmission deadline set by the regulations or assigned by EPA based on the latest RMP resubmission also will cause the burden to vary from ICR to ICR.

Form Numbers: 8700–25, 8700–27, 8700–28.

Respondents/affected entities: Chemical manufacturers, petroleum refineries, water treatment systems, agricultural chemical distributors, refrigerated warehouses, chemical distributors, non-chemical manufacturers, wholesale fuel distributors, energy generation facilities, etc.

Respondent's obligation to respond: Mandatory (40 CFR part 68).

Estimated number of respondents: 13,396 (total).

Frequency of response: On occasion.

Total estimated burden: 54,000 hours (per year). Burden is defined at 5 CFR 1320.03(b)

Total estimated cost: $6,680,625 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in the estimates: There is a decrease of 26,546 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. The reason for this decrease is because this ICR period does not include a major filing deadline year and the previous ICR did include a major filing deadline. Second, the number of sources subject to the regulations fluctuates regularly, and is lower in this ICR period than in the previous ICR.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2015–26231 Filed 10–14–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC Advisory Committee on Economic Inclusion (ComE–IN); Notice of Meeting

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of open meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, notice is hereby given of a meeting of the FDIC Advisory Committee on Economic Inclusion, which will be held in Washington, DC. The Advisory Committee will provide advice and recommendations on initiatives to expand access to banking services by underserved populations.

DATES: Friday, October 30, 2015, from 9 a.m. to 3:30 p.m.

ADDRESSES: The meeting will be held in the FDIC Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Committee Management Officer of the FDIC, at (202) 898–7043.

SUPPLEMENTARY INFORMATION:

Agenda: The agenda will be focused on the Bank On 2.0 initiative, mobile banking research, expanding economic inclusion for individuals with disabilities, and Money Smart for Small Business. The agenda may be subject to change. Any changes to the agenda will be announced at the beginning of the meeting.

Type of Meeting: The meeting will be open to the public, limited only by the space available on a first-come, first-served basis. For security reasons, members of the public will be subject to security screening procedures and must present a valid photo identification to enter the building. The FDIC will provide attendees with auxiliary aids (*e.g.,* sign language interpretation) required for this meeting. Those attendees needing such assistance should call (703) 562–6067 (Voice or TTY) at least two days before the meeting to make necessary arrangements. Written statements may

be filed with the committee before or after the meeting. This ComE–IN meeting will be Webcast live via the Internet at: *https://fdic.primetime.mediaplatform.com/#/channel/1384299229422/Advisory+Committee+on+Economic+Inclusion*. Questions or troubleshooting help can be found at the same link. For optimal viewing, a high speed internet connection is recommended. The ComE–IN meeting videos are made available on-demand approximately two weeks after the event.

Dated: October 9, 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary, Federal Deposit Insurance Corporation.

[FR Doc. 2015–26224 Filed 10–14–15; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission of Renewals for OMB Review; Comment Request (3064–0090, –0111, –0136, –0138 & –0171)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of existing information collections, as required by the Paperwork Reduction Act of 1995. On July 10, 2015, (80 FR 39777), the FDIC requested comment for 60 days on a proposal to renew the information collections listed below. No comments were received. The FDIC hereby gives notice of its plan to submit to OMB a request to approve the renewal of these information collections, and again invites comment on these renewals.

DATES: Comments must be submitted on or before November 16, 2015.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/.*
- *Email: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Gary A. Kuiper (202.898.3877), Counsel MB–3016, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gary A. Kuiper at *gkuiper@fdic.gov*.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently-approved collections of information:

1. *Title:* Public Disclosure by Banks.
OMB Number: 3064–0090.
Affected Public: Insured state nonmember banks.
Frequency of Response: Annually.
Estimated Number of Respondents: 4,015.
Estimated Time per Response: 0.5
Total Annual Burden: 2,008 hours.
General Description: 12 CFR part 350 requires a bank to notify the general public, and in some instances shareholders, that financial disclosure statements are available by request. Required disclosures consist of financial reports for the current and preceding year, which can be photocopied directly from the year-end call reports. The FDIC may also require, on a case-by-case basis, that descriptions of enforcement actions be included in disclosure statements. This regulation allows, but does not require, the inclusion of management discussion and analysis.

2. *Title:* Activities and Investments of Insured State Banks.
OMB Number: 3064–0111.
Form Numbers: None.
Frequency of Response: On occasion.
Affected Public: Insured state nonmember banks.
Estimated Number of Respondents: 110.
Estimated Time per Response: 8 hours.
Total Annual Burden: 880 hours.
General Description: Section 24 of the Federal Deposit Insurance Act (FDI Act), 12 U.S.C. 1831a, limits investments and other activities in which state banks may engage as principal to those permissible for national banks and those approved by the FDIC under procedures set forth in part 362 of the FDIC's Rules and Regulations, 12 CFR part 362. With certain exceptions, section 24 of the FDI Act limits the direct equity investments of state chartered banks to equity investments that are permissible for national banks. In addition, the statute prohibits an insured state bank from directly engaging, as a principal, in any activity that is not permissible for a national bank, or indirectly through a subsidiary in an activity that is not permissible for a subsidiary of a national bank, unless such bank meets its minimum capital requirements and the FDIC determines that the activity does not pose significant risk to the Deposit Insurance Fund. The FDIC can make such a determination for exception by regulation or by order. The FDIC's implementing regulation for section 24 is 12 CFR part 362. This regulation details the activities that insured state nonmember banks or their subsidiaries may engage in, under certain criteria and conditions, and identifies the information that banks must furnish to the FDIC in order to obtain the FDIC's approval or nonobjection.

3. *Title:* Privacy of Consumer Financial Information.
OMB Number: 3064–0136.
Form Numbers: None.
Frequency of Response: On occasion.
Affected Public: Insured state nonmember banks and consumers.
Estimated Number of Respondents: Initial notice, 208; annual notice and change in terms 4,084; opt-out notice, 866; consumer opt-out/status update, 212,432.
Estimated Number of Responses: 217,590.
Total Annual Burden: 162,456 hours.
General Description: The elements of this collection are required under section 504 of the Gramm-Leach-Bliley Act, Public Law 106–102. The collection mandates notice requirements and restrictions on a financial institution's ability to disclose nonpublic personal information about consumers to nonaffiliated third parties.

4. *Title:* Applicant Background Questionnaire.
OMB Number: 3064–0138.
Form Number: FDIC 2100/14.
Frequency of Response: On occasion.
Affected Public: FDIC job applicants who are not current FDIC employees.
Estimated Number of Respondents: 30,000.
Estimated Time per Response: 3 minutes.
Total Annual Burden: 1,500 hours.
General Description: The FDIC Applicant Background Questionnaire is voluntarily completed by prospective FDIC job applicants who are not current employees. Responses to survey questions provide information regarding gender, age, disability, race, and national origin. Additional survey

questions address the applicant's source of vacancy announcement information. Data is used by the FDIC Office of Minority and Women Inclusion and the FDIC Human Resources Branch to evaluate the efficacy of various FDIC recruitment methods used to ensure that the agency meets workforce diversity objectives.

5. *Title:* Registration of Mortgage Loan Originators.

OMB Number: 3064–0171.

Total Estimated Annual Burden: 608,867, which is comprised of:

A. Financial Institution Policies and Procedures for Ensuring Employee-Mortgage Loan Originator Compliance With S.A.F.E. Act Requirements Affected Public

Affected Public: FDIC-supervised institutions.

Estimated Number of Respondents: 4,080.

Frequency of Response: Annually.

Estimated Time per Response: 20 hours.

Estimated Annual Burden: 81,600 hours.

B. Financial Institution Procedures to Track and Monitor Compliance With S.A.F.E. Act

Estimated Number of Respondents: 4,080.

Frequency of Response: Annually.

Estimated Time per Response: 60 hours.

Estimated Annual Burden: 244,800 hours.

C. Financial Institution Procedures for the Collection and Maintenance of Employee Mortgage Loan Originators Criminal History Background Reports

Affected Public: FDIC-supervised institutions.

Estimated Number of Respondents: 4,080.

Frequency of Response: Annually.

Estimated Time per Response: 20 hours.

Estimated Annual Burden: 81,600 hours.

D. Financial Institution Procedures for Public Disclosure of Mortgage Loan Originator's Unique Identifier

Affected Public: FDIC-supervised institutions.

Estimated Number of Respondents: 4,080.

Frequency of Response: Annually.

Estimated Time per Response: 25 hours.

Estimated Annual Burden: 102,000 hours.

E. Financial Institution Information Reporting to Registry

Affected Public: FDIC-supervised institutions.

Estimated Number of Respondents: 4,080.

Frequency of Response: Annually.

Estimated Time per Response: 15 minutes.

Estimated Annual Burden: 1,020 hours.

F. Financial Institution Procedures for the Collection of Employee Mortgage Loan Originator's Fingerprints

Affected Public: FDIC-supervised institutions.

Estimated Number of Respondents: 4,080.

Frequency of Response: Annually.

Estimated Time per Response: 4 hours.

Estimated Annual Burden: 16,320 hours.

G. Mortgage Loan Originator Initial and Annual Renewal Registration Reporting and Authorization Requirements

Affected Public: Employee Mortgage Loan Originators.

Estimated Number of Respondents: 59,592.

Frequency of Response: Annually.

Estimated Time per Response: 15 minutes.

Estimated Annual Burden: 14,898 hours.

H. Mortgage Loan Originator Registration Updates Upon Change in Circumstances

Affected Public: Employee Mortgage Loan Originators.

Estimated Number of Respondents: 29,646.

Frequency of Response: On occasion.

Estimated Time per Response: 15 minutes.

Estimated Annual Burden: 7,412 hours.

I. Mortgage Loan Originator Procedures for Disclosure to Consumers of Unique Identifier

Affected Public: Employee Mortgage Loan Originators.

Estimated Number of Respondents: 59,292.

Frequency of Response: Annually.

Estimated Time per Response: 1 hour.

Estimated Annual Burden: 59,292 hours.

Request for Comment

Comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the collections of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 9th day of October, 2015.

Federal Deposit Insurance Corporation.

Ralph E. Frable,

Assistant Executive Secretary.

[FR Doc. 2015–26237 Filed 10–14–15; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 15–10]

Revocation of License No. 017843, Washington Movers, Inc.; Order To Show Cause

AGENCY: Federal Maritime Commission.

DATES: The Order to Show Cause was served October 8, 2015.

ACTION: Notice of Order to show cause.

Authority: 46 U.S.C. 41312 & 40903.

SUPPLEMENTARY INFORMATION: On October 8, the Commission issued an Order to Washington Movers, Inc. to show cause why its ocean transportation intermediary license, FMC No. 017843, should not be revoked as a result of the felony convictions of its owner, President and Qualifying Individual, the failure to report material changes in fact, and the failure to obtain prior approval for a change in corporate name, rendering such licensee no longer qualified to provide ocean transportation intermediary services.

The Order may be viewed in its entirety at *http://www.fmc.gov/15-10.*

Karen V. Gregory,

Secretary.

[FR Doc. 2015–26171 Filed 10–14–15; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission,

Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. A copy of the agreement is available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012307–001.

Title: Maersk Line/APL Slot Exchange Agreement.

Parties: A.P. Moller-Maersk A/S trading under the name of Maersk Line and APL Co. Pte. Ltd./American President Lines, Ltd. (acting as a single party).

Filing Party: Wayne Rohde, Esq.; Cozen O'Connor; 1200 19th Street NW., Washington, DC 20036.

Synopsis: The amendment would revise the amount of space to be chartered, delete obsolete language from the agreement, and change the Maersk entity that is party to the agreement.

Agreement No.: 012365.

Title: Volkswagen Konzernlogistik GmbH & Co. OHG.

Parties: Volkswagen Konzernlogistik GmBH & Co. OHG and Nippon Yusen Kaisha.

Filing Party: Eric. C. Jeffrey, Esq.; Nixon Peabody LLP; 799 9th Street NW., Suite 500, Washington, DC 20001.

Synopsis: The agreement authorizes the parties to charter space to each other for the transportation of vehicles and other Ro/Ro cargo in the trade between the U.S. on the one hand, and Mexico, Germany and Canada on the other hand.

By Order of the Federal Maritime Commission.

Dated: October 9, 2015.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2015–26250 Filed 10–14–15; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL MARITIME COMMISSION

[Petition No. P4–15]

Petition of Crowley Caribbean Services, LLC and Crowley Latin America Services, LLC, for an Exemption From Commission Regulations; Notice of Filing and Request for Comments

This is to provide notice of filing and to invite comments on or before October 23, 2015, regarding the Petition described below.

Crowley Caribbean Services, LLC and Crowley Latin America Services, LLC (Petitioners), have petitioned the Commission pursuant to 46 CFR 502.76 of the Commission's Rules of Practice and Procedure, for an exemption from the Commission's rules requiring individual service contract amendments, 46 CFR 530.10. Specifically, Petitioners explain that on or about October 31, 2015, Crowley will acquire the assets of ocean common carrier Seafreight Line, Ltd. (''Seafreight''), including Seafreight's service contracts and, as such, request that the Commission permit the submission of a ''universal notice to the Commission and to all affected service contract parties in lieu of requiring individual filings reflecting amendment by mutual agreement.'' In addition, because existing tariffs must be renumbered and republished due to this acquisition, instead of amending each individual contract, Petitioners also seek a waiver to permit insertion of notices in existing Seafreight tariffs and in new ''Crowley d/b/a Seafreight'' tariffs. Petitioners separately commit to provide each service contract shipper counter-party with electronic notice of this corporate change.

The Petition in its entirety is posted on the Commission's Web site at *http://www.fmc.gov/p4-15.* Comments filed in response to this Petition also will be posted on the Commission's Web site at this location.

In order for the Commission to make a thorough evaluation of the Petition, interested persons are requested to submit views or arguments in reply to the Petition no later than October 23, 2015. Commenters must send an original and 5 copies to the Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573–0001, and be served on Petitioners' counsel, Wayne R. Rohde, Cozen O'Connor, 1200 19th Street NW., Washington, DC 20036. A text-searchable PDF copy of the reply must also be sent as an email attachment to *Secretary@fmc.gov,* and include in the subject line: ''P4–15, Crowley Caribbean Services Petition.'' Replies containing confidential information should not be submitted by email.

Karen V. Gregory,

Secretary.

[FR Doc. 2015–26170 Filed 10–14–15; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 9, 2015.

A. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. Pacific Premier Bancorp, Inc., Irvine, California, to merge with Security California Bancorp, and thereby indirectly acquire Security Bank of California, both of Riverside, California.

Board of Governors of the Federal Reserve System, October 9, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–26268 Filed 10–14–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal

Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 29, 2015.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. Rick Chochon, Columbus, Nebraska; R&T Capital, LLC, Columbus, Nebraska; Revocable Trust Agreement of Thomas K. Hermansen and Charlene A. Hermansen (Trust), Cassville, Missouri; Charlene Hermansen, Cassville, Missouri, individually and as trustee of Trust; Lance Hermansen, St. Libory, Nebraska; Scott Mueller, Columbus, Nebraska; Jordan Mueller, Columbus, Nebraska; Brandon Mueller, Lincoln, Nebraska; Bruce Mueller, Columbus, Nebraska; and Rod Hassebrook, Platte Center, Nebraska; to acquire shares of Rae Valley Financials, Inc., Petersburg, Nebraska, and thereby indirectly acquire Petersburg State Bank, Petersburg, Nebraska.

B. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Kent Steven McKinney and Janet Martin McKinney, as trustees of the McKinney Living Revocable Trust u/a/d 8/3/99, all of Kerrville, Texas, individually, and together with the trust constituting a ''McKinney Family Control Group'';* to acquire shares of Relationship Financial Corporation, and thereby indirectly acquire Guadalupe National Bank, both of Kerrville, Texas.

Board of Governors of the Federal Reserve System, October 9, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–26267 Filed 10–14–15; 8:45 am]

BILLING CODE 6210–01–P

GULF COAST ECOSYSTEM RESTORATION COUNCIL

Membership of the Gulf Coast Ecosystem Restoration Council Performance Review Board

AGENCY: Gulf Coast Ecosystem Restoration Council.

ACTION: Notice of Membership on the Gulf Coast Ecosystem Restoration Council's Performance Review Board Membership.

SUMMARY: In accordance with 5 U.S.C. 4314(c)(4), the Gulf Coast Ecosystem Restoration Council (GCERC), announce the appointment of those individuals who have been selected to serve as members of GCERC's Performance Review Board. The Performance Review Board is responsible for reviewing performance appraisals and rating of Senior Executive Service (SES) members and making recommendations to the appointing authority on other performance management issues, such as pay adjustments, bonuses and Presidential Rank Awards for SES members. The appointment of these members to the Performance Review Board will be for a period of twenty-four (24) months.

DATES: The period of appointment for those individuals selected for GCERC's Performance Review Board begins on October 15, 2015.

FOR FURTHER INFORMATION CONTACT: Jennifer Munz, Department of Commerce, Office of Human Resources Management, Office of Executive Resources, 14th and Constitution Avenue NW., Room 51010, Washington, DC 20230, at (202) 482–4051.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. § 4314(c)(4), the Gulf Coast Ecosystem Restoration Council (GCERC), announce the appointment of those individuals who have been selected to serve as members of GCERC's Performance Review Board. The Performance Review Board is responsible for (1) reviewing performance appraisals and rating of Senior Executive Service (SES) members and (2) making recommendations to the appointing authority on other performance management issues, such as pay adjustments, bonuses and Presidential Rank Awards for SES members. The appointment of these members to the Performance Review Board will be for a period of twenty-four (24) months.

DATES: The period of appointment for those individuals selected for GCERC's Performance Review Board begins on October 15, 2015. The name, position title, and type of appointment of each member of GCERC's Performance Review Board are set forth below by organization:

Department of Commerce, Office of the Secretary (OS)

Pravina Raghaven, Senior Advisor for Policy and Program Integration, Department of Commerce, Career SES, Chairperson (New Member)

Gulf Coast Ecosystem Restoration Council

Justin Ehrenwerth, Executive Director, Gulf Coast Ecosystem Restoration Council, Limited Term SES (New Member)

Mary Pleffner, Chief Financial Officer and Director of Administration, Gulf Coast Ecosystem Restoration Council, Career SES (New Member)

Department of Agriculture

Homer Wilkes, Director Gulf Coast Restoration Division, Natural Resources Conservation Service, U.S. Department of Agriculture, Career SES (New Member)

Texas Commission on Environmental Quality, State of Texas

Stephen Tatum, Executive Assistant and Special Counsel to Commissioner Toby Baker of Texas, Texas Commission on Environmental Quality, State of Texas, (New Member)

Department of Conservation and Natural Resources, State of Alabama

Patti Powell, State Lands Director, Department of Conservation and Natural Resources, State of Alabama (New Member)

Dated: September 24, 2015.

Denise A. Yaag,

Director, Office of Executive Resources, Office of Human Resources Management, Office of the Secretary/Office of the CFO/ASA, Department of Commerce.

[FR Doc. 2015–26232 Filed 10–14–15; 8:45 am]

BILLING CODE 6560–58–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0001]

Peripheral and Central Nervous System Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Peripheral and Central Nervous System Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 24, 2015, from 8 a.m. to 5:30 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

Contact Person: Philip Bautista, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, *PCNS@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss new drug application (NDA) 206031, drisapersen solution for injection, sponsored by BioMarin Pharmaceutical Inc., for the treatment of patients with Duchenne muscular dystrophy with mutations in the dystrophin gene that are amenable to treatment with exon 51 skipping as determined by genetic testing.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before November 9, 2015. Oral presentations from the public will be scheduled between approximately 12:40 p.m. and 2:40 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 30, 2015. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by November 2, 2015.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Philip Bautista at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 8, 2015.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2015–26162 Filed 10–14–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERIVCES

Announcement of Solicitation of Written Comments on Modifications of Healthy People 2020 Objectives

AGENCY: Office of Disease Prevention and Health Promotion, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The U.S. Department of Health and Human Services solicits written comments regarding new objectives proposed to be added to Healthy People 2020 since the fall 2014 public comment period, as well as written comments proposing new objectives to be included within existing Healthy People 2020 topic areas. Public participation helps shape Healthy People 2020, its framework, objectives, organization, and targets. Healthy People 2020 will provide opportunities for public input periodically throughout the decade to ensure that Healthy People 2020 reflects current public health priorities and public input. The updated set of Healthy People 2020 objectives will be incorporated on *www.HealthyPeople.gov.* This set will reflect further review and deliberation by the topic area workgroups, Federal Interagency Workgroup on Healthy People 2020, and other Healthy People 2020 stakeholders.

DATES: Written comments will be accepted until 5:00 p.m. ET on November 16, 2015.

ADDRESSES: Written comments will be accepted via an online public comment database at *http://www.healthypeople.gov/2020/about/history-development/Public-Comment;* by mail at the Office of Disease Prevention and Health Promotion, U.S. Department of Health and Human Services, Attn: Public Comment, 1101 Wootton Parkway, Room LL–100, Rockville, MD 20852; fax—(240) 453–8281; or email—*HP2020@hhs.gov.*

FOR FURTHER INFORMATION CONTACT: Caitie Blood, MPH, Office of Disease Prevention and Health Promotion, U.S. Department of Health and Human Services, 1101 Wootton Parkway, Room LL–100, Rockville, MD 20852, *Caitlin.Blood@HHS.gov* (email), (240) 453–8265 (telephone), (240) 453–8281 (fax).

SUPPLEMENTARY INFORMATION: For three decades, Healthy People has provided a comprehensive set of national 10-year health promotion and disease prevention objectives aimed at improving the health of all Americans. Healthy People 2020 objectives provide a framework by presenting a comprehensive picture of the nation's health at the beginning of the decade, establishing national goals and targets to be achieved by the year 2020, and monitoring progress over time. The U.S. Department of Health and Human Services is soliciting the submission of written comments regarding new objectives proposed to be added to Healthy People 2020 since the fall 2014 public comment period.

Healthy People 2020 is the product of an extensive collaborative process that relies on input from a diverse array of individuals and organizations, both within and outside the federal government, with a common interest in improving the nation's health. Public comments were a cornerstone of Healthy People 2020's development. During the first phase of planning for Healthy People 2020, HHS asked for the public's comments on the vision, mission, and implementation of Healthy People 2020. Those comments helped set the framework for Healthy People 2020. The public was also invited to submit comments on proposed Healthy People 2020 objectives, which helped shape the final set of Healthy People 2020 objectives.

The public is now invited to comment on new objectives proposed to be added to Healthy People 2020. These new objectives were developed by topic area workgroups led by various agencies within the federal government. They have been reviewed by the Federal Interagency Workgroup on Healthy People 2020 and are presented now for the public's review and comment. The public is also invited to suggest additional objectives for consideration that address critical public health issues within existing Healthy People 2020 topic areas. Any proposed new objective must meet all of the objective selection criteria (see below).

Written comments will be accepted at *http://www.healthypeople.gov/2020/about/history-development/Public-Comment* during a 30-day public comment period beginning in October 2015. The public will also be able to submit written comments via mail, fax, and email (see contact information above). Comments received in response to this notice will be reviewed and considered by the appropriate topic area workgroup, Federal Interagency Workgroup on Healthy People 2020, and other Healthy People 2020 stakeholders.

Objective Selection Criteria

The following nine criteria should be taken into consideration when commenting on the proposed new objectives or suggesting additional objectives.

1. The result to be achieved should be important and understandable to a broad audience and support the Healthy People 2020 goals.

2. Objectives should be prevention oriented and should address health improvements that can be achieved through population-based and individual actions, and systems-based, environmental, health-service, or policy interventions.

3. Objectives should drive actions that will work toward the achievement of the proposed targets (defined as quantitative values to be achieved by the year 2020).

4. Objectives should be useful and reflect issues of national importance. Federal agencies, states, localities, non-governmental organizations, and the public and private sectors should be able to use objectives to target efforts in schools, communities, work sites, health practices, and other environments.

5. Objectives should be measurable and should address a range of issues, such as: Behavior and health outcomes; availability of, access to, and content of behavioral and health service interventions; socio-environmental conditions; and community capacity—directed toward improving health outcomes and quality of life across the life span. (Community capacity is defined as the ability of a community to plan, implement, and evaluate health strategies.)

6. Continuity and comparability of measured phenomena from year to year are important, thus, when appropriate, retention of objectives from previous Healthy People iterations is encouraged. However, in instances where objectives and/or measures have proven ill-suited to the purpose or are inadequate, new improved objectives should be developed. Whether or not an objective has met its target in a previous Healthy People iteration should not be the sole basis for retaining or archiving an objective.

7. The objectives should be supported by the best available scientific evidence. The objective selection and review processes should be flexible enough to allow revisions to objectives in order to reflect major updates or new knowledge.

8. Objectives should address population disparities. These include populations categorized by race/ethnicity, socioeconomic status, gender, disability status, sexual orientation, and geographic location. For particular health issues, additional special populations should be addressed, based on an examination of the available evidence on vulnerability, health status, and disparate care.

9. Healthy People 2020, like past versions, is heavily data driven. Valid, reliable, nationally representative data and data systems should be used for Healthy People 2020 objectives. Each objective must have (1) a data source, or potential data source, identified, (2) baseline data and (3) assurance of at least one additional data point throughout the decade.

Dated: October 9, 2015.

Don Wright,

Deputy Assistant Secretary for Health, Office of Disease Prevention and Health Promotion.

[FR Doc. 2015–26244 Filed 10–14–15; 8:45 am]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel—Harnessing Genome Editing Technologies to Functionally Validate Genetic Variants in Substance Use Disorders (R21/R33).

Date: November 6, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Jagadeesh S. Rao, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 4234, MSC 9550, Bethesda, MD 02892, 301–443–9511, *jrao@nida.nih.gov*.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel—Phase II In-person Interview: NIDA Avant-Garde Award Program for HIV/AIDS Research (DP1).

Date: December 1, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Hiromi Ono, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 4238, MSC 9550, Bethesda, MD 20892, 301–402–6020, *hiromi.ono@nih.gov*.

Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: *October 8, 2015.*

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–26124 Filed 10–14–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; HIV Staged Vaccine Development (N01).

Date: November 3, 2015.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Room 8F100, 5601 Fishers Lane, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: P. Chris Roberts, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3G22, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–7616, 240–669–5053, *paul.roberts@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 8, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–26125 Filed 10–14–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics in HIV/AIDS Behavioral Research

Date: November 5, 2015.

Time: 5:00 p.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Mark P Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1775, *rubertm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Conference and Meetings: Office of Research Infrastructure Programs (ORIP).

Date: November 10, 2015

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Cathleen L Cooper, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2130, MSC 7720, Bethesda, MD 20892, 301–443–4512, *cooperc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Vascular and Hematology.

Date: November 12–13, 2015.

Time: 10:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Anshumali Chaudhari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892 (301) 435–1210, *chaudhaa@csr.nih.gov*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 9, 2015.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–26228 Filed 10–14–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2015–0694]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0040

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0040, Application for Merchant Mariner Credential (MMC), Application for Merchant Mariner Medical Certificate, Application for Merchant Mariner Medical Certificate for Entry Level Ratings, Small Vessel Sea Service Form, DOT/USCG Periodic Drug Testing Form, Disclosure Statement for Narcotics, DWI/DUI, and/or Other Convictions, Merchant Mariner Medical Certificate, Recognition of Foreign Certificate. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before December 14, 2015.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2015–0694] to the Coast Guard using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally,

copies are available from: COMMANDANT (CG–612), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2100 2ND STREET SW., STOP 7101, WASHINGTON, DC 20593–7101.

FOR FURTHER INFORMATION: Contact Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2015–0694], and must be received by December 14, 2015.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts; you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Information Collection Request

Title: Application for Merchant Mariner Credential (MMC), Application for Merchant Mariner Medical Certificate, Application for Merchant Mariner Medical Certificate for Entry Level Ratings, Small Vessel Sea Service Form, DOT/USCG Periodic Drug Testing Form, Disclosure Statement for Narcotics, DWI/DUI, and/or Other Convictions, Merchant Mariner Medical Certificate, Recognition of Foreign Certificate.

OMB Control Number: 1625–0040.

Summary: The Application for Merchant Mariner Credential (MMC), Application for Merchant Mariner Medical Certificate, Application for Merchant Mariner Medical Certificate for Entry Level Ratings, Small Vessel Sea Service Form, DOT/USCG Periodic Drug Testing Form, Disclosure Statement for Narcotics, DWI/DUI, and/or Other Convictions, contain the following information: Signature of applicant and supplementary material required to show that the mariner meets the mandatory requirements for the credential or medical certificate sought; proof of applicant passing all applicable vision, hearing, medical, and/or physical exams; negative chemical test for dangerous drugs; discharges or other documentary evidence of sea service indicating the name, tonnage, propulsion mode and power of the vessels, dates of service, capacity in which the applicant served, and on what waters; and disclosure documentation for narcotics, DWI/DUI, and/or other convictions.

Need: Title 46 United States Code (U.S.C.) subtitle II, part E, title 46 Code of Federal Regulation (CFR) part 10, subpart B, and International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW Convention) and the STCW Code, including the STCW Final Rule (Docket No. USCG–2004–17914) published on December 24, 2013, requires MMC and Medical Certificate applicants to apply at one of the Coast Guard's seventeen Regional Examination Centers located nationwide. MMC's are established for individuals who are required to hold a credential under subtitle II. The Coast Guard has the responsibility of issuing MMC's and Medical Certificates to applicants found qualified as to age, character, habits of life, experience, professional qualifications, and physical fitness. The instruments contained within OMB Control No. 1625–0040 serve as a means for the applicant to apply for a MMC and Medical Certificate.

Forms: CG–719B, Application for Merchant Mariner Credential (MMC); CG–719C, Disclosure Statement for Narcotics, DWI/DUI, and/or Other Convictions; CG–719K, Application for Merchant Mariner Medical Certificate; CG–719K/E, Application for Merchant Mariner Medical Certificate for Entry Level Ratings; CG–719S, Small Vessel Sea Service Form; CG–719P, DOT/USCG Periodic Drug Testing Form.

Respondents: Applicants for MMC, whether original, renewal, duplicate, raise of grade, or a new endorsement on a previously issued MMC. Applicants for Medical Certificates include National and STCW credentialed mariners, and first-class pilots.

Frequency: On occasion.

Hour Burden Estimate: The estimated annual burden remains at 47,444 hours a year (CG–719B = 8,475 hours, CG–719C = 1,413 hours, CG–719K = 16,440 hours, CG–719K/E = 2,283 hours, CG719P = 4,708 hours, and CG–719S = 14,125 hours).

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: October 5, 2015.

Thomas P. Michelli,

Deputy Chief Information Officer, U.S. Coast Guard.

[FR Doc. 2015–26283 Filed 10–14–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2015–0637]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0108

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0108, Standard Numbering System for Undocumented Vessels. Our ICR describe the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before December 14, 2015.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2015–0637] to the Coast Guard using the Federal eRulemaking Portal at *http://www.regulations.gov*. See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov*. Additionally, copies are available from: COMMANDANT (CG–612), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2100 2ND STREET SW., STOP 7101, WASHINGTON, DC 20593–7101.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2015–0637], and must be received by December 14, 2015.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov*. If your material cannot be submitted using *http://www.regulations.gov*, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Information Collection Request:

Title: Standard Numbering System for Undocumented Vessels.

OMB Control Number: 1625–0108.

Summary: The Standard Numbering System collects information on undocumented vessels and vessel owners operating on waters subject to the jurisdiction of the United States, Federal, State, and local law enforcement agencies use information from the system for enforcement of boating laws or theft and fraud investigations. Since the September 11, 2001 terrorist attacks on the United States, the need has increased for identification of undocumented vessels to meet port security and other missions to safeguard the homeland.

Need: Subsection 12301(a) of title 46 United States Code, requires undocumented vessels equipped with propulsion machinery of any kind to be numbered in the State where the vessel is principally operated. In 46 U.S.C. 12302(a), Congress authorized the Secretary to prescribe, by regulation, a Standard Numbering System (SNS). The Secretary shall approve a State numbering system if that system is consistent with the SNS. The Secretary has delegated his authority under 46 U.S.C. 12301 and 12302 to Commandant of the U.S. Coast Guard. DHS Delegation No. 0170.1. The regulations requiring the numbering of undocumented vessels are in 33 CFR part 173 and regulations establishing the SNS for States to voluntarily carry out this function are contained in 33 CFR part 174.

In States that do not have an approved system, the Federal Government (U.S. Coast Guard) must administer the vessel numbering system. Currently, all 56 States and Territories have approved numbering systems. The approximate number of undocumented vessels registered by the States in 2014 was nearly 12 million.

The SNS collects information on undocumented vessels and vessel owners. States submit reports annually to the Coast Guard on the number, size, construction, etc., of vessels they have numbered. That information is used by the Coast Guard in (1) publication of an annual ''Boating Statistics'' report required by 46 U.S.C. 6102(b), and (2) for allocation of Federal funds to assist States in carrying out the Recreational Boating Safety (RBS) Program established by 46 U.S.C. chapter 131.

On a daily basis or as warranted, Federal, State, and local law enforcement personnel use SNS information from the States' numbering systems for enforcement of boating laws or theft and fraud investigations. In addition, when encountering a vessel suspected of illegal activity, information from the SNS increases officer safety by assisting boarding officers in determining how best to approach a vessel. Since the September 11, 2001 terrorist attacks on the United States, the need has increased for identification of undocumented vessels and their owners for port security and other missions to safeguard the homeland, although the statutory requirement for numbering of vessels dates back to 1918.

Forms: None.

Respondents: Owners of all undocumented vessels propelled by

machinery are required by Federal law to apply for a number from the issuing authority of the State in which the vessel is to be principally operated. In addition, States may require other vessels, such as sailboats or even canoes and kayaks, to be numbered. ''Owners'' may include individuals or households, non-profit organizations, and small businesses (*e.g.,* liveries that offer recreational vessels for rental by the public) or other for-profit organizations.

Frequency: There are no recordkeeping requirements for this information collection. The frequency for the reporting requirements is, one time.

Hour Burden Estimate: The estimated annual burden has decreased from 286,458 hours to 257,986 hours a year due to a change in methodology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: October 5, 2015.

Thomas P. Michelli,

U.S. Coast Guard, Deputy Chief Information Officer.

[FR Doc. 2015–26194 Filed 10–14–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Modification of the National Customs Automation Program (NCAP) Test Concerning the Automated Commercial Environment (ACE) Document Image System (DIS) Regarding Future Updates and New Method of Submission of Accepted Documents

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This document announces U.S. Customs and Border Protection's (CBP's) plan to modify the National Customs Automation Program (NCAP) test concerning document imaging, known as the Document Image System (DIS) test. The DIS test allows Automated Commercial Environment (ACE) participants to submit electronic images of a specific set of CBP and Partner Government Agency (PGA) forms, documents, and supporting information to CBP via a CBP-approved Electronic Data Interchange (EDI).

This notice announces several changes to the DIS test. First, eligibility to participate in the test is being expanded to include anyone transmitting cargo release or entry summary information to ACE. Second, CBP has added forms to the list of forms and documents supported by the DIS test. Third, the list of eligible forms and documents will now be maintained on the CBP Web site. Fourth, all future additions and changes to the list of eligible forms and documents will be announced on the CBP Web site, rather than by **Federal Register** notice. Finally, the DIS test is being amended to permit participants to submit all DIS eligible forms and documents as attachments to email, in addition to the methods of transmission previously authorized. This notice provides DIS test details including commencement date for the modifications announced herein, eligibility, procedural and documentation requirements, and test development and evaluation methods.

DATES: The modifications of the DIS test made by this notice are effective on October 15, 2015. The test will continue until concluded by way of announcement in the **Federal Register**.

ADDRESSES: Comments concerning this notice and any aspect of the test may be submitted at any time during the test via email to Monica Crockett at *monica.v.crockett@cbp.dhs.gov.* In the subject line of your email, please indicate ''*Comment on Document Image System (DIS).*''

FOR FURTHER INFORMATION CONTACT: For policy-related questions, contact Monica Crockett at *monica.v.crockett@cbp.dhs.gov.* For technical questions related to Automated Broker Interface (ABI) transmissions, contact your assigned client representative. Interested parties without an assigned client representative should direct their questions to Steven Zaccaro at *steven.j.zaccaro@cbp.dhs.gov.* Any partner government agency (PGA) interested in participating in DIS should contact Elizabeth McQueen at *elizabeth.mcqueen@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Customs Automation Program (NCAP) was established in Subtitle B of Title VI—Customs Modernization, in the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057, 2170, December 8, 1993) (Customs Modernization Act) (19 U.S.C. 1411–14). Through NCAP, the initial thrust of customs modernization was on trade compliance and the development of the Automated Commercial Environment (ACE), the planned successor to the Automated Commercial System (ACS). ACE is an automated and electronic system for commercial trade processing which is intended to streamline business processes, facilitate growth in trade, ensure cargo security, and foster participation in global commerce, while ensuring compliance with U.S. laws and regulations and reducing costs for U.S. Customs and Border Protection (CBP) and all of its communities of interest.

The ability to meet these objectives depends on successfully modernizing CBP's business functions and the information technology that supports those functions. CBP's modernization efforts are accomplished through phased releases of ACE component functionality designed to introduce new functionality or to replace a specific legacy ACS function. Each release will begin with a test and will end with mandatory compliance with the new ACE feature and the retirement of the legacy ACS function. Each release builds on previous releases and sets the foundation for subsequent releases.

On April 6, 2012, CBP published a notice in the **Federal Register** announcing a NCAP test called the Document Image System (DIS) test. *See* 77 FR 20835. The DIS test notice allowed ACE participants to submit electronic images of a specific set of CBP and Partner Government Agency (PGA) forms and supporting information to CBP via a CBP-approved Electronic Data Interchange (EDI).

On July 23, 2013, CBP published a subsequent notice in the **Federal Register** announcing a second phase, Phase II, of the DIS test and modifications to both the DIS test and the ACE Cargo Release test (formerly known as the Simplified Entry test). That notice reduced the metadata elements required for each DIS transmission and allowed the submission of certain documents through DIS earlier in the importation process, *i.e.* at the time of manifest. In Phase II, CBP also expanded the pool of eligible participants to include software providers who merely transmit data electronically on behalf of ACE participating importers or brokers. Finally, in Phase II, CBP specified forms that were eligible to be transmitted via a CBP-approved EDI to support ACE Cargo Release filings (previously known as Simplified Entry filings). *See* 78 FR 44142.

On June 25, 2014, CBP published a notice in the **Federal Register** announcing a third phase, Phase III, of the DIS test and adding to the list of documents and forms supported by the DIS test. *See* 79 FR 36083. In addition to the new documents and forms, that notice listed all CBP and PGA forms and documents which the DIS test

supported as of that date. On January 30, 2015, CBP published a notice modifying Phase III of the DIS test to permit importers and brokers participating in the DIS test to file DIS test-supported APHIS documents in Portable Document Format (PDF) file format, via email to *docs@cbp.dhs.gov. See* 80 FR 5126. The list of APHIS documents which may be sent in PDF file format is set forth in the January 30, 2015 notice.

For the convenience of the public, a chronological listing of **Federal Register** publications detailing ACE test developments is set forth below in *Section VI,* entitled, ''*Development of ACE Prototypes.''*

The procedures, terms, conditions and rules set forth in the previous DIS notices remain in effect unless otherwise explicitly changed by this or subsequent notices published in the **Federal Register**.

Authorization for the Test

The Customs Modernization Act authorizes the Commissioner of CBP to conduct limited test programs or procedures designed to evaluate planned components of the NCAP. This test is authorized pursuant to section 101.9(b) of the CBP Regulations (19 CFR 101.9(b)) which provides for the testing of NCAP programs or procedures. *See* Treasury Decision (T.D.) 95–21, 60 FR 14211 (March 16, 1995).

Document Image System (DIS) Test Program

This notice announces Phase IV of the DIS test. Under the DIS test, parties who file entry or entry summaries in ACE are allowed to submit specified CBP and PGA forms and documents via a CBP-approved EDI. DIS capabilities will continue to be delivered in multiple phases. As PGA Message Sets are programmed into ACE, CBP envisions that the documentation filed in DIS will be significantly reduced to only those documents that continue to be paper based (*e.g.* foreign certificates).

The first phase of the DIS test enabled participating importers and brokers to transmit images of specified CBP and PGA forms and documents with supporting information via a CBP-approved EDI in an Extensible Markup Language (XML) format, in lieu of conventional paper methods. *See* 77 FR 20835 (April 6, 2012). In Phase II, CBP reduced the number of metadata elements required for each document and specified forms that were eligible to be submitted earlier, *i.e.,* at the time of manifest, or transmitted via a CBP-approved EDI to support ACE Cargo Release filings (previously known as Simplified Entry filings). *See* 78 FR 44142 (July 23, 2013). Additionally, the pool of eligible participants was expanded to include software providers that merely transmitted electronic data received from filers for transmission to CBP. In Phase III, CBP added forms and documents to the list of documentation supported by the DIS test and provided alternative methods of transmission. *See* 79 FR 36083 (June 25, 2014). Phase III was further modified to allow transmission of limited documents via email. *See* 80 FR 5126 (January 30, 2015).

This notice announces Phase IV of the DIS test. In Phase IV, the eligibility requirements are modified to permit any filer transmitting cargo release or entry summary data, information, forms, or documents to use DIS. Phase IV also expands the list of documents eligible for submission under the DIS test. Because CBP frequently updates the list of forms and documents eligible to be transmitted using DIS, the complete list will be maintained on the CBP Web site, at the following address: *http://www.cbp.gov/trade/ace/features* under the Document Image System tab. CBP will no longer publish announcements in the **Federal Register** to notify ACE participants when new CBP or PGA forms may be submitted pursuant to the DIS test, or when DIS test-supported forms may be submitted via email. All future additions and changes to the list of forms and documents eligible to be transmitted under the DIS test will be announced on the CBP Web site. Finally, this notice announces that DIS eligible forms and documents may be submitted as attachments to an email as an alternative submission via DIS.

Test Participation

I. Eligibility Requirements

As announced in this notice, Phase IV of the DIS test alters the eligibility requirements for participation in the DIS test. Now, any filer transmitting cargo release or entry summary data, information, forms or documents to ACE pursuant to the Cargo Release (80 FR 16414), or Entry Summary, Accounts and Revenue (76 FR 37136) tests is eligible to use DIS. Such filers must use a software program that has completed ACE certification testing. Additionally, CBP is expanding the list of CBP- and PGA-approved forms and documents that may be submitted as part of the DIS test. All other eligibility criteria as specified in prior DIS test notices remain the same, to the extent they are not inconsistent with this notice.

II. Rules for Submitting Images in Document Image System (DIS)

The following rules apply to all participants involved in the DIS testing process:

- In Phase II of the DIS test, CBP indicated two categories of documents which could be transmitted through DIS: (1) Documents that require a request from CBP or a PGA prior to transmission; and (2) documents that may be transmitted without a prior request. Beginning with Phase III, the rules for submitting images through DIS were updated as follows: (1) If the document transmitted is required to obtain the release of merchandise, including a release certified from ACE entry summary, the document may be transmitted without a prior request from CBP or the PGA; and (2) if the document is transmitted in support of entry summary pursuant to a request from CBP or the PGA, the document may be transmitted. Only eligible documents and forms required for the release of merchandise or requested by CBP should be transmitted using DIS. ACE will acknowledge every successful DIS transmission. Any form or document submitted via DIS is an electronic copy of an original document or form and both the original and the imaged copy are subject to the recordkeeping requirements of 19 CFR part 163 and any applicable PGA recordkeeping requirements.
- Test participants may only transmit forms and documents that CBP has permitted to be transmitted under this test. *See* documents supported in *Section III* below. If CBP cannot accept the form, document or information electronically, the filer must file using paper.
- Every form or document transmitted through DIS must be legible and must be a complete, accurate, and unaltered copy of the original document.

III. Documents Supported in the Fourth Phase of the Test

The forms and documents listed in the first, second and third phases of the DIS test may continue to be transmitted using DIS. Upon the effective date of this notice, CBP is permitting additional forms and documents to be transmitted using DIS. For a complete list of forms and documents that may be submitted using DIS, please go to the Document Image System tab at: *http://www.cbp.gov/trade/ace/features.* To ensure the availability of the most up-to-date information regarding DIS-eligible forms, CBP will maintain the list of forms and documents on the Web

page. The list is frequently updated as PGA functionality in ACE increases, and as more PGAs become operational in ACE. ACE participants should check the Web site on a regular basis to determine whether a particular form or document may be transmitted using DIS. As changes are made to the list of eligible forms, they will be announced on the CBP Web site and may also be announced via the Cargo Systems Messaging Service (CSMS). Therefore, CBP also recommends that trade members subscribe to CSMS to receive email notifications from CBP regarding important information posted to CBP.gov. For information about subscribing to CSMS, please go to: *http://apps.cbp.gov/csms/csms.asp?display_page=1.* The DIS test is limited to the forms listed on the Web site. Please note that not all forms referenced in the DIS Implementation Guidelines are currently eligible for the DIS test. The DIS Implementation Guidelines are available on CBP.gov at: *http://www.cbp.gov/document/forms/dis-implementation-guide.*

IV. Recordkeeping

Any form or document submitted via DIS is an electronic copy of an original document or form and both the original and the imaged copy are subject to the recordkeeping requirements of 19 CFR part 163 and any applicable PGA recordkeeping requirements. Original documents transmitted via this test must be retained under the general CBP recordkeeping requirements in 19 CFR part 163, and any PGA's recordkeeping requirements, and made available upon request by CBP or a PGA.

V. Technical Specifications

In Phase II, the DIS test reduced the number of metadata elements required for each document to only those necessary to identify the transmitter, the document preparer, the CBP request (if applicable), the document and description, and the associated transaction. Documents submitted in an XML format must be sent via secure File Transfer Protocol (FTP), Secure Web Services, or existing EDI Message Queue (MQ) interfaces. All responses back to test participants who submit using this format will also be sent in the form of an XML message. For additional information pertaining to technical specifications, please see the DIS Implementation Guidelines which can be accessed on CBP.gov at the following link: *http://www.cbp.gov/document/forms/dis-implementation-guide.*

This notice also announces that, in addition to the manner of transmission authorized in previous DIS test notices, test participants may send DIS authorized forms and documents as an attachment to an email. Test participants may, at their option, transmit any authorized forms and documents in XML format, as specified in prior DIS test notices, or as an attachment to an email, pursuant to this notice. Emails should be submitted as follows:

- Submit to *docs@cbp.dhs.gov.*
- The subject line should begin with CAT=GEN and be followed by either: The bill of lading number, the SCAC code, and the action requested (add, delete or replace), separated by semi-colons; or the entry number, the filer code, and the action requested (add, delete or replace), separated by semi-colons.
- The body of the email should contain the following information, separated by semi-colons: A point of contact and submitter email address, and the agency or agencies that should receive or review the information submitted.
- The name of the attachment should begin with an alphanumeric Document Code (Documents Codes may be found in the DIS Implementation Guidelines) and may be followed by whatever name the submitter wishes to use.

CBP prefers that attachments to emails use the Portable Document Format (PDF) file format; however, the following file formats are also allowed: Joint Photographic Experts Group (JPEG), Graphics Interchange Format (GIF), MS Word Documents and MS Excel Spreadsheets. The Tagged Image Format (TIF) file format is *not* allowed. Emails and their attachments cannot exceed 10 megabytes (MBs). If the 10 MB limit is insufficient, the email/attachment submission must be broken down into smaller submissions/files.

VI. Development of ACE Prototypes

A chronological listing of **Federal Register** publications detailing ACE test developments is set forth below.

- ACE Portal Accounts and Subsequent Revision Notices: 67 FR 21800 (May 1, 2002); 69 FR 5360 and 69 FR 5362 (February 4, 2004); 69 FR 54302 (September 8, 2004); 70 FR 5199 (February 1, 2005).
- ACE System of Records Notice: 71 FR 3109 (January 19, 2006).
- Terms/Conditions for Access to the ACE Portal and Subsequent Revisions: 72 FR 27632 (May 16, 2007); 73 FR 38464 (July 7, 2008).
- ACE Non-Portal Accounts and Related Notice: 70 FR 61466 (October 24, 2005); 71 FR 15756 (March 29, 2006).
- ACE Entry Summary, Accounts and Revenue (ESAR I) Capabilities: 72 FR 59105 (October 18, 2007).
- ACE Entry Summary, Accounts and Revenue (ESAR II) Capabilities: 73 FR 50337 (August 26, 2008); 74 FR 9826 (March 6, 2009).
- ACE Entry Summary, Accounts and Revenue (ESAR III) Capabilities: 74 FR 69129 (December 30, 2009).
- ACE Entry Summary, Accounts and Revenue (ESAR IV) Capabilities: 76 FR 37136 (June 24, 2011).
- Post-Entry Amendment (PEA) Processing Test: 76 FR 37136 (June 24, 2011).
- ACE Announcement of a New Start Date for the National Customs Automation Program Test of Automated Manifest Capabilities for Ocean and Rail Carriers: 76 FR 42721 (July 19, 2011).
- ACE Simplified Entry: 76 FR 69755 (November 9, 2011).
- National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS): 77 FR 20835 (April 6, 2012).
- National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Simplified Entry: Modification of Participant Selection Criteria and Application Process: 77 FR 48527 (August 14, 2012).
- Modification of NCAP Test Regarding Reconciliation for Filing Certain Post-Importation Preferential Tariff Treatment Claims under Certain FTAs: 78 FR 27984 (May 13, 2013).
- Modification of Two National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS) and Simplified Entry (SE): 78 FR 44142 (July 23, 2013).
- Modification of Two National Customs Automation Program (NCAP) Tests Concerning Automated Commercial Environment (ACE) Document Image System (DIS) and Simplified Entry (SE); Correction: 78 FR 53466 (August 29, 2013).
- Modification of NCAP Test Concerning Automated Commercial Environment (ACE) Cargo Release (formerly known as Simplified Entry): 78 FR 66039 (November 4, 2013).
- Post-Summary Corrections to Entry Summaries Filed in ACE Pursuant to the ESAR IV Test: Modifications and Clarifications: 78 FR 69434 (November 19, 2013).
- National Customs Automation Program (NCAP) Test Concerning the Submission of Certain Data Required by the Environmental Protection Agency and the Food Safety and Inspection

Service Using the Partner Government Agency Message Set Through the Automated Commercial Environment (ACE): 78 FR 75931 (December 13, 2013).

- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release for Ocean and Rail Carriers: 79 FR 6210 (February 3, 2014).
- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release to Allow Importers and Brokers to Certify From ACE Entry Summary: 79 FR 24744 (May 1, 2014).
- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Cargo Release for Truck Carriers: 79 FR 25142 (May 2, 2014).
- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Document Image System: 79 FR 36083 (June 25, 2014).
- Announcement of eBond Test: 79 FR 70881 (November 28, 2014).
- eBond Test Modifications and Clarifications: Continuous Bond Executed Prior to or Outside the eBond Test May Be Converted to an eBond by the Surety and Principal, Termination of an eBond by Filing Identification Number, and Email Address Correction: 80 FR 899 (January 7, 2015).
- Modification of National Customs Automation Program (NCAP) Test Concerning Automated Commercial Environment (ACE) Document Image System Relating to Animal and Plant Health Inspection Service (APHIS) Document Submissions: 80 FR 5126 (January 30, 2015).
- Modification of National Customs Automation Program (NCAP) Test Concerning the use of Partner Government Agency Message Set through the Automated Commercial Environment (ACE) for the Submission of Certain Data Required by the Environmental Protection Agency (EPA): 80 FR 6098 (February 4, 2015).
- Announcement of Modification of ACE Cargo Release Test to Permit the Combined Filing of Cargo Release and Importer Security Filing (ISF) Data: 80 FR 7487 (February 10, 2015).
- Modification of NCAP Test Concerning ACE Cargo Release for Type 03 Entries and Advanced Capabilities for Truck Carriers: 80 FR 16414 (March 27, 2015).
- Automated Commercial Environment (ACE) Export Manifest for Air Cargo Test: 80 FR 39790 (July 10, 2015).
- National Customs Automation Program (NCAP) Concerning Remote Location Filing Entry Procedures in the Automated Commercial Environment (ACE) and the Use of the Document Image System for the Submission of Invoices and the Use of eBonds for the Transmission of Single Transaction Bonds: 80 FR 40079 (July 13, 2015).
- Modification of National Customs Automation Program (NCAP) Test Concerning the Automated Commercial Environment (ACE) Partner Government Agency (PGA) Message Set Regarding Types of Transportation Modes and Certain Data Required by the National Highway Traffic Safety Administration (NHTSA): 80 FR 47938 (August 10, 2015).
- Automated Commercial Environment (ACE) Export Manifest for Vessel Cargo Test: 80 FR 50644 (August 20, 2015).
- Modification of National Customs Automation Program (NCAP) Test Concerning the Submission of Certain Data Required by the Food and Drug Administration (FDA) Using the Partner Government Agency Message Set through the Automated Commercial Environment (ACE): 80 FR 52051 (August 27, 2015).

Dated: October 8, 2015.

Brenda B. Smith,

Assistant Commissioner Office of International Trade.

[FR Doc. 2015–26213 Filed 10–14–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0004]

Agency Information Collection Activities: Application for Exportation of Articles Under Special Bond

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: Application for Exportation of Articles under Special Bond (CBP Form 3495). CBP is proposing that this information collection be extended with no change to the burden hours or Information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before December 14, 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 (Public Law 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: Application for Exportation of Articles under Special Bond.

OMB Number: 1651–0004.

Form Number: CBP Form 3495.

Abstract: CBP Form 3495, *Application for Exportation of Articles Under Special Bond,* is an application for exportation of articles entered under temporary bond pursuant to 19 U.S.C. 1202, Chapter 98, subchapter XIII, Harmonized Tariff Schedule of the United States, and 19 CFR 10.38. CBP Form 3495 is used by importers to

notify CBP that the importer intends to export goods that were subject to a duty exemption based on a temporary stay in this country. It also serves as a permit to export in order to satisfy the importer's obligation to export the same goods and thereby get a duty exemption. This form is accessible at: *http://www.cbp.gov/newsroom/publications/forms?title=3495&=Apply.*

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information being collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 500.

Estimated Number of Responses per Respondent: 30.

Estimated Total Annual Responses: 15,000.

Estimated Time per Response: 8 minutes.

Estimated Total Annual Burden Hours: 2,000.

Dated: October 7, 2015.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2015–26214 Filed 10–14–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0002]

Notice of Maximum Amount of Assistance Under the Individuals and Households Program

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: FEMA gives notice of the maximum amount for assistance under the Individuals and Households Program for emergencies and major disasters declared on or after October 1, 2015.

DATES: *Effective Date:* October 1, 2015, and applies to emergencies and major disasters declared on or after October 1, 2015.

FOR FURTHER INFORMATION CONTACT: Christopher B. Smith, Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 212–1000.

SUPPLEMENTARY INFORMATION: Section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act), 42 U.S.C. 5174, prescribes that FEMA must annually adjust the maximum amount for assistance provided under the Individuals and Households Program (IHP). FEMA gives notice that the maximum amount of IHP financial assistance provided to an individual or household under section 408 of the Stafford Act with respect to any single emergency or major disaster is $33,000. The increase in award amount as stated above is for any single emergency or major disaster declared on or after October 1, 2015. In addition, in accordance with 44 CFR 61.17(c), this adjustment includes the maximum amount of available coverage under any Group Flood Insurance Policy (GFIP) issued.

FEMA bases the adjustment on an increase in the Consumer Price Index for All Urban Consumers of 0.2 percent for the 12-month period, which ended in August 2015. The Bureau of Labor Statistics of the U.S. Department of Labor released the information on September 16, 2015.

Catalog of Federal Domestic Assistance No. 97.048, Federal Disaster Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2015–26123 Filed 10–14–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5831–N–49]

Notice of Submission of Proposed Information Collection to OMB; Emergency Comment Request Notice of Emergency Approval of an Information Collection: Connect Home Baseline Survey Data Collection

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, HUD has requested from the Office of Management and Budget (OMB) emergency approval of the information collection described in this notice.

DATES: *Comments Due Date:* October 29, 2015.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna Guido at *Colette Pollard*@hud.gov or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in section A.

A. Overview of Information Collection

Title of Information Collection: Connect Home Baseline Survey Data Collection.

OMB Approval Number: 2528–New.

Type of Request New collection.

Form Number: Survey.

Description of the need for the information and proposed use: The purpose of this effort is to support communities in the 28 ConnectHome sites in administering a baseline survey of targeted residents' current at-home Internet access. The survey administration will include the development of an outreach plan with HUD ConnectHome collaborators and communities; selection of a sample of participants to be surveyed; administration of an initial baseline internet access survey; and submission of a database, codebook, frequency output tables for collected data; and submission of a summary analysis of the collected data.

The baseline survey will provide HUD with baseline measures of in-home high-speed internet access, barriers to access among those without access, and types of devices used to access the internet. Upon establishing baseline measures, HUD's ConnectHome team will use this information to support local efforts in closing the digital divide.

Respondents (describe): The survey is expected to be administered by mail or by PHA staff in person or by phone to targeted assisted households at 28

ConnectHome sites. Communities are targeted different populations, which the survey's sampling process will recognize: some communities are targeting only public housing households with children, while others are also targeting voucher holders or residents of HUD multifamily housing in addition or instead.

Estimated Number of Respondents: 2,800.

Estimated Number of Responses: 2,800.

Frequency of Response: One time.

Average Hours per Response: 5 minutes (.0833 hours).

Total Estimated Burdens: 233.33 (233 hours and 33 minutes).

Note: Preparer of this notice may substitute the chart for everything beginning with estimated number of respondents above:

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Total	2,800	Once	2,800	.0833	233.33	$100.00	$23,333.33

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Dated: October 8, 2015.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2015–26271 Filed 10–14–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5823–N–01]

Federal Housing Administration (FHA): Points of Contact for Lienholders To Ensure Payment of Taxes Liens and Other Types of Liens on FHA Acquired Single Family Properties

AGENCY: Office of the Assistant Secretary for Housing-FHA Commissioner, HUD.

ACTION: Notice of FHA points of contact for payment.

SUMMARY: This Notice proactively provides lienholders of single family properties acquired by FHA in payment of mortgage insurance claims with FHA points of contact to ensure payment of tax liens and other types of liens on these single family properties. FHA uses contractors to manage these properties and make property charge payments. Inadvertently at times, these payments remain unpaid. This Notice provides direction for taxing authorities and similarly situated entities such as homeowners associations owed money for finding the proper point of contact at HUD for payment. As litigation to enforce liens should be a last resort, HUD is providing these specific points of contact that lienholders can use to obtain payment and avoid litigation. Through a related notice published elsewhere in today's **Federal Register**, HUD provides separate points of contact for payment of taxes and other property charges which have *not* risen to lien status. Elsewhere in today's **Federal Register**, HUD is publishing an interpretive rule regarding the procedures to be followed in bringing an action to foreclose HUD's ownership interest in properties with such liens that are unpaid.

DATES: *Effective date:* October 15, 2015.

FOR FURTHER INFORMATION CONTACT: Ivery Himes, Director, Office of Single Family Asset Management, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 9172, Washington, DC 20410–8000, telephone number 202–708–1672. (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

This Notice provides lienholders on single family properties acquired by FHA in payment of mortgage insurance claims with a Point of Contact in each of the four Homeownership Centers (HOCs). Each one of the four HOCs contains in its organizational structure the FHA operations staff who oversee much of the day-to-day work regarding FHA programs. Each HOC oversees on average 13 states/jurisdictions for FHA activities and has a Real Estate Owned (REO) division that handles the day-to-day oversight of FHA's acquired properties so they are (1) protected from vandalism and deterioration and (2) aggressively marketed for as high a price as possible. This Notice provides that the HUD offices that manage these properties are the proper recipients for tax bills and billings of a similar nature. In most cases, having a known point of contact to send billings should obviate the need to have to bring suit against HUD to levy on a property.

II. Points of Contact and Procedure

HUD's FHA single family REO properties are managed and marketed out of four HOCs that are located in Philadelphia, Pennsylvania; Atlanta, Georgia; Denver, Colorado; and Santa Ana, California (with counsel for Santa Ana being located in San Francisco).

Tax bills, condominium and homeowner association fee billings, and billings for special assessments on properties owned by FHA that have arisen to lien status are to be sent to the attention of the director of the FHA REO Divisions in the HOC which has jurisdiction over the property that is subject to the taxes and/or fees. These bills should be sent in a timely manner to the appropriate HOC so that the HOC can remit payment promptly to avoid need for litigation to enforce any liens associated with such billings.

Philadelphia HOC—has jurisdiction over properties located in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, District of Columbia, Virginia, West Virginia, Pennsylvania, Ohio and Michigan.

The Philadelphia REO Director is the point of contact and can be reached by calling 1–800–CALLFHA (1–800–225–5342) or by writing to: Attention: Single Family HOC–REO Division, U.S.

Department of Housing and Urban Development, The Wanamaker Building, 100 Penn Square East, Philadelphia, PA 19107–3380.

Atlanta HOC—has jurisdiction over properties located in Illinois, Indiana, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Virgin Islands, Puerto Rico, and Florida.

The Atlanta REO Director is the point of contact and can be reached by calling 1–800–CALLFHA (1–800–225–5342) or by writing to: Attention: Single Family HOC–REO Division, U.S. Department of Housing and Urban Development, Five Points Plaza, 40 Marietta Street, Atlanta, GA 30303–2806.

Denver HOC—has jurisdiction over properties located in the Montana, North Dakota, South Dakota, Minnesota, Wisconsin, Wyoming, Iowa, Nebraska, Colorado, Utah, Kansas, Missouri, New Mexico, Oklahoma, Texas, Arkansas and Louisiana.

The Denver REO Director is the point of contact and can be reached by calling 1–800–CALLFHA (1–800–225–5342) or by writing to: Attention: Single Family HOC–REO Division, U.S. Department of Housing and Urban Development, UMB Plaza, 1670 Broadway, Denver, Colorado 80202–4801.

Santa Ana HOC—has jurisdiction over properties located in Alaska, Hawaii, Washington, Oregon, Idaho, Nevada, California, Guam and Arizona.

The Santa Ana REO Director is the point of contact and can be reached by calling 1–800–CALLFHA (1–800–225–5342) or by writing to: Attention: Single Family HOC–REO Division, U.S. Department of Housing and Urban Development, Santa Ana Federal Building, 34 Civic Center Plaza, Room 7015, Santa Ana, CA 92701–4003.

If the addresses of the HOCs and POCs change over time, HUD will inform the public of such changes as promptly as possible by **Federal Register** Notice or other means of mass communication.

Dated: October 7, 2015.

Edward L. Golding,

Principal Deputy Assistant, Secretary for Housing.

[FR Doc. 2015–26167 Filed 10–14–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5823–N–02]

Federal Housing Administration (FHA): Points of Contact To Ensure Payment of Taxes and Homeowners Association Fees and Other Property Charges That Have Not Arisen to Lien Status on FHA Acquired Single Family Properties

AGENCY: Office of the Assistant Secretary for Housing-FHA Commissioner, HUD.

ACTION: Notice of FHA points of contact for payment.

SUMMARY: This Notice proactively provides taxing authorities and others that are owed money on HUD-owned single family properties acquired by payment of FHA mortgage insurance claims, points of contact to ensure payment of taxes, homeowners association fees and other property charges that have not risen to lien status under state law on these properties. FHA uses contractors to manage these properties and make property charge payments. Inadvertently at times, these payments may remain unpaid. This Notice provides direction for taxing authorities and associations owed money (where there is no lien) for finding the appropriate proper point of contact for payment. Through a related notice published elsewhere in today's **Federal Register**, HUD provides separate points of contact for payment of taxes and property charges which have risen to lien status. As litigation to enforce liens should be a last resort, HUD is also providing specific points of contact that taxing authorities and others can use to obtain payment in lien cases and avoid litigation. Elsewhere in today's **Federal Register**, HUD is also publishing an interpretive rule regarding the procedures to be followed in bringing an action to foreclose HUD's ownership interest in properties when these property charges have risen to lien status due to nonpayment of the taxes, fees and other charges.

DATES: *Effective date:* October 15, 2015.

FOR FURTHER INFORMATION CONTACT: Ivery Himes, Director, Office of Single Family Asset Management, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 9172, Washington, DC 20410–8000, telephone number 202–708–1672 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

HUD contracts with private Management and Marketing (M&M) contractors to handle the sale of its inventory of single family acquired properties. HUD published a delegation of authority, authorizing its M&M contractor to act on behalf of HUD in matters regarding the management and sale of residential property acquired by HUD, including the direct payment of association fees, taxes and other property charges that have not risen to lien status due to nonpayment of these charges on its real estate owned (REO) inventory.

II. Points of Contact and Procedure

In most cases, having a known point of contact for payment of billings should expedite the payment of taxes, association fees and other property charges that have not risen to lien status under state law on HUD-owned single family properties acquired by payment of FHA mortgage insurance claims. HUD requests that all invoices or inquiries pertaining to such unpaid property charges be remitted to the appropriate geographical M&M contractor. In order to assist taxing authorities and homeowner associations, or other municipal entities, identify the appropriate M&M contractor to remit invoices, HUD has provided the following link that will identify by the state or portion of a state in which a specific property is located, the contact information for the geographically responsible M&M contractor as follows: *http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/reo/mm/mminfo,* and follow the ''AM Awardees Contact Information'' hyperlink located at the bottom of the page.

For further information or for additional assistance in identifying the appropriate M&M contractor to contact, place contact the FHA Resource Center at 1–800–CALLFHA (800–225–5342).

Dated: October 7, 2015.

Edward L. Golding,

Principal Deputy Assistant Secretary for Housing.

[FR Doc. 2015–26169 Filed 10–14–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5823–D–01]

Redelegation of Authority Within the Office of General Counsel

AGENCY: Office of General Counsel, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: Through this notice, the General Counsel authorizes Office of General Counsel (OGC) Regional Counsel to redelegate to staff within their operating jurisdictions the authority to accept service of summonses, subpoenas and other judicial process for the foreclosure of tax and other liens on HUD-owned single family properties that HUD acquires through the payment of mortgage insurance claims.

DATES: *Effective Date:* October 7, 2015.

FOR FURTHER INFORMATION CONTACT: John B. Shumway, Assistant General Counsel, Administrative Law Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 9262, telephone number 202–402–5190. (This is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Elsewhere in today's **Federal Register**, HUD is publishing an interpretive rule that discusses HUD's longstanding interpretation of the phrase ''court of competent jurisdiction'' in the ''sue and be sued'' clause contained in section 1, Title I of the National Housing Act (NHA) (12 U.S.C. 1702). More specifically, this provision authorizes the Secretary to sue and be sued in any court of competent jurisdiction. HUD's interpretive rule clarifies the meaning of a court of competent jurisdiction, and is based on the Quiet Title Act, (Pub. L. 92–562, 86 Stat. 1176) (28 U.S.C. 2409a and 28 U.S.C. 1346). The purpose of HUD's interpretive rule is to assist the Federal Housing Administration (FHA) efficiently manage its Real Estate Owned (REO) inventory and ensure prompt payment for taxes and other fees and assessments. HUD's interpretive rule concludes that when an action is brought to foreclose a lien on a property in which the government owns, the Federal District Court where the property is situated (or the Federal District Court for the District of Columbia) is the court of competent jurisdiction pursuant to the Quiet Title Act and HUD's interpretation of section 1, Title I of the National Housing Act. HUD's interpretive rule does not apply to situations where HUD does not hold title to the single family property, but holds only a mortgage or other lien interest. In those situations, lienholders would follow the procedures contained at 28 U.S.C. 2410.

On July 18, 2011 at 76 FR 42463, HUD published a Consolidated Redelegation of Authority to the Office of General Counsel. Section B.1. of the redelegation delegates to the Associate General Counsel for Litigation in Headquarters and to the ten Regional Counsel the authority to accept service of all summonses, subpoenas, and other judicial, administrative, or legislative processes directed to the Secretary or an employee of HUD Headquarters in an official capacity. This section also authorized the Associate General Counsel for Litigation to redelegate this authority within the Office of Litigation and the Regional Counsel to redelegate this authority to the Associate Regional Counsel for Housing Finance and Programs in their jurisdictions. The July 18, 2011, Redelegation, however, prohibited this authority from being further redelegated.

To effectuate this interpretive rule, however, the General Counsel has determined to revise Section B.1. of the Consolidated Redelegation of Authority to the Office of General Counsel. Specifically, the General Counsel has determined that authority to accept service of summonses, subpoenas, and other judicial, administrative, or legislative processes should be expanded to ensure a timely response to litigation to enforce liens on REO properties to protect and secure HUD's interest in the property. To this end, this Redelegation of Authority authorizes Regional Counsel to redelegate authority to accept service of all summonses, subpoenas, and other judicial, administrative, or legislative processes directed to the Secretary in an official capacity to staff within their operating jurisdictions.

As a result, today's Redelegation of Authority revises Section B.1. of the July 18, 2011, Consolidated Redelegation of Authority to the Office of General Counsel, to read as follows:

1. To the Associate General Counsel for Litigation and to Regional Counsel, the authority to accept, on behalf of the Secretary, service of all summonses, subpoenas, and other judicial, administrative, or legislative processes directed to HUD or the Secretary or to a HUD employee in an official capacity. The Associate General Counsel for Litigation may redelegate this authority within the Office of Litigation and the Regional Counsel may redelegate this authority within their operating jurisdictions.

With the exception of the revisions to Section B.1., this redelegation of authority does not revoke or supersede any previous redelegations of authority included in the July 18, 2011, Consolidated Redelegation of Authority to the Office of General Counsel.

Authority: Section 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: October 7, 2015.

Helen R. Kanovsky,

General Counsel.

[FR Doc. 2015–26165 Filed 10–14–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2015–0149; FXIA16710900000–167–FF09A30000]

Endangered Species; Wild Bird Conservation; Marine Mammals; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species, marine mammals, or both. With some exceptions, the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities. The public is also invited to comment on the following applications for approval to conduct certain activities with bird species covered under the Wild Bird Conservation Act of 1992, which was enacted to ensure that exotic bird species are not harmed by international trade and to encourage wild bird conservation programs in countries of origin.

DATES: We must receive comments or requests for documents on or before November 16, 2015. We must receive requests for marine mammal permit public hearings, in writing, at the address shown in the **ADDRESSES** section by November 16, 2015.

ADDRESSES:

Submitting Comments: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–HQ–IA–2015–0149.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2015–0149; U.S. Fish and Wildlife Service Headquarters, MS:

BPHC; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

Viewing Comments: Comments and materials we receive will be available for public inspection on *http://www.regulations.gov,* or by appointment, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays, at the U.S. Fish and Wildlife Service, Division of Management Authority, 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone 703–358–2095.

FOR FURTHER INFORMATION CONTACT:

Endangered Species Applications: Brenda Tapia, Program Analyst/Data Administrator, Division of Management Authority, U.S. Fish and Wildlife Service Headquarters, MS: IA; 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone 703–358–2104; facsimile 703–358–2280.

Wild Bird Conservation Act Applications: Craig Hoover, Chief, Division of Management Authority, U.S. Fish and Wildlife Service Headquarters, MS: IA; 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone 703–358–2095; facsimile 703–358–2298. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. 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.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken. Under the MMPA, you may request a hearing on any MMPA application received. If you request a hearing, give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Service Director.

III. Permit Applications

A. Endangered Species

Applicant: The Wild Animal Sanctuary, Keenesburg, CO; PRT–59839B

The applicant requests a permit to import seven captive-bred tigers (*Panthera tigris*), two captive-bred jaguars (*Panthera onca*), and one captive-bred leopard (*Panthera pardus*) for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 1-year period.

Applicant: Brady Champion Ranch, LLC, Rochelle, TX; PRT–51308B

On July 23, 2015, we published a **Federal Register** notice inviting the public to comment on an application for a permit to conduct certain activities with endangered species (80 FR 43790). We made any error by omitting one species in the Brady Champion Ranch application, which starts at the upper right in column 3 on page 43791. The omitted species is Arabian oryx (*Oryx leucoryx*). All the other information we printed was correct. With this notice, we correct that error and reopen the comment period for PRT–51308B. The correct entry for this application is as follows: The applicant requests a permit authorizing interstate and foreign commerce, export, and cull of excess Barasingha (*Rucervus duvaucelii*), Eld's deer (*Rucervus eldii*), Arabian oryx (Oryx leucoryx), and Red lechwe (*Kobus lechwe*) from the captive herd maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: U.S. Fish and Wildlife Service, Mexican Wolf Reintroduction Project, Region 2, Albuquerque, NM; PRT–001904

The applicant requests renewal of a permit to import live Mexican or lobo wolves (*Canis lupus baileyi*) for breeding and reintroduction, as well as the import of biological samples for genetic studies, for the purpose of enhancement of the survival of the species and scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Abilene Zoological Gardens, Abilene, TX; PRT–66556B

The applicant requests a permit to export one captive-bred maned wolf (*Chrysocyon brachyurus*) for the purpose of enhancement of the survival of the species. This notification covers

activities to be conducted by the applicant over a 1-year period.

Applicant: St. Catherines Island Foundation, Midway, GA; PRT 77387B

The applicant requests a permit to export 10 male captive-born ring-tailed lemurs (*Lemur catta*) to the Australia Zoo, Queensland, Australia, for the purpose of enhancement of the survival of the species.

Applicant: Yerkes National Primate Research Center, Atlanta, GA; PRT–69024B

The applicant requests a permit to export two male and six female captive-bred chimpanzees (*Pan troglodytes*) to Wingham Wildlife Park, Wingham, United Kingdom, for the purpose of enhancement of the survival of the species.

Applicant: Cheadle Center for Biodiversity and Ecological Restoration, Santa Barbara, CA; PRT–74563B

The applicant requests a permit to import biological samples from wild African wild dog (*Lycaon pictus*) for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Multiple Applicants

The following applicants each request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Donald Meyer, San Antonio, TX; PRT–73590B

Applicant: Arthur Gutierrez, Weston, MA; PRT–71490B

Applicant: Christopher Gannon, Jupiter, FL; PRT–76689B

Applicant: Joshua Braun, Calhoun, MO; PRT–76169B

Applicant: Michael Long, Sterling City, TX; PRT–78222B

B. Wild Bird Conservation Act

Applicant: Marelina Salmones, Plano, TX

The applicant wishes to establish a cooperative breeding program for the following: Grey-headed lovebird (*Agapornis canus*), Fischer's lovebird (*Agapornis fischeri*), Lilian's lovebird (*Agapornis lilianae*), black-cheeked lovebird (*Agapornis nigrigenis*), red-headed lovebird (*Agapornis pullarius*), black-collared lovebird (*Agapornis swindernianus*), black-winged lovebird (*Agapornis taranta*), and masked lovebird (*Agapornis personatus*). The applicant wishes to be an active participant in this program along with four other individuals.

If approved, the program will be overseen by the South Florida Lovebird Breeders Association, affiliated with Agapornis Breeders & Exhibitors, Plano, Texas.

C. Endangered Marine Mammals and Marine Mammals

Applicant: John Downer Productions Ltd., Bristol, England; PRT–68000B

The applicant requests a permit to photograph northern sea otters (*Enhydra lutris kenyoni*) in Alaska for commercial and educational purposes. This notification covers activities to be conducted by the applicant for less than a 1-year period.

Applicant: U.S. Geological Survey—Biological Resources Division, Santa Cruz Field Station, Santa Cruz, CA; PRT–672624

The applicant requests an amendment of the permit to take southern sea otter (*Enhydra lutris nereis*) in the wild to include studies on the foraging behaviors of the species for the purpose of scientific research. This notification covers activities to be conducted by the applicant for the remainder of the validity of the permit.

Applicant: Monterey Bay Aquarium, Monterey, CA; PRT–186914

The applicant requests an amendment of the permit to take up to 6 wild, captive-held southern sea otter (*Enhydra lutris nereis*) that are being held for rehabilitation/release or are considered non-releasable, to investigate the use of an alternative life-history tag for the purpose of scientific research. This notification covers activities to be conducted by the applicant for the remainder of the validity of the permit.

Concurrent with publishing this notice in the **Federal Register**, we are forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2015–26266 Filed 10–14–15; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FW–R7–SM–2015–N191; FXRS12610700000–156–FF07J00000; FBMS#4500085506]

Proposed Information Collection; Federal Subsistence Regulations and Associated Forms

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on February 29, 2016. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: To ensure that we are able to consider your comments on this IC, we must receive them by December 14, 2015.

ADDRESSES: Send your comments on the IC to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or *hope_grey@fws.gov* (email). Please include ''1018–0075'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey at *hope_grey@fws.gov* (email) or 703–358–2482 (telephone).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Alaska National Interest Lands Conservation Act (ANILCA) and regulations in the Code of Federal Regulations (CFR) at 50 CFR 100 and 36 CFR 242 require that persons engaged in taking fish, shellfish, and wildlife on public lands in Alaska for subsistence uses must apply for and obtain a permit to do so and comply with reporting provisions of that permit. We use the following forms to collect information from qualified rural residents for subsistence harvest:

(1) FWS Form 3–2326 (Federal Subsistence Hunt Application, Permit, and Report).

(2) FWS Form 3–2327 (Designated Hunter Permit Application, Permit, and Report).

(3) FWS Form 3–2328 (Federal Subsistence Fishing Application, Permit, and Report).

(4) FWS Form 3–2378 (Designated Fishing Permit Application, Permit, and Report).

(5) FWS Form 3–2379 (Federal Subsistence Customary Trade Recordkeeping Form).

We use the information collected to evaluate:

- Eligibility of applicant.
- Subsistence harvest success.
- Effectiveness of season lengths, harvest quotas, and harvest restrictions.
- Hunting patterns and practices.
- Hunter use.

The Federal Subsistence Board uses the harvest data, along with other information, to set future season dates and harvest limits for Federal subsistence resource users. These seasons and harvest limits are set to meet the needs of subsistence users without adversely impacting the health of existing animal populations.

Also included in this ICR are three forms associated with recruitment and selection of members for regional advisory councils.

(1) FWS Form 3–2321 (Federal Subsistence Regional Advisory Council Membership Application/Nomination).

(2) FWS Form 3–2322 (Regional Advisory Council Candidate Interview).

(3) FWS Form 3–2323 (Regional Advisory Council Reference/Key Contact Interview).

The member selection process begins with the information that we collect on the application. Ten interagency review panels interview applicants and nominees, their references, and regional key contacts. These contacts are all based on the information that the applicant provides on the application form. The information that we collect through the application form and subsequent interviews is the basis of the Federal Subsistence Board's recommendations to the Secretaries of the Interior and Agriculture for appointment and reappointment of council members.

In addition to the above forms, regulations at 50 CFR 100 and 36 CFR 242 contain requirements for the collection of information. We collect nonform information on:

(1) Repeal of Federal subsistence rules and regulations (50 CFR 100.14 and 36 CFR 242.14).

(2) Proposed changes to Federal subsistence regulations (50 CFR 100.18 and 36 CFR 242.18).

(3) Special action requests (50 CFR 100.19 and 36 CFR 242.19).

(4) Requests for reconsideration (50 CFR 100.20 and 36 CFR 242.20).

(5) Requests for permits and reports, such as traditional religious/cultural/educational permits, fishwheel permits, fyke net permits, and under-ice permits (50 CFR 100.25–27 and 36 CFR 242.25–27).

II. Data

OMB Control Number: 1018–0075.

Title: Federal Subsistence Regulations and Associated Forms, 50 CFR 100 and 36 CFR 242.

Service Form Number: FWS Forms 3–2321, 3–2322, 3–2323, 3–2326, 3–2327, 3–2328, 3–2378, and 3–2379.

Type of Request: Extension of a currently approved collection.

Description of Respondents: Federally defined rural residents in Alaska.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Form/activity	Number of respondents	Number of responses	Completion time per response	Total annual burden hours [1]
3–2321—Membership Application	76	76	2 hours	152
3–2322—Applicant Interview	76	76	30 minutes	38
3–2323—Reference/Contact Interview	189	189	15 minutes	47
3–2326—Hunt Application and Permit	11,141	11,141	10 minutes	1,857
3–2326—Hunt Report	11,141	11,141	5 minutes	928
3–2327—Designated Hunter Application and Permit	701	701	10 minutes	117
3–2327—Designated Hunter—Hunt Report	701	701	5 minutes	58
3–2328—Fishing Application and Permit	2,136	2,136	10 minutes	356
3–2328—Fishing Report	2,136	2,136	5 minutes	178
3–2378—Designated Fishing Application and Permit	58	58	10 minutes	10
3–2378—Designated Fishing Report	58	58	5 minutes	5
3–2379—Customary Trade Recordkeeping Application and Permit	18	18	10 minutes	3
3–2379—Customary Trade Recordkeeping—Report	18	18	5 minutes	2
Petition to Repeal	1	1	2 hours	2
Proposed Changes	70	70	30 minutes	35
Special Actions Request	17	17	30 minutes	9
Request for Reconsideration (Appeal)	741	741	4 hours	2,964
Traditional/Cultural/Educational Permits and Reports	5	5	30 minutes	3
Fishwheel, Fyke Net, and Under-Ice Permits and Reports	7	7	15 minutes	2
Totals	29,290	29,290		6,766

[1] Rounded.

Estimated Annual Nonhour Burden Cost: None.

III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time.

While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: October 9, 2015.

Tina A. Campbell,

Chief, Division of Policy, Performance, and Management Programs, U.S. Fish and Wildlife Service.

[FR Doc. 2015–26240 Filed 10–14–15; 8:45 am]

BILLING CODE 4333–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–19470;PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Pima County Office of the Medical Examiner, Tucson, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Pima County Office of the Medical Examiner (PCOME) has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the PCOME. If no additional requestors come forward, transfer of control of the human remains to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the PCOME at the address in this notice by November 16, 2015.

ADDRESSES: Dr. Bruce Anderson, Forensic Anthropologist, Pima County Office of the Medical Examiner, 2825 E District Street, Tucson, AZ 85714, telephone (520) 724–8600, email *bruce.anderson@pima.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the PCOME, Tucson, AZ. The human remains were removed from an unknown location within Navajo County, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the PCOME professional staff, in consultation with representatives of Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Fort McDowell Yavapai Nation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Navajo Nation, Arizona, New Mexico & Utah; Pascua Yaqui Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; Tohono O'odham Nation of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; and the Zuni Tribe of the Zuni Reservation, New Mexico.

History and Description of the Remains

In 1989, human remains representing, at minimum, one individual were removed from an unknown location in Navajo County, AZ. The human remains were found by hikers and were recovered by the Navajo Department of Public Safety (which is analogous to the current Navajo Police Department), on an unknown date. On October 17, 1989, the human remains were transferred to the PCOME, which were then analyzed by Dr. Walter H. Birkby, a forensic anthropologist at the PCOME. The human remains were designated Forensic Anthropology case FA#89–038, which also indicates that the medical examiners at the PCOME had no involvement in this particular case. According to Dr. Birkby, the human remains were of an adult female of Native American ancestry and likely historic or prehistoric. The human remains have since resided within the PCOME as an unidentified case, and were rediscovered by Dr. Bruce Anderson, the current forensic anthropologist at the PCOME, in 2012. In 2012, an inventory was made but no analysis was done. No known individuals were identified and no associated funerary objects are present.

Determinations Made by the PCOME

Officials of the PCOME have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice may be Native American based on possible prehistoric condition.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- Pursuant to 25 U.S.C. 3001(15), the land from which the Native American human remains were removed is the tribal land of Navajo Nation, Arizona, New Mexico & Utah.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains were removed is the aboriginal land of Hopi Tribe of Arizona; Navajo Nation of Arizona, New Mexico & Utah; and Zuni Tribe of the Zuni Reservation, New Mexico.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of Hopi Tribe of Arizona; Navajo Nation of Arizona, New Mexico & Utah; and Zuni Tribe of the Zuni Reservation, New Mexico.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to Hopi Tribe of Arizona; Navajo Nation, Arizona, New Mexico & Utah; and Zuni Tribe of the Zuni Reservation, New Mexico.

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Dr. Bruce Anderson, Forensic Anthropologist, Pima County Office of the Medical Examiner, 2825 E District Street, Tucson, AZ 85714, telephone (520) 724–8600, email *bruce.anderson@pima.gov,* by November 16, 2015. After that date, if no additional requestors have come forward, transfer of control of the human remains to Hopi Tribe of Arizona; Navajo Nation, Arizona, New Mexico & Utah; and Zuni Tribe of the Zuni Reservation, New Mexico may proceed.

The PCOME is responsible for notifying Hopi Tribe of Arizona; Navajo Nation, Arizona, New Mexico & Utah; and Zuni Tribe of the Zuni Reservation, New Mexico, that this notice has been published.

Dated: September 30, 2015.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2015–26335 Filed 10–14–15; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–19368; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Michigan, Ann Arbor, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Michigan has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the University of Michigan. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the University of Michigan at the address in this notice by November 16, 2015.

ADDRESSES: Dr. Ben Secunda, NAGPRA Project Manager, University of Michigan Office of Research, 4080 Fleming Building, 503 S. Thompson Street, Ann Arbor, MI 48109–1340, telephone (734) 647–9085, email *bsecunda@umich.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the University of Michigan, Ann Arbor, MI. The human remains and associated funerary objects were removed from Leelanau, Missaukee, Montcalm, Muskegon, Newaygo, Oceana, and Otsego Counties, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains and associated funerary objects was made by the University of Michigan Museum of Anthropological Archaeology (UMMAA) professional staff in consultation with representatives of the Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan; Little River Band of Ottawa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Saginaw Chippewa Indian Tribe of Michigan; and the Sault Ste. Marie Tribe of Chippewa Indians, Michigan.

Additional requests for consultation were sent to the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe, Minnesota; Fond du Lac Band of the Minnesota Chippewa Tribe, Minnesota; Grand Portage Band of the Minnesota Chippewa Tribe, Minnesota; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota; Ottawa Tribe of Oklahoma; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; Turtle Mountain Band of Chippewa Indians of North Dakota; and the White Earth Band of the Minnesota Chippewa Tribe, Minnesota.

Hereafter, all tribes listed in this section are referred to as ''The Invited and Consulted Tribes.''

History and Description of the Remains

On an unknown date in 1969, human remains representing, at minimum, five individuals were removed from the Sheridan site (20LU23) in Leelanau County, MI. A construction crew unearthed remains and objects while working near Sleeping Bear Bay. They contacted archeologists from the UMMAA who conducted a salvage excavation and collected human remains and objects from the site. The remains are from 1 child, 1 adolescent, 1 young adult male, and 2 adult males. No date or time period could be established for the site. No known individuals were identified. The 3 associated funerary objects present are 2 lots of soil and 1 oxidized metal nail fragment.

In the summer of 1925, human remains representing, at minimum, one individual were removed from the Aetna Mound 1 site (20MA33) in Missaukee County, MI. UMMAA archeologists excavated the smaller of two burial mounds located on a nature preserve owned by the University of Michigan. They collected the human remains of an adult male buried in a tightly flexed position from the center of the mound. Charcoal was found near the human remains and two stones had been placed on the individual's chest. (To date, the stones have not been located.) The human remains are dated to the Woodland Period (850 B.C.–A.D. 1400) based on mortuary treatment. No known individuals were identified. No associated funerary objects are present.

In the summer of 1925, human remains representing, at minimum, one individual were removed from the Aetna Mound 2 site (20MA10) in Missaukee County, MI. UMMAA archeologists excavated the larger of two burial mounds located on a nature preserve owned by the University of Michigan. They collected a small amount of cremated human remains of an adult of indeterminate sex with several other objects from the center of the mound. The human remains are dated to the Woodland Period (850 B.C.–A.D. 1400) based on mortuary treatment. No known individuals were identified. The 6 associated funerary objects present are 2 worked animal bone fragments, 1 chert flake, 1 chert fragment, 1 small stone gorget, and 1 copper axe.

On an unknown date in 1960, human remains representing, at minimum, three individuals were removed from the Rossman site (20ML4) in Montcalm County, MI. State highway workers reported human remains had surfaced in a borrow pit they were using. The workers collected the human remains, along with multiple objects, and donated them to the UMMAA. UMMAA archeologists visited the site, but only found two fire pits in the area. The human remains are from 1 juvenile, 1 adult female, and 1 adult possible male. The human remains have been dated to the Late Woodland Period (A.D. 500–1400) based on a ceramic sherd collected from the site; however, a *Busycon contrarium* shell also collected from the site is typically associated with Late Archaic to Middle Woodland Period burials (Glacial Kame and Hopewell Periods). No known individuals were identified. The 6 associated funerary objects present are 1 *Busycon contrarium* shell, 4 shell fragments, and 1 ceramic sherd.

On an unknown date in 1959, human remains representing, at minimum, one individual were removed from the Haieght Mound site (20MU20) in Muskegon County, MI. With construction activities posing an imminent threat to the mound, UMMAA archeologists and members of the Wright L. Coffinberry Society conducted a salvage excavation of the site. They collected the remains of a young adult female buried in a flexed position from the center of the mound and donated the remains to the UMMAA in 1964. The remains are dated to the Woodland Period (850 B.C.–A.D. 1400) based on mortuary treatment. No known individuals were identified. No associated funerary objects are present.

On an unknown date in 1954, human remains representing, at minimum, two individuals were removed from the Parson's Mound site (20NE100) in Newaygo County, MI. Members of the Wright L. Coffinberry Society excavated this site that consists of 5 mounds of varying heights and sizes. Human remains were collected from 3 of the 5 mounds. Human remains from 1 of these 3 mounds were donated to the UMMAA in 1964. It is not known who possesses the human remains collected from the other 2 mounds. The human remains in the UMMAA's possession are of an adult male and an adult of indeterminate sex. No objects were found in the 3 mounds that contained human remains. The human remains are dated to the Middle Woodland Period (300 B.C.–A.D. 500) based on mortuary treatment. No known individuals were identified. No associated funerary objects are present.

In May 1965, human remains representing, at minimum, one individual were removed from the Brunett Mound site (20NE104) in Newaygo County, MI. UMMAA archeologists excavated this site that consists of a single mound with a circular burial pit at its center. The pit contained a bundle burial of a young adult female, accompanied by multiple objects. Among the objects were 2 ceramic vessels containing deer and fish bones. The human remains are dated to the Early Late Woodland Period (A.D. 500–700) based on diagnostic artifacts from the site. No known individuals were identified. The 25 associated funerary objects present are 1 ceramic Wayne ware vessel, 1 lot ceramic sherds, 1 biface, 1 scraper, 10 turtle shell fragments, 1 lot of fish bones, 1 lot of animal bones and shell fragments, 8 chert fragments, and 1 lot of clay with animal bone fragments.

In May 1966, human remains representing, at minimum, five individuals were removed from the Carrigan Mound B site (20NE111) in Newaygo County, MI. Carrigan Mound B is 1 mound in a 5-mound group collectively referred to as the Carrigan-Croton Dam Mound Complex. UMMAA archeologists and students excavated this mound that contained a burial pit near its center. A charred log was found at the top of the burial pit. The bottom of the burial pit contained cremated and non-cremated human remains within an area of burnt red sand. The human remains are from 1 cremated juvenile, 3 cremated adults of indeterminate sex, and 1 non-cremated adult of indeterminate sex. The human remains are dated to the Early Woodland Period (850–300 B.C.) based on Carbon 14 dating of the charred log. No known individuals were identified. No associated funerary objects are present.

In 1965, human remains representing, at minimum, one individual were removed from the Croton Dam Mound A site (20NE105) in Newaygo County, MI. A UMMAA archeologist and students excavated this mound that contained an irregular oval fire pit feature with cremated remains of an adult of indeterminate sex. The human remains are dated to the Early Woodland Period (850–300 B.C.) based on dating for the Carrigan Mound B site (20NE111), which is part of the same mound complex. No known individuals were identified. The 124 associated funerary objects present are 1 lithic blade, 86 lithic bifaces, 10 ovate lithic bifaces, 3 lithic scrapers, 5 lithic preforms, 18 lithic debitage fragments, and 1 copper needle.

Between May 12 and 15, 1966, human remains representing, at minimum, two individuals were removed from the Croton Dam Mound B site (20NE112) in Newaygo County, MI. Members of the Newaygo County Chapter of the Michigan Archaeological Society, under the direction of UMMAA archeologists, excavated a central burial pit in this mound. Soil and cremated human remains of 2 adults of indeterminate sex were distributed evenly through the burial pit, commingled with small fragments of cremated faunal bone. The base of a stemmed projectile point was collected from the bottom of the burial pit. The human remains are dated to the Early Woodland Period (850–300 B.C.) based on dating for the Carrigan Mound B site (20NE111), which is part of the same mound complex. No known individuals were identified. The 1 associated funerary object present is a projectile point base.

In 1966, human remains representing, at minimum, one individual were removed from the Croton Dam Mound C site (20NE116) in Newaygo County, MI. Members of the Newaygo County Chapter of the Michigan Archaeological Society, under the direction of a UMMAA archeologist, excavated this mound that was the smallest of those that comprised the Carrigan-Croton Dam Mound Complex. Croton Dam Mound C contained a round burial pit near its center, capped with a layer of clay. A rolled copper bead was located on top of the clay cap. Cremated bone fragments of an adult of indeterminate sex, commingled cremated faunal bone, and heavily ochred sand were located under the clay cap. The human remains are dated to the Early Woodland Period (850–300 B.C.) based on dating for the Carrigan Mound B site (20NE111), which is part of the same mound complex. No known individuals were identified. The 3 associated funerary objects present are 1 copper tube bead and 2 worked deer phalanges (possibly awls).

On an unknown date prior to 1924, human remains representing, at minimum, one individual were removed from the Cobmoosa Lake East site (20OA3) in Oceana County, MI. An amateur collector excavated one mound of a 3-mound group located near Cobmoosa Lake. He collected the human remains of a child, along with some objects, and sent them to the UMMAA in 1923. The human remains are dated to the Middle to Early Late Woodland Period (300 B.C.–A.D. 500) based on diagnostic artifacts collected from the site. No known individuals were

identified. The 6 associated funerary objects present are 1 lot of small shell and stone fragments, and 5 shell beads.

In April 1937, human remains representing, at minimum, one individual were removed from the Ditchdiggers site (20OE22) in Otsego County, MI. Workers for the City of Gaylord unearthed the human remains while installing sewer lines. They contacted the Otsego County Sherriff. The Sherriff collected the human remains of a young adult female who had been buried, lying on her side, in an extended position. No date or time period could be established for the remains. No known individuals were identified. The 1 associated funerary object present is a worked faunal bone.

Determinations Made by the University of Michigan

Officials of the University of Michigan have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on cranial morphology, dental traits, archeological context, and accession documentation.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 25 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 175 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of The Invited and Consulted Tribes.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of The Invited and Consulted Tribes.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to The Invited and Consulted Tribes.

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Ben Secunda, NAGPRA Project Manager, University of Michigan Office of Research, 4080 Fleming Building, 503 S. Thompson Street, Ann Arbor, MI 48109–1340, telephone (734) 647–9085, email *bsecunda@umich.edu,* by November 16, 2015. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects and associated funerary objects to The Invited and Consulted Tribes may proceed.

The University of Michigan is responsible for notifying The Invited and Consulted Tribes that this notice has been published.

Dated: September 22, 2015.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2015–26332 Filed 10–14–15; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–19370; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Michigan, Ann Arbor, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Michigan has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the University of Michigan. If no additional requestors come forward, transfer of control of the human remains to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the University of Michigan at the address in this notice by November 16, 2015.

ADDRESSES: Dr. Ben Secunda, NAGPRA Project Manager, University of Michigan Office of Research, 4080 Fleming Building, 503 S. Thompson Street, Ann Arbor, MI 48109–1340, telephone (734) 647–9085, email *bsecunda@umich.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the University of Michigan, Ann Arbor, MI. The human remains were removed from Clinton County, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the University of Michigan Museum of Anthropological Archaeology (UMMAA) professional staff in consultation with representatives of the Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan; Saginaw Chippewa Indian Tribe of Michigan; and the Sault Ste. Marie Tribe of Chippewa Indians, Michigan.

Additional requests for consultation were sent to the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe, Minnesota; Fond du Lac Band of the Minnesota Chippewa Tribe, Minnesota; Grand Portage Band of the Minnesota Chippewa Tribe, Minnesota; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin;

Turtle Mountain Band of Chippewa Indians of North Dakota; and the White Earth Band of the Minnesota Chippewa Tribe, Minnesota.

Hereafter, all tribes listed in this section are referred to as ''The Invited and Consulted Tribes.''

History and Description of the Remains

In April 1951, human remains representing, at minimum, four individuals were removed from the Steinbower site (20CL04) in Clinton County, MI. Workers unearthed human remains at the site while conducting gravel removal operations. They contacted the Clinton County Sherriff who collected the human remains and donated them to the UMMAA on April 24, 1951. The human remains are from 1 juvenile, 1 young adult, and 2 adults. The human remains are dated to the Glacial Kame Period, or Late Archaic to Early Woodland Periods (1000–500 B.C.), based on a conch shell collected from the site, although the shell was not donated to the UMMAA. No known individuals were identified. No associated funerary objects are present.

Determinations Made by the University of Michigan

Officials of the University of Michigan have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on cranial morphology, dental traits, archeological context, and accession documentation.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of four individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains were removed is the aboriginal land of the Saginaw Chippewa Indian Tribe of Michigan.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of The Invited and Consulted Tribes.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to The Invited and Consulted Tribes.

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Dr. Ben Secunda, NAGPRA Project Manager, University of Michigan Office of Research, 4080 Fleming Building, 503 S. Thompson Street, Ann Arbor, MI 48109–1340, telephone (734) 647–9085, email *bsecunda@umich.edu,* by November 16, 2015. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Invited and Consulted Tribes may proceed.

The University of Michigan is responsible for notifying The Invited and Consulted Tribes that this notice has been published.

Dated: September 22, 2015.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2015–26286 Filed 10–14–15; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–19356; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Thomas Burke Memorial Washington State Museum, University of Washington (Burke Museum) has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Burke Museum. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Burke Museum at the address in this notice by November 16, 2015.

ADDRESSES: Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195, telephone (206) 685–3849 x2, email *plape@uw.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Burke Museum, University of Washington, Seattle, WA. The human remains were removed from Pacific County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Burke Museum professional staff in consultation with representatives of the Confederated Tribes of the Chehalis Reservation, Washington and Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation (previously listed as the Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington), Washington.

History and Description of the Remains

In the late 19th or early 20th century, human remains representing, at minimum, one individual, were removed from near the mouth of the Columbia River in the vicinity of sites 45–PC–25/45–PC–4, a known Chinook village and cemetery in Pacific County, WA. The human remains were removed by the property owner and donated to the University of Washington Anthropology Department in 1959, and subsequently accessioned by the Burke Museum in 1964 (Accn. #1964–146). No known individuals were identified. No associated funerary objects are present.

In 1959 and 1976, human remains representing a minimum of one individual were removed from the Martin Site (45–PC–7), in Pacific County, WA. The human remains excavated in 1959 were removed as part of a University of Washington field school excavation conducted by Robert

Kidd and brought to the Burke Museum in the 1960s. The human remains excavated in 1976 were removed as part of an excavation led by Chris Brown of Washington State University. The entire collection from this excavation was transferred to the Burke Museum from Washington State University in 2013. Both the 1959 and 1976 excavations were formally accessioned by the Burke Museum in 2013 (Accn. #2013–163). The human remains from this site were not identified as human during the excavation. Only in 2014 did the Burke Museum identify them as human. No known individuals were identified. No funerary objects are present.

All of the human remains are from sites located in the southwestern part of Pacific County, WA. According to historical and anthropological sources (Kidd, 1967; Mooney, 1896; Ray, 1938; Ruby 1986; Spier, 1936; Suttles 1990), as well as information provided during consultation, this area is within the traditional aboriginal territory of the Lower Chinook people, which included the northern bank of the Columbia River mouth, and lands north along the shore and into Willapa Bay. The people of this area spoke the same Chinook dialect and were linguistically separate from other Chinook who lived farther up the Columbia River (Suttles, 1990). The human remains have been determined to be Native American based on archaeological, geographical and osteological evidence. Sites 45–PC–25/45–PC–4 were identified as a village site and cemetery with pre-historic and historic cultural components by Hudziak and Smith in 1948, and by Robert Cook in 1955. Site 45–PC–7 is a large site dating from 700–1800 years ago. All of these sites exhibit material culture consistent with Chinook culture. Today the Chinook people are members of the Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation (previously listed as the Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington), and the Chinook Indian Tribe, a nonfederally recognized Indian group represented by the Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation (previously listed as the Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington).

Determinations Made by the Burke Museum

Officials of the Burke Museum have determined that:

• Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of two individuals of Native American ancestry.

• Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington (previously listed as the Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington).

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195, telephone (206) 685–3849 x2, email *plape@uw.edu,* by November 16, 2015. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation (previously listed as the Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington), Washington, may proceed.

The Burke Museum is responsible for notifying the Confederated Tribes of the Chehalis Reservation, Washington and Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation (previously listed as the Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington), Washington that this notice has been published.

Dated: September 17, 2015.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2015–26287 Filed 10–14–15; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–19355;PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Thomas Burke Washington State Museum, University of Washington, Seattle, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Thomas Burke Memorial Washington State Museum, University of Washington (Burke Museum), in consultation with the appropriate Indian tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Burke Museum. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Burke Museum at the address in this notice by November 16, 2015.

ADDRESSES: Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195, telephone (206) 685–3849 x2, email *plape@uw.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Burke Museum, University of Washington, Seattle, WA, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item(s)

In the late 19th or early 20th century, three cultural objects were removed from near the mouth of the Columbia River in the vicinity of sites 45–PC–25/45–PC–4, a known Chinook village and cemetery in Pacific County, WA. The objects were removed by the property owner and donated to the University of Washington Anthropology Department in 1959, and subsequently accessioned by the Burke Museum in 1964 (Accn. #1964–146). The three unassociated funerary objects include one lot of glass and shell beads and two copper rod bracelets. Sites 45–PC–25/45–PC–4 were identified as a village site and cemetery by Hudziak and Smith in 1948, and by Robert Cook in 1955. Cook documented these objects being in the possession of

the property owner at the time he documented the site.

Sites 45–PC–25 and 45–PC–4 are located on the north bank of the Columbia River near the mouth of the river, in Pacific County, WA. Site 45–PC–25 is a village site and site 45–PC–4 is an adjacent burial ground. The objects documented from site 45–PC–4 include beads. Funerary objects found in burials at a nearby site include copper metal bracelets and blue and white glass trade beads that are similar to the objects listed above. Additionally, information provided during consultation indicates that these objects are consistent with funerary objects typically found in Chinook territory. Sites 45–PC–25 and 45–PC–4 are within an area of a known historic Chinook village, in the traditional aboriginal territory of the Lower Chinook people. According to historical and anthropological sources (Kidd, 1967; Mooney, 1896; Ray, 1938; Ruby 1986; Spier, 1936; Suttles 1990), as well as information provided during consultation, the aboriginal territory of the Lower Chinook people included the northern bank of the Columbia River mouth and lands north along the shore and into Willapa Bay. The people of this area spoke a Chinook dialect and were linguistically separate from other Chinook who lived farther up the Columbia River (Suttles, 1990). Today the Chinook people are members of the Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation (previously listed as the Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington), and the Chinook Indian Tribe, a non-federally recognized Indian group represented by the Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation (previously listed as the Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington).

Determinations Made by the Burke Museum

Officials of the Burke Museum have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the three cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation (previously listed as the Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington).

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195, telephone (206) 685–3849 x2, email *plape@uw.edu,* by November 16, 2015. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation (previously listed as the Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington) may proceed.

The Burke Museum is responsible for notifying the Confederated Tribes of the Chehalis Reservation, Washington and Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation (previously listed as the Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington), that this notice has been published.

Dated: September 17, 2015.

Melanie O'brien,

Manager, National NAGPRA Program.

[FR Doc. 2015–26296 Filed 10–14–15; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–19369; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Michigan, Ann Arbor, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Michigan has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the University of Michigan. If no additional requestors come forward, transfer of control of the human remains to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the University of Michigan at the address in this notice by November 16, 2015.

ADDRESSES: Dr. Ben Secunda, NAGPRA Project Manager, University of Michigan Office of Research, 4080 Fleming Building, 503 S. Thompson Street, Ann Arbor, MI 48109–1340, telephone (734) 647–9085, email *bsecunda@umich.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the University of Michigan, Ann Arbor, MI. The human remains were removed from Ionia and Van Buren Counties, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the University of Michigan Museum of Anthropological Archaeology (UMMAA) professional staff in consultation with representatives of the Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan; Little River Band of Ottawa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as the Huron Potawatomi, Inc.); Pokagon Band of Potawatomi Indians, Michigan and Indiana; Saginaw Chippewa Indian Tribe of Michigan; and the Sault Ste.

Marie Tribe of Chippewa Indians, Michigan.

Additional requests for consultation were sent to the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe, Minnesota; Citizen Potawatomi Nation, Oklahoma; Fond du Lac Band of the Minnesota Chippewa Tribe, Minnesota; Forest County Potawatomi Community, Wisconsin; Grand Portage Band of the Minnesota Chippewa Tribe, Minnesota; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota; Ottawa Tribe of Oklahoma; Prairie Band Potawatomi Nation (previously listed as the Prairie Band of Potawatomi Nation, Kansas); Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; Turtle Mountain Band of Chippewa Indians of North Dakota; and the White Earth Band of the Minnesota Chippewa Tribe, Minnesota.

Hereafter, all tribes listed in this section are referred to as ''The Invited and Consulted Tribes.''

History and Description of the Remains

In 1956, human remains representing, at minimum, two individuals were removed from the Lyons Prairie site (20IA51) in Ionia County, MI. An amateur archeologist collected the human remains in 1956 and donated them to the UMMAA in 1964. The human remains are from an adolescent and an adult. It is uncertain how the site was identified or excavated. However, records at the UMMAA indicated there were 3 mounds that had been leveled off, located on a ''prairie'' between Lyons and Muir, south of the Grand River. The human remains are dated to the Woodland Period (850 B.C.–A.D. 1400) based on the presumption that they were removed from one of the burial mounds noted in the UMMAA's records. No known individuals were identified. No associated funerary objects are present.

On an unknown date between 1939 and 1940, human remains representing, at minimum, one individual were removed from the Ament Village site (20VA01) in Van Buren County, MI. Amateur collectors found scattered objects that had emerged from 16 blowholes on the bank of School Section Lake. They reported that weathered bone was found near one of the blowholes. The collections were sent to the UMMAA on March 13, 1941, for identification. On December 9, 1941, museum experts determined some of the bone fragments collected from the site to possibly be human. In 2012, UMMAA staff conducting re-inventory work located a box containing the cremated human remains of an adult that were noted as coming from the Ament Village site. These human remains are calcined, highly weathered, sun-bleached, and show horizontal cracking. No date or time period could be established for the human remains. No known individuals were identified. No associated funerary objects are present.

Determinations Made by the University of Michigan

Officials of the University of Michigan have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on cranial morphology, dental traits, archeological context, and accession documentation.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains were removed is the aboriginal land of The Invited and Consulted Tribes.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of The Invited and Consulted Tribes.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to The Invited and Consuled Tribes.

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Dr. Ben Secunda, NAGPRA Project Manager, University of Michigan Office of Research, 4080 Fleming Building, 503 S. Thompson Street, Ann Arbor, MI 48109–1340, telephone (734) 647–9085, email *bsecunda@umich.edu,* by November 16, 2015. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Invited and Consulted Tribes may proceed.

The University of Michigan is responsible for notifying The Invited and Consulted Tribes that this notice has been published.

Dated: September 22, 2015.

Melanie O'Brien

Manager, National NAGPRA Program.

[FR Doc. 2015–26317 Filed 10–14–15; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–19365;PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Michigan, Ann Arbor, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Michigan has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the University of Michigan. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the University of Michigan at the address in this notice by November 16, 2015.

ADDRESSES: Dr. Ben Secunda, NAGPRA Project Manager, University of Michigan Office of Research, 4080 Fleming Building, 503 S. Thompson Street, Ann

Arbor, MI 48109–1340, telephone (734) 647–9085, email *bsecunda@umich.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the University of Michigan, Ann Arbor, MI. The human remains and associated funerary objects were removed from sites in Genesee and Tuscola Counties, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains and associated funerary objects was made by the University of Michigan Museum of Anthropological Archaeology (UMMAA) professional staff, in consultation with representatives of the Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as the Huron Potawatomi, Inc.); Pokagon Band of Potawatomi Indians, Michigan and Indiana; Saginaw Chippewa Indian Tribe of Michigan; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; and the Wyandotte Nation, Oklahoma.

Additional requests for consultation were sent to the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe, Minnesota; Citizen Potawatomi Nation, Oklahoma; Fond du Lac Band of the Minnesota Chippewa Tribe, Minnesota; Forest County Potawatomi Community, Wisconsin; Grand Portage Band of the Minnesota Chippewa Tribe, Minnesota; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota; Ottawa Tribe of Oklahoma; Prairie Band Potawatomi Nation, Kansas (previously listed as the Prairie Band of Potawatomi Nation, Kansas); Quechan Tribe of the Fort Yuma Indian Reservation, California and Arizona; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; Turtle Mountain Band of Chippewa Indians of North Dakota; and the White Earth Band of the Minnesota Chippewa Tribe, Minnesota.

Hereafter, all tribes listed in this section are referred to as ''The Consulted and Invited Tribes.''

History and Description of the Remains

On June 25, 1972, human remains representing, at minimum, seven individuals were removed from the Budd site (20GS26) in Genesee County, MI. Individuals walking along the Flint River noticed human remains eroding out of the riverbank. They collected the human remains, along with objects, which the landowner later donated to the UMMAA, on June 29, 1979. The human remains are from one child, one adult male, two adult females, and three adults of indeterminate sex. At least three of the individuals were noted as having been interred in a flexed position. The human remains are dated to the Middle Late Woodland Period (A.D. 900–1200), based on diagnostic artifacts collected from the site. No known individuals were identified. The 2 associated funerary objects present are 1 ceramic elbow pipe with a collared rim and 1 awl made from a turkey bone.

In June 1959, human remains representing, at minimum, two individuals were removed from the Ray Bradshaw Farm site (20TU1) in Tuscola County, MI. Workers excavating gravel inadvertently dug into a burial mound and unearthed commingled human remains and objects. The landowner collected the human remains and objects, and donated them to the UMMAA in July 1959. The human remains are from two adults. The human remains are dated to the Pre-Contact Period, based on diagnostic artifacts collected from the site. No known individuals were identified. The 10 associated funerary objects present are 6 antler tines and 4 pieces of chipped stone.

In 1988, human remains representing, at minimum, six individuals were removed from the Hancock I site (20TU147) in Tuscola County, MI. The landowners were excavating sediment from what they thought was a natural knoll on their property. While depositing the sediment elsewhere on their property, the landowners noticed human remains and red ochre mixed in with the soil. They contacted archeologists at Saginaw Valley State University and Alma College for assistance. Although the human remains had been relocated away from the knoll where they were buried, the archeologists, their students, and members of the Michigan Archaeological Society carried out a survey and salvage excavation effort.

The collections were donated to the UMMAA in 1990. The human remains are from one juvenile, one adolescent, three adults of indeterminate sex, and one cremated adult of indeterminate sex. The cremated human remains were found commingled with the non-cremated remains of an adult. Although the human remains were highly fragmentary, one individual was noted as possibly cremated in a flexed position. The human remains are dated to the Late Archaic to Early Woodland Periods (3500–500 B.C.), based on mortuary treatment. No known individuals were identified. No associated funerary objects are present.

Determinations Made by the University of Michigan

Officials of the University of Michigan have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on cranial morphology, dental traits, mortuary treatment, archeological context, and accession documentation.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 15 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), there are 12 objects described in this notice reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission or the Court

of Federal Claims, the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of the Saginaw Chippewa Indian Tribe of Michigan.

• Treaties, Acts of Congress, or Executive Orders indicate that the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of The Invited and Consulted Tribes.

• Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to The Invited and Consulted Tribes.

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Ben Secunda, NAGPRA Project Manager, University of Michigan Office of Research, 4080 Fleming Building, 503 S. Thompson Street, Ann Arbor, MI 48109–1340, telephone (734) 647–9085, email *bsecunda@umich.edu,* by November 16, 2015. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Invited and Consulted Tribes may proceed.

The University of Michigan is responsible for notifying The Invited and Consulted Tribes that this notice has been published.

Dated: September 22, 2015.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2015–26284 Filed 10–14–15; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–19371; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Michigan, Ann Arbor, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Michigan has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the University of Michigan. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the University of Michigan at the address in this notice by November 16, 2015.

ADDRESSES: Dr. Ben Secunda, NAGPRA Project Manager, University of Michigan Office of Research, 4080 Fleming Building, 503 S. Thompson Street, Ann Arbor, MI 48109–1340, telephone (734) 647–9085, email *bsecunda@umich.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the University of Michigan, Ann Arbor, MI. The human remains and associated funerary objects were removed from Bay and Saginaw Counties, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains and associated funerary objects was made by the University of Michigan Museum of Anthropological Archaeology (UMMAA) professional staff in consultation with representatives of the Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan; Saginaw Chippewa Indian Tribe of Michigan; and the Sault Ste. Marie Tribe of Chippewa Indians, Michigan.

Additional requests for consultation were sent to the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe, Minnesota; Fond du Lac Band of the Minnesota Chippewa Tribe, Minnesota; Grand Portage Band of the Minnesota Chippewa Tribe, Minnesota; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; Turtle Mountain Band of Chippewa Indians of North Dakota; and the White Earth Band of the Minnesota Chippewa Tribe, Minnesota.

Hereafter, all tribes listed in this section are referred to as ''The Invited and Consulted Tribes.''

History and Description of the Remains

In July 1965, human remains representing, at minimum, one individual were removed from the Butterfield site (20BY29) in Bay County, MI. UMMAA archeologists conducted a test excavation of the site. They collected a single juvenile tooth cap from a fire pit that also contained fire cracked rock and lithics. The human remains were dated to the Late Woodland Period (A.D. 500–1400) based on diagnostic artifacts from other areas of the site. No known individuals were identified. No associated funerary objects are present.

From June 20–28, 1966, human remains representing, at minimum, one individual were removed from the Kantzler site (20BY30) in Bay County, MI. Members of the Saginaw Valley Chapter of the Michigan Archaeological Society originally excavated the site in 1965. They noted multiple archeological components and evidence of occupation from the Archaic to Post-Contact

Periods. No human remains were found during this excavation. UMMAA archeologists also conducted an excavation of the site in 1966. They collected the human remains of a child, buried in a tightly flexed position, along with turtle and fish bones. No date or time period could be established for the human remains. No known individuals were identified. The 1 associated funerary object present is 1 lot of turtle and fish bones.

In 1923, human remains representing, at minimum, four individuals were removed from the Schmidt 2–4 site (20BY1) in Bay County, MI. A landowner donated these human remains and objects to the UMMAA on an unknown date. The human remains are of 1 child, 1 adolescent possibly male, 1 young adult female, and 1 adult male. No date or time period could be established for the human remains. No known individuals were identified. The 1 associated funerary object present is 1 lot of unworked stones, fossil coral, and animal bone.

In the summer of 1963, human remains representing, at minimum, two individuals were removed from the Mahoney Property site (20SA193) in Saginaw County, MI. UMMAA archeologists collected the human remains as part of a survey project conducted in the area. The human remains are sun-bleached and highly weathered, and are from 1 adult and 1 cremated adult. No date or time period could be established for the human remains. No known individuals were identified. No associated funerary objects are present.

Determinations Made by the University of Michigan

Officials of the University of Michigan have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on cranial morphology, dental traits, archeological context, and accession documentation.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of eight individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 2 objects described in this notice is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of the Saginaw Chippewa Indian Tribe of Michigan.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of The Invited and Consulted Tribes.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to The Invited and Consulted Tribes.

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Ben Secunda, NAGPRA Project Manager, University of Michigan Office of Research, 4080 Fleming Building, 503 S. Thompson Street, Ann Arbor, MI 48109–1340, telephone (734) 647–9085, email *bsecunda@umich.edu,* by November 16, 2015. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Invited and Consulted Tribes may proceed.

The University of Michigan is responsible for notifying The Invited and Consulted Tribes that this notice has been published.

Dated: September 22, 2015.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2015–26293 Filed 10–14–15; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–19367; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Michigan, Ann Arbor, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Michigan has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the University of Michigan. If no additional requestors come forward, transfer of control of the human remains to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the University of Michigan at the address in this notice by November 16, 2015.

ADDRESSES: Dr. Ben Secunda, NAGPRA Project Manager, University of Michigan Office of Research, 4080 Fleming Building, 503 S. Thompson Street, Ann Arbor, MI 48109–1340, telephone (734) 647–9085, email *bsecunda@umich.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the University of Michigan, Ann Arbor, MI. The human remains were removed from St. Clair County, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the University of Michigan Museum of Anthropological Archaeology (UMMAA) professional staff in consultation with representatives of the Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan; Little River Band of Ottawa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-

nash-she-wish Band of Pottawatomi Indians of Michigan; Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as the Huron Potawatomi, Inc.); Pokagon Band of Potawatomi Indians, Michigan and Indiana; Saginaw Chippewa Indian Tribe of Michigan; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; and the Wyandotte Nation, Oklahoma.

Additional requests for consultation were sent to the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe, Minnesota; Citizen Potawatomi Nation, Oklahoma; Fond du Lac Band of the Minnesota Chippewa Tribe, Minnesota; Forest County Potawatomi Community, Wisconsin; Grand Portage Band of the Minnesota Chippewa Tribe, Minnesota; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota; Ottawa Tribe of Oklahoma; Prairie Band Potawatomi Nation (previously listed as the Prairie Band of Potawatomi Nation, Kansas); Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Seneca Nation of Indians (previously listed as the Seneca Nation of New York); Seneca-Cayuga Tribe of Oklahoma; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; Tonawanda Band of Seneca (previously listed as the Tonawanda Band of Seneca Indians of New York); Turtle Mountain Band of Chippewa Indians of North Dakota; and the White Earth Band of the Minnesota Chippewa Tribe, Minnesota.

Hereafter, all tribes listed in this section are referred to as ''The Invited and Consulted Tribes.''

History and Description of the Remains

In 1958, human remains representing, at minimum, one individual were removed from the GL–1279 site (20SC7) in St. Clair County, MI. An amateur collector removed the human remains of a child from an area near Gratiot Avenue, along Lake Huron, near the start of the St. Clair River. The collections were later donated to the UMMAA on January 19, 1959. UMMAA records note that the GL–1279 (20SC7) site is part of the northern edge of the 20SC8 site, which consists of 21 mounds that populate a 2-mile area along the St. Clair River. The 20SC8 site has been dated to the Woodland Period (850 B.C.–A.D. 1400). Given the association between the 20SC7 and 20SC8 sites, the remains from the GL–1279 site have been dated to the Woodland Period. No known individuals were identified. No associated funerary objects are present.

Determinations Made by the University of Michigan

Officials of the University of Michigan have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on cranial morphology, dental traits, and accession documentation.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains were removed is the aboriginal land of the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe, Minnesota; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana; Citizen Potawatomi Nation, Oklahoma; Fond du Lac Band of the Minnesota Chippewa Tribe, Minnesota; Forest County Potawatomi Community, Wisconsin; Grand Portage Band of the Minnesota Chippewa Tribe, Minnesota; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan; Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; Little River Band of Ottawa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota; Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as the Huron Potawatomi, Inc.); Ottawa Tribe of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Prairie Band Potawatomi Nation (previously listed as the Prairie Band of Potawatomi Nation, Kansas); Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Saginaw Chippewa Indian Tribe of Michigan; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; Turtle Mountain Band of Chippewa Indians of North Dakota; and the White Earth Band of the Minnesota Chippewa Tribe, Minnesota.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of The Invited and Consulted Tribes.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to The Invited and Consulted Tribes.

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Dr. Ben Secunda, NAGPRA Project Manager, University of Michigan Office of Research, 4080 Fleming Building, 503 S. Thompson Street, Ann Arbor, MI 48109–1340, telephone (734) 647–9085, email *bsecunda@umich.edu,* by November 16, 2015. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Invited and Consulted Tribes may proceed.

The University of Michigan is responsible for notifying The Invited and Consulted Tribes that this notice has been published.

Dated: September 22, 2015.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2015–26316 Filed 10–14–15; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–19373; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent to Repatriate Cultural Items: City of Bellingham/Whatcom Museum, Bellingham, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The City of Bellingham/Whatcom Museum (Whatcom Museum), in consultation with the appropriate Indian tribes or Native Hawaiian organizations, has determined that the cultural item listed in this notice meets the definitions of object of cultural patrimony and sacred object. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request to Whatcom Museum. If no additional claimants come forward, transfer of control of the cultural item to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to Whatcom Museum at the address in this notice by November 16, 2015.

ADDRESSES: Rebecca L. Hutchins, Curator of Collections, Whatcom Museum, 121 Prospect Street, Bellingham, WA 98225, telephone (360) 778–8955, email *rlhutchins@cob.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item under the control of Whatcom Museum, Bellingham, WA, that meets the definition of an object of cultural patrimony and sacred object under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

On November 15, 1975, Whatcom Museum entered into a purchase agreement with the Michael R. Johnson Gallery in Seattle, WA, and took possession of a Tlingit Chilkat blanket (1975.117.1). Accompanying documents indicate that the blanket, described as ''bear and abs (sic) design'' was collected at Yakatat, AK in 1974, by a private collector based out of Tacoma, WA. A photocopy enclosed with the purchase agreement shows an image of the blanket hanging as a backdrop to a group of people in ceremonial regalia. Accompanying notes indicate this image was taken between 1935 and 1940, and was obtained from the Alaska State Library in Juneau, AK.

Based on consultation with the Central Council of the Tlingit & Haida Indian Tribes, Whatcom Museum reasonably believes this cultural item is culturally affiliated with the Tlingit and Haida Indian Tribes. Furthermore, the museum was also informed during consultation that the object is considered to be both a sacred object and an object of cultural patrimony.

Determinations Made by Whatcom Museum

Officials of Whatcom Museum have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the one cultural item described above is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- Pursuant to 25 U.S.C. 3001(3)(D), the one cultural item described above has ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred object/object of cultural patrimony and the Central Council of the Tlingit & Haida Indian Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Rebecca L. Hutchins, Curator of Collections, Whatcom Museum, 121 Prospect Street, Bellingham, WA 98225, telephone (360) 778–8955, email *rlhutchins@cob.org,* by November 16, 2015. After that date, if no additional claimants have come forward, transfer of control of this sacred object/object of cultural patrimony to the Central Council of the Tlingit & Haida Indian Tribes may proceed.

Whatcom Museum is responsible for notifying the Central Council of the Tlingit & Haida Indian Tribes that this notice has been published.

Dated: September 18, 2015.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2015–26289 Filed 10–14–15; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–19372; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Michigan, Ann Arbor, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Michigan has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the University of Michigan. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the University of Michigan at the address in this notice by November 16, 2015.

ADDRESSES: Dr. Ben Secunda, NAGPRA Project Manager, University of Michigan Office of Research, 4080 Fleming Building, 503 S. Thompson Street, Ann

Arbor, MI 48109–1340, telephone (734) 647–9085, email *bsecunda@umich.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the University of Michigan, Ann Arbor, MI. The human remains and associated funerary objects were removed from the State of Michigan, but the specific counties are unknown.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains and associated funerary objects was made by the University of Michigan Museum of Anthropological Archaeology (UMMAA) professional staff in consultation with representatives of the Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as Huron Potawatomi, Inc.); Pokagon Band of Potawatomi Indians, Michigan and Indiana; Saginaw Chippewa Indian Tribe of Michigan; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; and the Wyandotte Nation, Oklahoma.

Additional requests for consultation were sent to the Absentee Shawnee Tribe of Indians of Oklahoma; Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe, Minnesota; Citizen Potawatomi Nation, Oklahoma; Delaware Nation, Oklahoma; Delaware Tribe of Indians, Kansas; Eastern Shawnee Tribe of Oklahoma; Fond du Lac Band of the Minnesota Chippewa Tribe, Minnesota; Forest County Potawatomi Community, Wisconsin; Grand Portage Band of the Minnesota Chippewa Tribe, Minnesota; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; Miami Tribe of Oklahoma; Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota; Ottawa Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Prairie Band Potawatomi Nation, Kansas (previously listed as the Prairie Band of Potawatomi Nation, Kansas); Quechan Tribe of the Fort Yuma Indian Reservation, California and Arizona; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sac and Fox Nation of Missouri in Kansas and Nebraska; Sac and Fox Nation, Oklahoma; Sac and Fox Tribe of the Mississippi in Iowa; Seneca Nation of Indians (previously listed as Seneca Nation of New York Seneca Nation of Indians); Seneca-Cayuga Nation (previously listed as the Seneca-Cayuga Tribe of Oklahoma); Shawnee Tribe, Oklahoma; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; Tonawanda Band of Seneca (previously listed as the Tonawanda Band of Seneca Indians of New York); Turtle Mountain Band of Chippewa Indians of North Dakota; and the White Earth Band of the Minnesota Chippewa Tribe, Minnesota.

Hereafter, all tribes listed in this section are referred to as ''The Invited and Consulted Tribes.''

History and Description of the Remains

On an unknown date in the late-1950s or early-1960s, human remains representing, at minimum, one individual were removed from an unknown location in the State of Michigan, recorded as the Marion's Sister's Find site. The human remains, along with objects, were discovered during road construction activities in northern Michigan and removed from the site by a University of Michigan archeology class. On September 9, 1991, the collections were donated from an estate to the Royal British Columbia Museum (RBCM) in Vancouver, British Columbia, Canada. The RBCM subsequently contacted the UMMAA and arranged a transfer. In November of 1991, the UMMAA accessioned the collections. The human remains are from an adult male. It is not known if the objects were associated with the human remains, or if they were recovered from the same site. However, they have been reported as associated funerary objects. The human remains are dated to the Middle Woodland Period (300 B.C—A.D. 500) based on the projectile points being reported as associated funerary objects. No known individuals were identified. The 4 associated funerary objects are 1 triangular-shaped stone celt and 3 corner-notched projectile points.

On an unknown date prior to 1935, human remains representing, at minimum, one individual were removed from an unknown location in the State of Michigan, recorded as the GL–2048 site. The cranium of an adult female bearing the note ''Indian of Michigan, Dr. S. Lathrop'' was identified in the holdings of the University of Michigan Department of Anatomy and transferred to the UMMAA in 1935. There are no records indicating how the UM Department of Anatomy acquired the cranium. The cranium has evidence of post-mortem modification, with two holes drilled on the vault, on the left and right parietals respectively, near Bregma. These post-mortem modifications are consistent with those found at the Younge (20LP1), Riviere aux Vase (20MB3), and Farmington I (20OK2) sites in Michigan. No date or time period for the human remains could be established. No known individuals were identified. No associated funerary objects are present.

On an unknown date, human remains representing, at minimum, two individuals were removed from an unknown location in the State of Michigan, recorded as the GL–2053 site. During the 1930s, the UMMAA accessioned the fragmentary cranium and mandible fragment of a child. In September of 2014, UMMAA staff identified additional human remains from an adult that were also part of this accession. No further information is available. No date or time period for the human remains could be established. No known individuals were identified. No associated funerary objects are present.

On an unknown date, human remains representing, at minimum, two individuals were removed from an unknown location in the State of Michigan, recorded as the GL–2091 site. The UMMAA collectively accessioned the fragmentary human remains of an adult male and a child. It is unknown whether these individuals were removed from the same location. No further information is available. No date

or time period for the human remains could be established. No known individuals were identified. No associated funerary objects are present.

On an unknown date, human remains representing, at minimum, one individual were removed from an unknown location in the State of Michigan, recorded as the Unknown Mich. H site. While completing the re-inventory of an unprovenienced box of site collections, UMMAA staff separated out the uncataloged human remains of an adult labeled ''Mich.'' and ''H.'' No further information is available. No date or time period for the human remains could be established. No known individuals were identified. No associated funerary objects are present.

Determinations Made by the University of Michigan

Officials of the University of Michigan have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on cranial morphology, dental traits, post-mortem modifications, and accession documentation.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of seven individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 4 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of The Invited and Consulted Tribes.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of The Invited and Consulted Tribes.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to The Invited and Consulted Tribes.

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Ben Secunda, NAGPRA Project Manager, University of Michigan Office of Research, 4080 Fleming Building, 503 S. Thompson Street, Ann Arbor, MI 48109–1340, telephone (734) 647–9085, email *bsecunda@umich.edu,* by November 16, 2015. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Invited and Consulted Tribes may proceed.

The University of Michigan is responsible for notifying The Invited and Consulted Tribes that this notice has been published.

Dated: September 22, 2015.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2015–26318 Filed 10–14–15; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–19366; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Michigan, Ann Arbor, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Michigan has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the University of Michigan. If no additional requestors come forward, transfer of control of the human remains and associated funerary object to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of the human remains and associated funerary objects should submit a written request with information in support of the request to the University of Michigan at the address in this notice by November 16, 2015.

ADDRESSES: Dr. Ben Secunda, NAGPRA Project Manager, University of Michigan Office of Research, 4080 Fleming Building, 503 S. Thompson Street, Ann Arbor, MI 48109–1340, telephone (734) 647–9085, email *bsecunda@umich.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary object under the control of the University of Michigan, Ann Arbor, MI. The human remains and associated funerary object were removed from Macomb County, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary object. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains and associated funerary object was made by the University of Michigan Museum of Anthropological Archaeology (UMMAA) professional staff in consultation with representatives of the Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan; Little River Band of Ottawa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as the Huron Potawatomi, Inc.); Pokagon Band of Potawatomi Indians, Michigan and Indiana; Saginaw Chippewa Indian Tribe of Michigan; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; and the Wyandotte Nation, Oklahoma.

Additional requests for consultation were sent to the Absentee-Shawnee Tribe of Indians of Oklahoma; Bad River Band of the Lake Superior Tribe of

Chippewa Indians of the Bad River Reservation, Wisconsin; Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe, Minnesota; Citizen Potawatomi Nation, Oklahoma; Delaware Nation, Oklahoma; Delaware Tribe of Indians, Kansas; Eastern Shawnee Tribe of Oklahoma; Fond du Lac Band of the Minnesota Chippewa Tribe, Minnesota; Forest County Potawatomi Community, Wisconsin; Grand Portage Band of the Minnesota Chippewa Tribe, Minnesota; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; Miami Tribe of Oklahoma; Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota; Ottawa Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Prairie Band Potawatomi Nation (previously listed as the Prairie Band of Potawatomi Nation, Kansas); Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; Seneca Nation of Indians (previously listed as the Seneca Nation of New York); Seneca-Cayuga Tribe of Oklahoma; Shawnee Tribe, Oklahoma; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; Tonawanda Band of Seneca (previously listed as the Tonawanda Band of Seneca Indians of New York); Turtle Mountain Band of Chippewa Indians of North Dakota; White Earth Band of the Minnesota Chippewa Tribe, Minnesota.

Hereafter, all tribes listed in this section are referred to as ''The Invited and Consulted Tribes.''

History and Description of the Remains

In 1962, human remains representing, at minimum, one individual were removed from the Verchave #2 site (20MB181) in Macomb County, MI. Archeologists from the UMMAA excavated the site, placing three 5x10 foot trenches across the western edge of a sand knoll. They found various components at the site including a burial pit dating to the Woodland Period. The human remains are of an older adult male. A single projectile point fragment was found associated with the remains. Archeologists speculated in their notes that the projectile point fragment may have caused the individual's death. The point fragment is being included as an associated funerary object. The human remains are dated to the Middle Late Woodland (A.D. 900–1200) based on Carbon 14 dating performed on material collected from the site that was contemporary to the burial. No known individuals were identified. The one associated funerary object present is a projectile point fragment.

Determinations Made by the University of Michigan

Officials of the University of Michigan have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on cranial morphology, dental traits, accession documentation, and archeological context.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the one object described in this notice is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary object and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains and associated funerary object were removed is the aboriginal land of the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe, Minnesota; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana; Citizen Potawatomi Nation, Oklahoma; Delaware Nation, Oklahoma; Delaware Tribe of Indians, Kansas; Fond du Lac Band of the Minnesota Chippewa Tribe, Minnesota; Forest County Potawatomi Community, Wisconsin; Grand Portage Band of the Minnesota Chippewa Tribe, Minnesota; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan; Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; Little River Band of Ottawa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota; Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as the Huron Potawatomi, Inc.); Ottawa Tribe of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Prairie Band Potawatomi Nation (previously listed as the Prairie Band of Potawatomi Nation, Kansas); Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Saginaw Chippewa Indian Tribe of Michigan; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; Turtle Mountain Band of Chippewa Indians of North Dakota; and the White Earth Band of the Minnesota Chippewa Tribe, Minnesota.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains and associated funerary object were removed is the aboriginal land of The Invited and Consulted Tribes.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary object may be to The Invited and Consulted Tribes.

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and the associated funerary object should submit a written request with information in support of the request to Dr. Ben Secunda, NAGPRA Project Manager, University of Michigan Office of Research, 4080 Fleming Building, 503 S. Thompson Street, Ann Arbor, MI 48109–1340, telephone (734) 647–9085, email *bsecunda@umich.edu,* by November 16, 2015. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary object to The Invited and Consulted Tribes may proceed.

The University of Michigan is responsible for notifying The Invited

and Consulted Tribes that this notice has been published.

Dated: September 22, 2015.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2015–26314 Filed 10–14–15; 8:45 am]

BILLING CODE 4312–50P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–19342; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Pejepscot Historical Society, Brunswick, ME

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Pejepscot Historical Society has completed an inventory of human remains in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Pejepscot Historical Society. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Pejepscot Historical Society at the address in this notice by November 16, 2015.

ADDRESSES: Jennifer Blanchard, Executive Director, Pejepscot Historical Society, 159 Park Row, Brunswick, ME 04011, telephone (207) 729–6606, email *director@pejepscothistorical.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Pejepscot Historical Society. The human remains are anecdotally reported to have been removed from Camp Apache in Arizona.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made in 1995 by the Pejepscot Historical Society professional staff who invited consultation from representatives of the Jicarilla Apache Nation, New Mexico; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Tonto Apache Tribe of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; and the following non-federally recognized Indian groups: Apache Business Committee, Anadarko, OK; Fort Sill, Apache Business Committee, Apache, OK; Mojave Apache Community Council, Fountain Hills, AZ; Yazapai-Apache Community Council, Camp Verdi, AZ.

History and Description of the Remains

On an unknown date, human remains of, at minimum, 2 individuals, were removed from an unknown location. Anecdotal evidence suggests that these remains were Apache, taken by an ''Indian scout'' from Camp Apache in 1879. No proof of this evidence exists beyond an exhibit label. No known individuals were identified. No associated funerary objects are present.

The entirety of our evidence is an unsubstantiated exhibit label that reads: ''Taken from the scalp of an Apache Indian who was killed and scalped July 30, 1879 by Indian scouts about 20 miles from Camp Apache.'' The items are catalogued as ''on hand,'' meaning they were found in the society's collections when it began formal cataloguing of its collection.

Determinations Made by the Pejepscot Historical Society

Officials of the Pejepscot Historical Society have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 2 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that could be potentially traced between the Native American human remains and the Jicarilla Apache Nation, New Mexico; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Tonto Apache Tribe of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; and the following non-federally recognized Indian groups: Apache Business Committee, Anadarko, OK; Fort Sill, Apache Business Committee, Apache, OK; Mojave Apache Community Council, Fountain Hills, AZ; Yazapai-Apache Community Council, Camp Verdi, AZ.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Jennifer Blanchard, Executive Director, Pejepscot Historical Society, 159 Park Row, Brunswick, ME 04011, telephone (207) 729–6606, email *director@pejepscothistorical.org,* by November 16, 2015. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Jicarilla Apache Nation, New Mexico; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Tonto Apache Tribe of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; and the following non-federally recognized Indian groups: Apache Business Committee, Anadarko, OK; Fort Sill, Apache Business Committee, Apache, OK; Mojave Apache Community Council, Fountain Hills, AZ; Yazapai-Apache Community Council, Camp Verdi, AZ, may proceed.

The Pejepscot Historical Society is responsible for notifying the Jicarilla Apache Nation, New Mexico; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Tonto Apache Tribe of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; and the following non-federally recognized Indian groups: Apache Business Committee, Anadarko, OK; Fort Sill, Apache Business Committee, Apache, OK; Mojave Apache Community Council, Fountain Hills, AZ; Yazapai-Apache Community Council, Camp Verdi, AZ that this notice has been published.

Dated: September 16, 2015.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2015–26291 Filed 10–14–15; 8:45 am]

BILLING CODE 4312–50–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–462 and 1156–1158 (Review) and 731–TA–1043–1045 (Second Review)]

Polyethylene Retail Carrier Bags From China, Indonesia, Malaysia, Taiwan, Thailand, and Vietnam; Scheduling of Full Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the countervailing duty order on polyethylene retail carrier bags from Vietnam and revocation of the antidumping duty orders on polyethylene retail carrier bags from China, Indonesia, Malaysia, Taiwan, Thailand, and Vietnam would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days.

DATES: *Effective Date:* October 7, 2015.

FOR FURTHER INFORMATION CONTACT: Keysha Martinez (202–205–2136), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On July 6, 2015, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews should proceed (80 FR 43118, July 21, 2015); accordingly, full reviews are being scheduled pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

Participation in the reviews and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in these reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the reviews will be placed in the nonpublic record on January 26, 2016, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on February 18, 2016, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before February 9, 2016. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on February 11, 2016, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is February 4, 2016. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is February 29, 2016. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before February 29, 2016. On March 24, 2016, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before March 28, 2016, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's Web site at *http://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: October 8, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–26126 Filed 10–14–15; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–15–034]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: October 20, 2015 at 11 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: none.
2. Minutes
3. Ratification List
4. Vote in Inv. Nos. 701–TA–513 and 731–TA–1249 (Final) (Sugar from Mexico). The Commission is currently scheduled to complete and file its determinations and views of the Commission on November 2, 2015.
5. Vote in Inv. Nos. 701–TA–465 and 731–TA–1161 (Review) (Certain Steel Grating from China). The Commission is currently scheduled to complete and file its determinations and views of the Commission on October 29, 2015.
6. Outstanding action jackets: none

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: October 8, 2015.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2015–26340 Filed 10–13–15; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On October 8, 2015, the Department of Justice lodged a proposed consent decree with the United States District Court for the Northern District of Illinois in the lawsuit entitled *United States of America and the State of Illinois* v. *The City of Rockford, Illinois,* Civil Action No. 3:15cv50250.

The United States and the State of Illinois filed this lawsuit under the Clean Water Act and the Illinois Environmental Protection Act. The Plaintiffs' complaint seeks injunctive relief and civil penalties for Rockford's violations of the terms and conditions of its National Pollutant Discharge Elimination System permit for stormwater discharges from its municipal separate storm sewer system. The consent decree requires the defendant to perform injunctive relief and pay a $329,395.00 civil penalty.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America and the State of Illinois* v. *The City of Rockford, Illinois,* D.J. Ref. No. 90–5–1–1–09632. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree 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 $118.50 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits, the cost is $11.00.

Randall M. Stone,

Acting Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2015–26175 Filed 10–14–15; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0325]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection; Comments Requested Research To Support the National Crime Victimization Survey (NCVS)

Correction

In notice document 2015–19907, appearing on page 48567 in the issue of Thursday, August 13, 2015, make the following correction:

On page 48567, in the **DATES** section, on the third line of that paragraph, ''November 12, 2015'' should read ''October 13, 2015''.

[FR Doc. C1–2015–19907 Filed 10–14–15; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Advisory Board on Toxic Substances and Worker Health

ACTION: Notice of Comment Period: List of Candidates for the Advisory Board on Toxic Substances and Worker Health for Part E of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA).

SUMMARY: The Secretary of Labor (Secretary) previously invited interested parties to submit nominations for individuals to serve on the Advisory Board on Toxic Substances and Worker Health for Part E of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA). The nomination period was open from July 21, 2015 to September 4, 2015. The Secretary now invites interested parties to submit comments regarding the qualifications of potential candidates

listed below for membership on the Advisory Board. The Board shall consist of 12–15 members, to be appointed by the Secretary. Pursuant to Section 3687(a)(2), Public Law 106–398, the Advisory Board will reflect a reasonable balance of scientific, medical, and claimant members, to address the tasks assigned to the Advisory Board. The Board will meet no less than twice per year, except the Board may meet only once in 2015.

The Department of Labor is committed to equal opportunity in the workplace and seeks broad-based and diverse Advisory Board membership. Comments should not exceed one page and will be protected to the extent permitted by law, including the Freedom of Information Act.

DATES: Public comments must be submitted (postmarked, if sending by mail; submitted electronically; or received, if hand delivered) within 14 days of the date of this notice.

ADDRESSES: Comments may be submitted, including attachments, by any of the following methods:

- *Electronically:* Send to: *EnergyAdvisoryBoard@dol.gov* (specify in the email subject line, ''Comments: Advisory Board on Toxic Substances and Worker Health'').
- *Mail, express delivery, hand delivery, messenger, or courier service:* Submit one copy of the documents listed above to the following address: U.S. Department of Labor, Office of Workers' Compensation Programs, Advisory Board on Toxic Substances and Worker Health, Room S–3522, 200 Constitution Ave. NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: For questions, contact the Advisory Board's Designated Federal Official, Sam Shellenberger, Office of Workers' Compensation Programs, at *shellenberger.sam@dol.gov,* or Carrie Rhoads, Office of Workers' Compensation Programs, at *rhoads.carrie@dol.gov.*

SUPPLEMENTARY INFORMATION: The Advisory Board on Toxic Substances and Worker Health (the Board) is mandated by Section 3687 of EEOICPA. The Secretary of Labor established the Board under this authority and Executive Order 13699 (June 26, 2015) and in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2. The purpose of the Board is to advise the Secretary with respect to: (1) The Site Exposure Matrices (SEM) of the Department of Labor; (2) medical guidance for claims examiners for claims with the EEOICPA program, with respect to the weighing of the medical evidence of claimants; (3) evidentiary requirements for claims under Part B of EEOICPA related to lung disease; and (4) the work of industrial hygienists and staff physicians and consulting physicians of the Department of Labor and reports of such hygienists and physicians to ensure quality, objectivity, and consistency. Candidates who are ultimately appointed to the Advisory Board will serve as Special Government Employees (SGE). As defined in 19 U.S.C. Section 202, an SGE is an officer or employee who is retained, designated, appointed, or employed to perform temporary duties, with or without compensation, for not more than 130 days during any period of 365 consecutive days.

CANDIDATES

NAME (last, first)	Affiliation
Ahmad, Taha M., MD, MPH, FACP	Kaiser Permanente Panorama City.
Bertsche, Patricia K., Ph.D	Abbott Laboratories.
Boden, Leslie I., Ph.D	Boston University School of Public Health.
Burns, Kathleen, Ph.D	Sciencecorps.
Cassano, Victoria A., MD, MPH	Performance Medicine Consulting.
Christopher, Anastasia Spinelli	Dayton Integrative Medicine.
Cisco, Jeanne	Portsmouth Gaseous Diffusion Plant.
Copeland, Maurice	Former employee at Kansas City Plant.
Das, Rupali, MD, MPH, FACOEM	California Department of Industrial Relations; University of California San Francisco.
Dement, John M., Ph.D, CIH	Duke University Medical Center.
Detrick, Charles King	Former employee at Hanford Site.
Domina, Kirk D	Hanford Site.
Dorman, David C., D.V.M., Ph.D, DAVBT, DABT	North Carolina State University.
Driver, Charles Michael	Former employee at Paducah Gaseous Diffusion Plant.
Ducatman, Alan M., MD, MSc	West Virginia University School of Medicine.
Fitzgerald, Joseph E., MS, MPH	Saliant, Inc.
Fletcher III, Elijah, CCWS	Leesburg Regional Medical Center Wellness Center.
Frank, Arthur L., MD, Ph.D	Drexel University School of Public Health.
Friedman-Jimenez, George, MD, Dr.Ph	New York University School of Medicine.
Fuortes, Lawrence J., MD	University of Iowa College of Medicine.
Goldberg, Mark, Ph.D	Retired from City University of New York (CUNY) School of Public Health.
Griffon, Mark, Ph.D	Retired, Creative Pollution Solutions, Inc.
Haimes, Stanley C., MD, MPH, CIH, CSP, FACOEM	University of Central Florida College of Medicine.
Hand, Donna	Help by Hand LLC.
Harrison, Robert J., MD, MPH	University of California San Francisco; California Department of Public Health.
Hicks, Steven L	Former employee at Y–12 National Security Complex.
Jerison, Deborah Goode	Energy Employees Claimant Assistance Project (EECAP).
Jones, Carolyn	Ohio Department of Education.
Jones, Steven R	Y–12 National Security Complex.
Long, J. G	Sterling, Winchester & Long LLC.
Lopez Sr., Peter	Pantex Plant.
Mahs, Ronald A	International Assoc. of Heat & Frost Insulators and Allied Workers.
Manuta, David M., Ph.D, FAIC	Manuta Chemical Consulting, Inc.
Markowitz, Steven, MD, Dr.PH	Queens College; CUNY School of Public Health.

CANDIDATES—Continued

NAME (last, first)	Affiliation
McKeel Jr., Daniel W., MD	Retired, Washington University School of Medicine.
Mikulski, Marek A., MD, MPH, Ph.D	University of Iowa College of Public Health.
Mitchell, Maria E	Miami-Dade County.
Nagy, Lisa L., MD, FAAEM	Vineyard Personalized Medicine; Preventive and Environmental Health Alliance, Inc.
Noonan, Kathleen A., AGNP	Lawrence Livermore National Laboratory.
Pennington, Maxine B	Honeywell.
Pepper, Lewis D., MD, MPH	Queens College; City University of New York.
Pinney, Susan M., Ph.D	University of Cincinnati College of Medicine.
Pope, Duranda M	United Steelworkers.
Potter, Herman R	United Steelworkers.
Ray, Sarah D	Former employee at Pantex Plant.
Raymond, Lawrence W., MD, ScM	University of North Carolina at Chapel Hill.
Redlich, Carrie A., MD, MPH	Yale School of Medicine.
Rowlett, Carl David, MD, MS, FACOEM	University of Texas Health Science Center at Tyler.
Sayeed, Yusef, MD, MPH, M.Eng., CPH, COCH, EIT	West Virginia University.
Schmoldt, Michael J., PE, CIH, CHMM, CPEA	Washington River Protection Solutions.
Schwartz, Eugene, MD, MPH	Public Health and Epidemiology Consultant.
Silver, Kenneth Z., D.Sc., S.M	East Tennessee State University.
Sokas, Rosemary K., MD, MPH, M.Sc	Georgetown University School of Nursing and Health Studies.
Stratton, Harold S	Retired consultant to Agencia Spaziale Italiana.
Tatch, Michael D	TTS Associates.
Tebay, Calin P	Hanford Site.
Turner, James H	Former employee at Rocky Flats plant.
Vearrier, David J., MD, MPH	Drexel University College of Medicine.
Vlieger, Faye A	Former employee at Hanford Site.
Welch, Laura S., MD	Center for Construction Research and Training.
Whitley, Garry M	Worker Health Protection Program, Atomic Trades and Labor Council.
Woodmansee, John T., CIH, CUSA, MS	Education Consultant, State of Connecticut Department of Education.
Zelikoff, Judith T., Ph.D	New York University School of Medicine.
Zeller-Powell, Christine	Haber Law Office.

The information received through this comment process, in addition to other relevant sources of information, will assist the Secretary in appointing members to serve on the Advisory Board. Nominees will be appointed based on the demonstrated qualifications, professional experience, and knowledge of issues related to the purpose and scope of the Advisory Board as well as statutory obligations under FACA and Section 3687 of EEOICPA regarding a balanced membership. Note that the nominees will be evaluated to determine their eligibility under both the statutory conflict of interest provision and under general governmental ethics standards upon completion of the public comment period.

Dated: October 7, 2015.

Leonard J. Howie III,

Director, Office of Workers' Compensation Programs.

[FR Doc. 2015–26282 Filed 10–14–15; 8:45 am]

BILLING CODE 4510–24–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting

Notice

DATE AND TIME: The Legal Services Corporation's Board of Directors and Finance Committee will meet telephonically on October 19, 2015. The meetings will commence at 4:30 p.m., EDT, and will continue until the conclusion of the Board's agenda.

LOCATION: John N. Erlenborn Conference Room, Legal Services Corporation Headquarters, 3333 K Street NW., Washington, DC 20007.

PUBLIC OBSERVATION: Members of the public who are unable to attend in person but wish to listen to the public proceedings may do so by following the telephone call-in directions provided below.

CALL-IN DIRECTIONS FOR OPEN SESSIONS:

- Call toll-free number: 1–866–451–4981;
- When prompted, enter the following numeric pass code: 5907707348
- When connected to the call, please immediately ''MUTE'' your telephone.

Members of the public are asked to keep their telephones muted to eliminate background noises. To avoid disrupting the meeting, please refrain from placing the call on hold if doing so will trigger recorded music or other sound. From time to time, the Chair may solicit comments from the public.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

Finance Committee

1. Approval of agenda
2. Consider and act on proposed Collective Bargaining Agreement *(Resolution 2015–XXX)*
3. Consider and act on Temporary Operating Budget for FY 2016 *(Resolution 2015–XXX)*
4. Public comment
5. Consider and act on other business
6. Consider and act on adjournment of meeting

Board Of Directors

1. Approval of agenda
2. Consider and act on the Finance Committee's report
3. Public comment
4. Consider and act on adjournment of meeting

CONTACT PERSON FOR INFORMATION: Katherine Ward, Executive Assistant to the Vice President & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov.*

ACCESSIBILITY: LSC complies with the Americans with Disabilities Act and Section 504 of the 1973 Rehabilitation Act. Upon request, meeting notices and materials will be made available in alternative formats to accommodate individuals with disabilities.

Individuals needing other accommodations due to disability in order to attend the meeting in person or telephonically should contact Katherine Ward, at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov,* at least 2 business days in advance of the meeting. If a request is made without advance notice, LSC will make every effort to accommodate the request but cannot guarantee that all requests can be fulfilled.

Dated: October 13, 2015.

Katherine Ward,

Executive Assistant to the Vice President for Legal Affairs and General Counsel.

[FR Doc. 2015–26368 Filed 10–13–15; 4:15 pm]

BILLING CODE 7050–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2016–001]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions for what to do with records when agencies no longer need them for current Government business. The instructions authorize agencies to preserve records of continuing value in the National Archives of the United States and to destroy, after a specified period, records lacking administrative, legal, research, or other value. NARA publishes notice in the **Federal Register** for records schedules in which agencies propose to destroy records not previously authorized for disposal or to reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: NARA must receive requests for copies in writing by November 16, 2015. Once NARA appraises the records, we will send you a copy of the schedule you requested. We usually prepare appraisal memoranda that contain additional information concerning the records covered by a proposed schedule. You may also request these. If you do, we will also provide them once we have completed the appraisal. You have 30 days after we send these requested documents in which to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Management Services (ACNR) using one of the following means:

Mail: NARA (ACNR); 8601 Adelphi Road, College Park, MD 20740–6001.

Email: request.schedule@nara.gov.

FAX: 301–837–3698.

You must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and a mailing address. If you would like an appraisal report, please include that in your request.

FOR FURTHER INFORMATION CONTACT: Margaret Hawkins, Director, by mail at Records Management Services (ACNR); National Archives and Records Administration; 8601 Adelphi Road, College Park, MD 20740–6001, by phone at 301–837–1799, or by email at *request.schedule@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year, Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. These schedules provide for timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media-neutral unless otherwise specified. An item in a schedule is media-neutral when an agency may apply the disposition instructions to records regardless of the medium in which it has created or maintains the records. Items included in schedules submitted to NARA on or after December 17, 2007, are media-neutral unless the item is specifically limited to a specific medium. (See 36 CFR 1225.12(e).)

No agencies may destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after a thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value.

In addition to identifying the Federal agencies and any subdivisions requesting disposition authority, this notice lists the organizational unit(s) accumulating the records or lists that the schedule has agency-wide applicability (in the case of schedules that cover records that may be accumulated throughout an agency); provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction); and includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it also includes information about the records. You may request additional information about the disposition process at the addresses above.

Schedules Pending

1. Department of Agriculture, Farm Service Agency (DAA–0145–2014–0001, 3 items, 3 temporary items). Records related to a crop disaster assistance program, including applications, payment documents, spot check reports, correspondence, and other related documentation.

2. Department of the Army, Agency-wide (DAA–AU–2015–0031, 1 item, 1 temporary item). Master files of an electronic information system that contains aviation maintenance records relating to component repairs, removals, and installations.

3. Department of the Army, Agency-wide (DAA–AU–2015–0032, 3 items, 3 temporary items). Records related to medical research involving laboratory animal subjects, including protocols and care and treatment files.

4. Department of Commerce, Inspector General Office (DAA–0040–2015–0002, 2 items, 1 temporary item). Working papers for Inspector General reports to Congress. Proposed for permanent retention are the Inspector General reports.

5. Department of Defense, National Geospatial-Intelligence Agency (DAA–

0537–2015–0002, 1 item, 1 temporary item). Raw commercial imagery not used in an agency product.

6. Department of Health and Human Services, Indian Health Service (DAA–0513–2015–0009, 2 items, 2 temporary items). Case files for reviewing grant research protocols and records of meetings of the Institutional Review Board.

7. Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives (DAA–0436–2015–0001, 1 item, 1 temporary item). Internal communication log files.

8. Department of Justice, Federal Bureau of Investigation (DAA–0065–2015–0004, 1 item, 1 temporary item). Master files of an electronic information system used to track requests for information from facial comparison search requests.

9. Department of Justice, Office of Legislative Affairs (DAA–0060–2013–0010, 2 items, 1 temporary item). Copies of bills, reports, testimony, and other correspondence supporting the Department's communications on proposed legislation. Proposed for permanent retention are final position statements.

10. Department of the Navy, United States Marine Corps (DAA–0127–2015–0007, 3 items, 3 temporary items). Master files of an electronic information system used to track and manage drill requirements for the Marine Corps Reserve.

11. Department of the Treasury, Internal Revenue Service (DAA–0058–2015–0003, 6 items, 6 temporary items). Tax practitioner enrollment records including case files, applications, correspondence, and related materials.

12. Commodity Futures Trading Commission, Division of Enforcement (DAA–0180–2015–0003, 1 item, 1 temporary item). Summary information of closed cases.

13. Executive Office of the President, Office of Management and Budget (DAA–0051–2015–0014, 2 items, 2 temporary items). Records of the Office of Information and Regulatory Affairs including documentation related to routine regulatory review and the Paperwork Reduction Act.

14. Federal Communications Commission, Wireline Competition Bureau (DAA–0173–2015–0004, 1 item, 1 temporary item). Filings of proposed changes in depreciation rates from local exchange carriers.

15. Federal Communications Commission, Wireline Competition Bureau (DAA–0173–2015–0007, 1 item, 1 temporary item). Annual survey data of fixed voice and broadband service rates offered to consumers in urban areas.

16. National Archives and Records Administration, Research Services (N2–208–15–1, 5 items, 5 temporary items). Records of the Office of War Information which are fragmentary, duplicative, or low-level in nature. These records were accessioned to the National Archives but lack sufficient historical value to warrant continued preservation.

17. Peace Corps, Office of Strategic Partnerships (DAA–0490–2014–0002, 3 items, 3 temporary items). Records of the Office of Gifts and Grants Management including donor files, marketing materials, and working files.

18. Peace Corps, Agency-wide (DAA–0490–2015–0004, 1 item, 1 temporary item). Documentation related to personal service contracts for workers at overseas posts.

19. United States Commission on International Religious Freedom, Agency-wide (N1–148–15–2, 20 items, 4 temporary items). Records include general program correspondence; Web site content, design, management, and technical operations files; and routine and uncaptioned photographs. Proposed for permanent retention are files documenting the commission's establishment, organization, directives, charters, and policy documents; records of the chairman, commissioners, and executive director; and other records such as reports to Congress, meeting files, publications, news releases, photographs, historically significant litigation case files, and records related to public meetings.

Dated: October 5, 2015.

Laurence Brewer,

Director, National Records Management Program.

[FR Doc. 2015–26300 Filed 10–14–15; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 80 FR 43801, and no comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain*.

Comments: 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; or (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725 17th Street NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230 or send email to *splimpto@nsf.gov*. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 1265, Arlington, VA 22230, or by email to *splimpto@nsf.gov*.

FOR FURTHER INFORMATION CONTACT: Suzanne Plimpton on (703) 292–7556 or send email to *splimpto@nsf.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

NSF 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.

SUPPLEMENTARY INFORMATION:

Title of Collection: Monitoring for the National Science Foundation's Math and Science Partnership (MSP) Program.

OMB Control No.: 3145–0199.

1. Abstract

• This document has been prepared to support the clearance of data collection instruments to be used in the evaluation of the Math and Science Partnership (MSP) program. The goals for the program are to (1) ensure that all K–12 students have access to, are prepared for, and are encouraged to participate and succeed in challenging curricula and advanced mathematics and science courses; (2) enhance the quality, quantity, and diversity of the K–12 mathematics and science teacher workforce; and (3) develop evidence-based outcomes that contribute to our understanding of how students effectively learn the knowledge, skills and ways of thinking inherent in mathematics, computer science, engineering, and/or the natural sciences. The motivational force for realizing these goals is the formation of partnerships between institutions of higher education (IHEs) and K–12 school districts. The role of IHE content faculty is the cornerstone of this intervention. In fact, it is the rigorous involvement of science, mathematics, and engineering faculty—and the expectation that both IHEs and K–12 school systems will be transformed—that distinguishes MSP from other education reform efforts.

• The components of the overall MSP portfolio include active projects whose initial awards were made in prior MSP competitions: (1) Comprehensive Partnerships that implement change in mathematics and/or science educational practices in both higher education institutions and in schools and school districts, resulting in improved student achievement across the K–12 continuum; (2) Targeted Partnerships that focus on improved K–12 student achievement in a narrower grade range or disciplinary focus within mathematics or science; (3) Institute Partnerships: Teacher Institutes for the 21st Century that focus on the development of mathematics and science teachers as school—and district-based intellectual leaders and master teachers; (4) Research, Evaluation and Technical Assistance (RETA) projects that build and enhance large-scale research and evaluation capacity for all MSP awardees and provide them with tools and assistance in the implementation and evaluation of their work; (5) MSP-Start Partnerships are for awardees new to the MSP program, especially from minority-serving institutions, community colleges and primarily undergraduate institutions, to support the necessary data analysis, project design, evaluation and team building activities needed to develop a full MSP Targeted or Institute Partnership; and (6) Phase II Partnerships for prior MSP Partnership awardees focus on specific innovation areas of their work where evidence of significant positive impact is clearly documented and where an investment of additional resources and time would produce more robust findings and results.

The MSP monitoring information system, comprised of eight web-based surveys, collects a common core of data about each component of MSP. The Web application for MSP has been developed with a modular design that incorporates templates and self-contained code modules for rapid development and ease of modification. A downloadable version will also be available for respondents who prefer a paper version that they can mail or fax to the external contractor.

Use of the information: This information is required for effective program planning, administration, communication, program and project monitoring and evaluation, and for measuring attainment of NSF's program, project and strategic goals; the Deficit Reduction Act of 2005 (Pub. L. 109–171) which established the Academic Competitiveness (ACC). The MSP program is also directly aligned with two of NSF's long-term investment categories: (1) Transform the Frontiers and (2) Innovate for Society.

2. Expected Respondents

The expected respondents are principal investigators of all Targeted and Institute partnership projects; STEM and education faculty members and administrators who participated in MSP; school districts and IHEs that are partners in an MSP project; and teachers participating in Institute Partnerships.

3. Burden on the Public

Number of Respondents: 1936.

Burden of the Public: The estimated total annual response burden for this collection is 17,727 hours.

This figure is based upon the previous 3 years of collecting information under this clearance and anticipated collections. The average annual reporting burden is estimated to be between less than 1 and 50 hours per respondent depending on whether a respondent is a direct participant who is self-reporting or representing a project and reporting on behalf of many project participants. The majority of respondents (60%) are estimated to require fewer than two hours to complete the survey. The burden on the public is negligible because the study is limited to project participants that have received funding from the MSP Program.

Dated: October 8, 2015.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2015–26161 Filed 10–14–15; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0255]

Security Exemptions/License Amendment Requests for Decommissioning Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Interim staff guidance; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Interim Staff Guidance (ISG) NSIR/DSP–ISG–03, ''Review of Security Exemptions/ License Amendment Requests for Decommissioning Nuclear Power Plants,'' dated September 28, 2015. This document provides guidance for NRC staff to ensure clear and consistent reviews of a licensee's request for licensing actions and amendments, the use of alternative measures, and requests for exemption from security regulations for nuclear power reactors after permanent cessation of plant operations.

DATES: This ISG is effective on November 16, 2015.

ADDRESSES: Please refer to Docket ID NRC–2014–0255 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0255. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *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 draft NSIR/DSP–ISG–03, the final NSIR/DSP–ISG–03, the public comments, and the NRC staff's responses to public comments are available in ADAMS under Accession Nos. ML14294A170, ML15106A737, ML15042A208, and ML15054A200, respectively.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Douglas Garner, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–287–0229; email: *Douglas.Garner@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Discussion

Currently, the power reactor physical security requirements in part 73 of title 10 of the *Code of Federal Regulations* (10 CFR) and the NRC security orders that apply to licensees of nuclear power reactors under 10 CFR part 50 apply equally to operating and decommissioning power reactor licensees; the 10 CFR part 50 license is retained after permanent cessation of operations and removal of fuel from the reactor vessel. The NRC recognizes that licensees that have permanently ceased operations and have no fuel in the reactor vessel present a significantly reduced risk to public health and safety compared with operating reactors. Because of the lower comparative risk from a decommissioning power reactor, licensees typically request exemptions from regulatory requirements on the basis that the application of a specific regulation in the particular circumstance of decommissioning plants is not necessary to achieve the underlying purpose of the regulations and orders.

Licensees have historically used the NRC's existing license amendment and exemption processes to propose tailored security requirements for site-specific conditions at a decommissioning facility. Licensees must follow the process outlined in 10 CFR 73.5 when applying for exemptions from security regulations.

This ISG provides guidance to NRC staff in processing requests for license amendments and exemptions from the security requirements for nuclear power reactors that are undergoing decommissioning. Use of this ISG would result in consistent and timely reviews of requests for exemption from certain security regulations.

II. Public Comments

A draft ISG was published for public comment in the **Federal Register** on December 2, 2014 (79 FR 71458). The public comment period closed on January 8, 2015. The NRC received 37 separate comments on the draft ISG in three submissions from members of the nuclear industry. None of the comments received resulted in substantive changes being made to the ISG. One submission from the nuclear industry provided editorial comments and comments for clarification.

III. Changes to the ISG

This ISG was revised from the draft that appeared in the **Federal Register** on December 2, 2014. Editorial changes based on public comments are described in the NRC staff's responses to public comments. The ISG was also revised to provide clarification to staff regarding internal NRC processing.

IV. Congressional Review Act

This ISG, NSIR/DSP–ISG–03 is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

V. Backfitting and Issue Finality

The NRC is issuing interim guidance for the NRC staff regarding its review of requests from licensees of decommissioning nuclear power plants for license amendments, alternative measures, and exemptions from specific security requirements in 10 CFR part 73. Issuance of the ISG does not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52. The NRC's position is based upon the following considerations.

1. *The ISG positions do not constitute backfitting, inasmuch as the ISG is internal guidance to NRC staff.*

The ISG provides interim guidance to the staff on how to review certain requests for exemption, alternative measures, or license amendments. Changes in internal staff guidance are not matters for which applicants or licensees are protected under 10 CFR 50.109 or issue finality provisions in 10 CFR part 52.

2. *The staff has no intention to impose the ISG on existing nuclear power plant licenses or holders of regulatory approvals either now or in the future (absent a voluntary request for change from the licensee or holder of a regulatory approval).*

The staff does not intend to impose or apply the positions described in the ISG to existing (already issued) licenses (*e.g.,* operating licenses and combined licenses) and regulatory approvals. Hence, the ISG—even if considered guidance that is within the purview of the issue finality provisions in 10 CFR part 52—need not be evaluated as if it were a backfit or as being inconsistent with issue finality provisions. If, in the future, the staff seeks to impose a position in the ISG on holders of already issued licenses in a manner that does not provide issue finality as described in the applicable issue finality provision, then the staff must make the showing as set forth in the Backfit Rule, or address the criteria for avoiding issue finality as described in the applicable issue finality provision, as applicable.

3. *Backfitting and issue finality do not—with limited exceptions not applicable here—protect current or future applicants.*

Applicants and potential applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under 10 CFR part 52. This is because neither the Backfit Rule nor the issue finality provisions under 10 CFR part 52—with certain exclusions discussed below—were intended to apply to every NRC action that substantially changes the expectations of current and future applicants.

The exceptions to the general principle are applicable whenever an applicant references a 10 CFR part 52 license (*e.g.,* an early site permit) and/or NRC regulatory approval (*e.g.,* a design certification rule) with specified issue finality provisions. The staff does not, at this time, intend to impose the positions represented in the ISG in a manner that is inconsistent with any issue finality provisions.

If, in the future, the staff seeks to impose a position in the ISG in a manner that does not provide issue finality as described in the applicable issue finality provision, then the staff must address the criteria for avoiding issue finality as described in the applicable issue finality provision.

Dated at Rockville, Maryland, this 30th day of September, 2015.

For the Nuclear Regulatory Commission.

Christiana Lui,

Director, Division of Security Policy, Office of Nuclear Security and Incident Response.

[FR Doc. 2015–26245 Filed 10–14–15; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2016–1 and CP2016–1; Order No. 2748]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail Contract 145 negotiated service agreement to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 15, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 145 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. Request, Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2016–1 and CP2016–1 to consider the Request pertaining to the proposed Priority Mail Contract 145 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than October 15, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Lyudmila Y. Bzhilyanskaya to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2016–1 and CP2016–1 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Lyudmila Y. Bzhilyanskaya is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than October 15, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2015–26131 Filed 10–14–15; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2016–4 and CP2016–4; Order No. 2747]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail Contract 147 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 15, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*, the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 147 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. Request, Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2016–4 and CP2016–4 to consider the Request pertaining to the proposed Priority Mail Contract 147 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than October 15, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

[1] Request of the United States Postal Service to Add Priority Mail Contract 145 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, October 7, 2015 (Request).

[1] Request of the United States Postal Service to Add Priority Mail Contract 147 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, October 7, 2015 (Request).

The Commission appoints James F. Callow to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2016–4 and CP2016–4 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than October 15, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2015–26130 Filed 10–14–15; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2016–2 and CP2016–2; Order No. 2746]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail Express Contract 28 negotiated service agreement to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 15, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add Priority Mail Express Contract 28 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. Request, Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2016–2 and CP2016–2 to consider the Request pertaining to the proposed Priority Mail Express Contract 28 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than October 15, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Curtis E. Kidd to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2016–2 and CP2016–2 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Curtis E. Kidd is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than October 15, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2015–26129 Filed 10–14–15; 8:45 am]

BILLING CODE 7710–FW–P

[1] Request of the United States Postal Service to Add Priority Mail Express Contract 28 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, October 7, 2015 (Request).

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2016–3 and CP2016–3; Order No. 2749]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of Priority Mail Contract 146 negotiated service agreement to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 15, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 146 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. Request, Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2016–3 and CP2016–3 to

[1] Request of the United States Postal Service to Add Priority Mail Contract 146 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, October 7, 2015 (Request).

consider the Request pertaining to the proposed Priority Mail Contract 146 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than October 15, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Cassie D'Souza to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2016–3 and CP2016–3 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Cassie D'Souza is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than October 15, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2015–26132 Filed 10–14–15; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* October 15, 2015.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 7, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 147 to Competitive Product List.* Documents are available at *www.prc.gov*, Docket Nos. MC2016–4, CP2016–4.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2015–26204 Filed 10–14–15; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* October 15, 2015.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 7, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 145 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–1, CP2016–1.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2015–26202 Filed 10–14–15; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* October 15, 2015.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 7, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Express Contract 28 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–2, CP2016–2.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2015–26201 Filed 10–14–15; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* October 15, 2015.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202-268-3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 7, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 146 to Competitive Product List.* Documents are available at *www.prc.gov*, Docket Nos. MC2016–3, CP2016–3.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2015–26203 Filed 10–14–15; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76111; File No. SR–ICC–2015–013]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change To Provide for the Clearance of Additional Western European Sovereign Single Names

October 8, 2015.

I. Introduction

On July 6, 2015, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934

(''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change (SR–ICC–2015–013) to provide the basis for ICC to clear additional Standard Western European Sovereign credit default swap contracts (''SWES Contracts''). The proposed rule change was published for comment in the **Federal Register** on July 21, 2015.[3] The Commission did not receive comments on the proposed rule change. On September 3, 2015, the Commission extended the time period in which to either approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change to October 19, 2015.[4] For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

The purpose of the proposed rule change is to adopt rules that will provide the basis for ICC to clear additional SWES Contracts. ICC currently clears seven SWES Contracts: The Republic of Ireland, the Italian Republic, the Portuguese Republic, the Kingdom of Spain, the Kingdom of Belgium, the Republic of Austria, and the Kingdom of the Netherlands. ICC proposes to revise subchapter 26I (Standard Western European Sovereign (''SWES'') Single Name) of its Rules to provide for the clearance of the additional SWES Contracts by modifying Rule 26I–102 to include the Federal Republic of Germany, the French Republic, and the United Kingdom of Great Britain and Northern Ireland in the list of specific Eligible SWES Reference Entities to be cleared by ICC. ICC plans to offer these additional SWES Contracts on the 2003 and 2014 ISDA Credit Derivatives Definitions. ICC stated in its filing that these additional SWES Contracts have terms consistent with the other SWES Contracts approved for clearing at ICC and governed by subchapter 26I of the ICC Rules, namely the Republic of Ireland, the Italian Republic, the Portuguese Republic, the Kingdom of Spain, the Kingdom of Belgium, the Republic of Austria, and the Kingdom of the Netherlands.

In addition, ICC stated in its filing that the proposed change is dependent on the approval and implementation of the proposed rule change in SR–ICC–2015–009 and therefore, the text of the proposed rule change in Exhibit 5 should be read in conjunction with the proposed rule change in SR–ICC–2015–009.[5]

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act[6] directs the Commission to approve a proposed rule change of a self-regulatory organization if the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such self-regulatory organization. Section 17A(b)(3)(F) of the Act[7] requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and, in general, to protect investors and the public interest.

The Commission finds that the proposed rule change is consistent with the requirements of section 17A of the Act[8] and the rules and regulations thereunder applicable to ICC. The proposed rule change would provide for the clearing of additional SWES Contracts referencing Federal Republic of Germany, the French Republic, and the United Kingdom of Great Britain and Northern Ireland, which are similar to the other SWES Contracts currently cleared by ICC. ICC would clear the additional SWES Contracts using ICC's existing clearing arrangements and related financial safeguards, protections and risk management procedures, including the portfolio-level GWWR methodology approved in SR–ICC–2015–009, which is designed to account for the potential accumulation of uncollateralized portfolio WWR exposures arising from the clearance of sovereign and banking sector Risk Factors at ICC.[9] The Commission therefore finds that the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and, in general, to protect investors and the public interest.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of section 17A of the Act[10] and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[11] that the proposed rule change (File No. SR–ICC–2015–013) be, and hereby is, approved.[12]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–26152 Filed 10–14–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76112; File No. SR–NSCC–2015–005]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change To Permit Trades in Eligible Fixed Income Securities Scheduled To Settle on Day After Trade Date To Be Processed for Settlement at National Securities Clearing Corporation

October 8, 2015.

Pursuant to section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'') and Rule 19b–4[2] thereunder, notice is hereby given that on October 7, 2015, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'')

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–75456 (July 15, 2015), 80 FR 43146 (July 21, 2015) (SR–ICC–2015–013).

[4] Securities Exchange Act Release No. 34–75836 (September 3, 2015), 80 FR 54627 (September 10, 2015) (SR–ICC–2015–013).

[5] In SR–ICC–2015–009, ICC proposed to revise its Risk Management Framework to extend its General Wrong Way Risk (''GWWR'') framework to the portfolio level. The new GWWR methodology is designed to account for the potential accumulation of portfolio Wrong Way Risk (''WWR'') through Risk Factor specific WWR exposures arising from the clearance of credit default swaps referencing sovereign and banking sector names. The Commission approved the proposed rule change SR–ICC–2015–009 on September 10, 2015. *See* Securities Exchange Act Release No. 34–75887 (September 10, 2015), 80 FR 55672 (September 16, 2015) (SR–ICC–2015–009).

[6] 15 U.S.C. 78s(b)(2)(C).

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 15 U.S.C. 78q–1.

[9] *See supra* note 5.

[10] 15 U.S.C. 78q–1.

[11] 15 U.S.C. 78s(b)(2).

[12] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the proposed rule change as described in Items I, II and III below, which Items have been prepared by NSCC. NSCC filed the proposed rule change pursuant to section 19(b)(2) [3] of the Act. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to NSCC's Rules & Procedures (''Rules'') in order to permit trades in fixed income securities (corporate and municipal bonds, and unit investment trusts, collectively ''CMU'') that are scheduled to settle on the day after trade date (''T+1'') to settle either through its Continuous Net Settlement (''CNS'') system, as described below, or through its Balance Order Accounting Operation on a trade-for-trade basis, as described below, when eligible for settlement through these services.[4]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CMU transactions that are effected in the over-the-counter markets and submitted to NSCC directly by Members on a bilateral basis are processed through NSCC's Real Time Trade Matching (''RTTM'') platform. Within RTTM, the buy and sell sides of a transaction are validated and matched, resulting in a compared trade that is reported to Members. This process is called ''trade comparison.''

Today, with the exception of CMU trades that are submitted to NSCC to settle on a timeframe that is shorter than T+2,[5] CMU trades submitted to NSCC through RTTM are first compared within RTTM, and then are processed into NSCC's Universal Trade Capture (''UTC'') system, where they are checked for eligibility for settlement either through NSCC's CNS system [6] or through its Balance Order Accounting Operation on a trade-for-trade basis.[7] These CMU trades, those that are scheduled to settle on a T+2 or longer timeframe, are then processed for settlement through the settlement service for which they are eligible, *i.e.* either the CNS system or the Balance Order Accounting Operation on a trade-for-trade basis. If a CMU trade is not eligible for settlement through either CNS or the Balance Order Accounting Operation, or if it is marked as ''comparison-only'' when it is submitted to NSCC, it is only processed for trade comparison through RTTM and then it must settle away from NSCC.

Today, all CMU trades submitted to NSCC through RTTM that are scheduled to settle on T+1 are automatically processed as comparison-only in RTTM, and must settle away from NSCC. T+1 CMU trades are processed this way because, historically, NSCC's systems were not able to adequately risk manage CMU trades that settled on this shortened timeframe. NSCC is proposing to amend its Rules so that, following trade comparison through RTTM, T+1 CMU trades would be processed into UTC, where they would be checked for eligibility to settle through either CNS or the Balance Order Accounting Operation on a trade-for-trade basis. If eligible, these CMU trades would settle through the settlement service for which they are eligible, *i.e.* either the CNS system or the Balance Order Accounting Operation on a trade-for-trade basis.

Pursuant to Addendum K of the Rules, NSCC guarantees the completion of CNS settling trades that have reached the later of midnight of T+1 or midnight of the day they are reported to Members, and guarantees the completion of shortened process trades, such as same-day and next-day settling trades, upon comparison or trade recording processing.[8] Therefore, for those T+1 CMU trades that are eligible for settlement through CNS, NSCC would guarantee the completion of these trades upon comparison or trade recording processing. T+1 CMU trades that settle through CNS would be subject to all appropriate risk management measures and margining, pursuant to the existing risk management methodology and policies and procedures, including the Specified Activity charge component of its Clearing Fund charges, which applies to trades settling at NSCC on a shortened processing cycle.[9] NSCC estimates that CMU trades that are designated to settle on T+1 and would be eligible to settle through CNS represent less than half of a percent of all CMU trades processed at NSCC, and less than 2% of the total value of all CMU trades processed at NSCC.[10] In order to implement this proposed rule change, NSCC would amend Procedure II (Trade Comparison and Recording Service). In particular, these amendments would provide that CMU T+1 transactions would be handled in the same manner as CMU T+2 trades and trades submitted for regular way (or T+3) settlement. Procedure II would also be amended to remove reference to CMU T+1 transactions from the section that identifies those trades that are accepted by NSCC for comparison-only processing.

Pending Commission approval of this proposed rule change, Members would be advised of the implementation date

[3] 15 U.S.C. 78s(b)(2).

[4] Terms not defined herein are defined in the Rules, *available at http://dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.pdf.*

[5] The settlement timeframe of a trade, *i.e.* when the trade will settle relative to the trade date, is determined by the counterparties to that trade, and is indicated on the trade record when the trade is submitted to NSCC.

[6] CNS and its operation are described in Rule 11 and Procedure VII. Rules, *supra* note 4. To be eligible for CNS settlement, a transaction must be in a security that is eligible for book-entry transfer on the books of The Depository Trust Company, and must be capable of being processed in the CNS system; for example, securities may be ineligible for CNS processing due to certain transfer restrictions (*e.g.,* 144A securities) or due to the pendency of certain corporate actions.

[7] The Balance Order Accounting Operation is described in Procedure V. Rules, *supra* note 4. CMU trades that are processed through the Balance Order Accounting Operation are processed on a trade-for-trade basis, as described in Section B of Procedure V, such that Receive and Deliver Orders, as defined in the Rules, are created instructing the counterparties to the transaction to deliver or receive a quantity of securities to or from their counterparty to that transaction. These transactions are not netted and are not subject to NSCC's risk management measures, as NSCC's central counterparty guarantee does not attach to these trades.

[8] NSCC guarantees the completion of trades that settle through CNS pursuant to Addendum K of the Rules. Rules, *supra* note 4.

[9] The components of NSCC's Clearing Fund are described in Procedure XV, and the Specified Activity charge is described in section I(A)(1)(g) for trades settling through CNS. Rules, *supra* note 4.

[10] Based on data from the first quarter of 2015, an approximate daily average of 45,000 CMU trades are processed at NSCC, with an approximate total daily value of an average of $8.3 billion. Of the approximate daily average of 45,000 CMU trades processed at NSCC, an approximate daily average of 200 CMU trades are designated to settle on T+1 and are in securities that are eligible for settlement in CNS. Of the approximate daily value of an average of $8.3 billion in CMU trades processed at NSCC, CMU trades that are designated to settle on T+1 and are in securities that are eligible for settlement in CNS have an approximate total daily value of an average of $145 million. The average daily CMU transaction volume is less than 1% of NSCC's overall daily volume.

through issuance of an NSCC Important Notice

2. Statutory Basis

Section 17A(b)(3)(F) of the Act requires, in part, that NSCC's Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions and to protect investors and the public interest.[11] By permitting additional, eligible transactions to settle through CNS or the Balance Order Accounting Operation, and receive the benefit of NSCC's settlement services, including, in the case of CNS, the central counterparty trade guarantee, the proposal would offer protection to investors and the public interest by mitigating its Members' settlement risk and counterparty risk with respect to those transactions. Therefore, NSCC believes the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions by reducing these risks, consistent with the requirements of the Act, in particular section 17A(b)(3)(F), cited above.

(B) Clearing Agency's Statement on Burden on Competition

NSCC does not believe that the proposed rule changes would have any impact on competition because the proposal would apply equally to all NSCC Members that submit CMU trades through NSCC's RTTM service.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has not received any written comments relating to this proposal. NSCC will notify the Commission of any written comments received by NSCC.

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 up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

[11] 15 U.S.C. 78q–1(b)(3)(F).

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–NSCC–2015–005 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NSCC–2015–005. 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 NSCC and on DTCC's Web site (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–NSCC–2015–005 and should be submitted on or before November 5, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–26151 Filed 10–14–15; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. IA–4220/803–00225]

Fidelity Management & Research Company and FMR Co., Inc.; Notice of Application

October 8, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an exemptive order under section 206A of the Investment Advisers Act of 1940 (the ''Advisers Act'') and rule 206(4)–5(e).

APPLICANT: Fidelity Management & Research Company (''FMR'') and FMR Co., Inc. (''FMRC'' and, together with FMR, ''Applicants'').

RELEVANT ADVISERS ACT SECTIONS: Exemption requested under section 206A of the Advisers Act and rule 206(4)–5(e) from rule 206(4)–5(a)(1) under the Advisers Act.

SUMMARY OF APPLICATION: Applicants request that the Commission issue an order under section 206A of the Advisers Act and rule 206(4)–5(e) exempting Applicants from rule 206(4)–5(a)(1) under the Advisers Act to permit Applicants to receive compensation from certain government entities for investment advisory services provided to the government entities within the two-year period following a contribution by a covered associate of the Applicants to an official of the government entities.

FILING DATES: The application was filed on August 28, 2014, an amended and restated application was filed on May 11, 2015, and a second amended and restated application was filed on September 24, 2015.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 2, 2015, and should be accompanied by proof of

service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Advisers Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Fidelity Management & Research Company and FMR Co., Inc., 245 Summer Street, Boston, MA 02210.

FOR FURTHER INFORMATION CONTACT: Kyle R. Ahlgren, Senior Counsel, or Holly Hunter-Ceci, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site either at *http://www.sec.gov/rules/iareleases.shtml* or by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm*, or by calling (202) 551–8090.

Applicants' Representations:

1. Applicants are affiliated asset management companies registered with the Commission as investment advisers under the Investment Advisers Act of 1940 (the ''Act''). Applicants manage mutual funds offered as investment options in participant-directed plans sponsored by two Massachusetts government entities (''Client 1'' and ''Client 2'', respectively, or collectively, the ''Clients''). Client 1 initially entered into its agreement with FMR in 2007 and Client 2 initially entered into its agreement with FMR and FMRC in 1994.

2. Thomas Hense (the ''Contributor'') is a Group Chief Investment Officer of Applicants and a resident of Massachusetts. He assumed his current role in 2008, and is a ''covered associate'' of the Applicants, as such term is defined by rule 206(4)–5(f)(2)(i) due to his role as a supervisor of one or more employees who may solicit investment advisory business from government entities on behalf of each Client. The Contributor has very limited direct interactions with clients regarding their investments. The Contributor's primary role is to supervise a team of investment professionals who manage client funds and accounts. To the best of the Contributor's knowledge, the Contributor attended only two meetings with any Massachusetts government entities in the past two years, and neither of those meetings involved the solicitation of business or either of the Clients.

3. The recipient of the Contribution was Jeffrey McCormick (the ''Recipient''), an independent candidate for Massachusetts Governor. The investment providers and options of Client 1 (including the mutual funds to be offered as investment options to employees) are directly selected by a board that includes a majority of gubernatorial appointees. The investment decisions of Client 2 (including the selection of mutual funds to be offered as investment options to employees) are directly made by the Treasurer of Client 2 under oversight of the President of Client 2. The board of Client 2, which includes a majority of gubernatorial appointees, has authority to appoint the Treasurer and President of Client 2. As a result of these appointment powers with respect to the Clients, the Governor of Massachusetts and any candidate for that office (including the Recipient) is an ''official'' as that term is defined by rule 206(4)–5(f)(6)(ii).

4. On December 21, 2013 (the ''Contribution Date''), the Contributor made a contribution in the amount of $500 to the Recipient's campaign. Because the Contributor was a ''covered associate'' of Applicants, the Clients were ''government entities'' and the Recipient was an ''official'' as those terms are defined in rule 206(4)–5(f), the Contribution triggered Rule 206(4)–5's prohibition against receiving compensation for advisory services provided to the Clients during the two years following the Contribution Date. At the time of the Contribution, Applicants were not discussing or anticipating any new arrangements with the Clients. No material changes in the relationship between any of the funds managed by Applicants and any participant-directed plans sponsored by the Clients or any other material changes in relevant investment patterns occurred after the Contribution.

5. The Contributor lives and works in Massachusetts and has made prior donations to Massachusetts candidates for federal offices. The Contribution was consistent in size and motivation with those prior contributions. The Contributor decided to make the Contribution upon receiving an email solicitation form the Recipient's campaign. The Contributor's decision was based entirely on the personal friendship he maintained with the Recipient and the fact that he supported the Recipient in his efforts to run for Governor of Massachusetts. The reason for the Contribution was wholly unrelated to the investment advisory services provided to the Clients by the Applicants. The Contributor did not discuss the Contribution with the Recipient or with any of his staff, or with the Applicants or their other covered associates.

6. Applicants implemented pay-to-play policies and procedures (the ''Policies'') on March 8, 2011. In accordance with the Policies, the Contributor was required to pre-clear all contributions to federal, state or local candidates or organizations. The Contributor annually received training on the Policies. On January 6, 2014, the Contributor promptly self-reported the Contribution to the Applicants' Compliance Department upon completing his certification questionnaire in accordance with the Policies and realizing that he had failed to pre-clear the Contribution. On January 7, 2014, the Contributor requested a full refund of the Contribution from the Recipient's campaign. The Contributor received a full refund on January 14, 2014.

7. Applicants established an escrow account for the Clients and are currently segregating all compensation for advisory services paid to the Applicants attributable to the Clients' assets under management of the Applicants for the two-year period beginning on the Contribution Date.

8. After learning of the Contribution, the Applicants took steps to limit the Contributor's contact with any representative of a Client for the duration of the two-year period beginning on the Contribution Date, including informing the Contributor that he could have no contact with any representative of a Client other than making substantive presentations to the Client's representatives and consultants about the investment strategies that the Applicants manage for the Clients.

Applicants' Legal Analysis:

1. Rule 206(4)–5(a)(1) under the Advisers Act prohibits a registered investment adviser from providing investment advisory services for compensation to a government entity within two years after a contribution to an official of the government entity is made by the investment adviser or any covered associate of the investment adviser. Each Client is a ''government entity,'' as defined in rule 206(4)–5(f)(5), the Contributor is a ''covered associate'' as defined in rule 206(4)–5(f)(2), and the Official is an ''official'' as defined in rule 206(4)–5(f)(6).

2. Section 206A of the Advisers Act grants the Commission the authority to

''conditionally or unconditionally exempt any person or transaction . . . from any provision or provisions of [the Advisers Act] or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of [the Advisers Act].''

3. Rule 206(4)–5(e) provides that the Commission may exempt an investment adviser from the prohibition under rule 206(4)–5(a)(1) upon consideration of the factors listed below, among others:

(1) Whether the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Advisers Act;

(2) Whether the investment adviser: (i) Before the contribution resulting in the prohibition was made, adopted and implemented policies and procedures reasonably designed to prevent violations of the rule; and (ii) prior to or at the time the contribution which resulted in such prohibition was made, had no actual knowledge of the contribution; and (iii) after learning of the contribution: (A) Has taken all available steps to cause the contributor involved in making the contribution which resulted in such prohibition to obtain a return of the contribution; and (B) has taken such other remedial or preventive measures as may be appropriate under the circumstances;

(3) Whether, at the time of the contribution, the contributor was a covered associate or otherwise an employee of the investment adviser, or was seeking such employment;

(4) The timing and amount of the contribution which resulted in the prohibition;

(5) The nature of the election (*e.g.,* federal, state or local); and

(6) The contributor's apparent intent or motive in making the contribution which resulted in the prohibition, as evidenced by the facts and circumstances surrounding such contribution.

4. Applicants request an order pursuant to section 206A and rule 206(4)–5(e), exempting them from the two-year prohibition on compensation imposed by rule 206(4)–5(a)(1) with respect to investment advisory services provided to the Clients within the two-year period following the Contribution (the ''Order'').

5. Applicants submit that the exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

6. Applicants represent that the Clients determined to invest with Applicants and established those advisory relationships on an arm's length basis free from any improper influence as a result of the Contribution, and there was no connection between the Contribution and any past or potential business between the Clients and the Applicants.

7. Applicants note that causing the Applicants to provide advisory services without compensation for a two-year period would result in a financial loss to the Applicants of approximately $2.7 million—an amount that is 5,400 times the amount of the Contribution. Applicants contend that such a result is greatly disproportionate to the violation and is not consistent with the protection of investors or a purpose fairly intended by the policies and provisions of the Act.

8. Applicants note that they had adopted and implemented the Policies at the time of the Contribution and had the Policies in place at all times since the adoption of rule 205(4)–5. Applicants represent that they perform compliance testing and they have a rigorous and robust screening of prospective hires and internal employees being considered for covered associate positions.

9. Applicants represent that at no time did any employees or covered associates of the Applicants, or any executive or employee of the Applicants' affiliates, other than the Contributor, know of the Contribution prior to the Contributor's self-report to Applicants' compliance personnel.

10. Applicants represent that the Applicants and the Contributor took all available steps to promptly obtain a return of the Contribution after the Contributor's self-report to Applicants' compliance personnel, and the full amount of the Contribution was fully refunded within one week of the refund request. Applicants established an escrow account for all compensation for advisory services attributable to the Clients' assets under management of the Applicants for the two-year period beginning on the Contribution Date.

Applicants' Conditions:

Applicants agree that the Order will be subject to the following conditions:

1. The Contributor will be prohibited from soliciting investments from any ''government entity'' client or prospective ''government entity'' client for which the Recipient is an ''official'' as defined in rule 206(4)–5(f)(6) until December 21, 2015 (the ''Restricted Period'').

2. Notwithstanding Condition 1, the Contributor will be (i) permitted to respond to inquiries from, and make presentations to, any government entity client described in Condition 1 regarding accounts already managed by the Applicants as of December 21, 2013 and (ii) permitted to respond to inquiries from any government entity client regarding an account established with the Applicants by such government entity client after December 21, 2013. The Applicants will maintain a log of such interactions, which will be maintained and presented in an easily accessible place for a period of not less than five years, the first two years in an appropriate office of the Applicants, and will be available for inspection by the staff of the Commission.

3. The Contributor will receive written notification of these conditions and will provide a quarterly certification of compliance through the Restricted Period. Copies of the certifications will be maintained and preserved by the Applicants in an easily accessible place for a period of not less than five years, the first two years in an appropriate office of the Applicants and will be available for inspection by the Staff of the Commission.

4. The Applicants will conduct testing reasonably designed to prevent violations of the conditions of the Order and maintain records regarding such testing, which will be maintained and preserved in an easily accessible place for a period of not less than five years, the first two years in an appropriate office of the Applicants, and will be available for inspection by staff of the Commission.

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–26146 Filed 10–14–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76106; File No. SR–CBOE–2015–081]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Complex Orders

October 8, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the

''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 2, 2015, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] 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 seeks to amend its rules related to complex orders. The text of the proposed rule change is provided below.

(additions are in *italics;* deletions are [bracketed])

* * * * *

Chicago Board Options Exchange, Incorporated Rules

* * * * *

Rule 6.53C. Complex Orders on the Hybrid System

(a) Definition: No change.

(b) Types of Complex Orders: No change.

(c) Complex Order Book

No change.

(d) Process for Complex Order RFR Auction: Prior to routing to the COB or once on PAR, eligible complex orders may be subject to an automated request for responses (''RFR'') auction process.

(i) For purposes of paragraph (d):

(1) ''COA'' is the automated complex order RFR auction process.

(2) A ''COA-eligible order'' means a complex order that, as determined by the Exchange on a class-by-class basis, is eligible for a COA considering the order's marketability (defined as a number of ticks away from the current market), size, complex order type (as defined in paragraphs (a) and (b) above) and complex order origin types (as defined in subparagraph (c)(i) above). Complex orders processed through a COA may be executed without consideration to prices of the same complex orders that might be available on other exchanges.

(ii) Initiation of a COA: On receipt of (1) a COA-eligible order with two legs and request from the Trading Permit Holder representing the order or the PAR operator handling the order, as applicable, that it be COA'd or (2) a complex order with three or more legs *that (A) meets the class, marketability, size, and complex order type parameters of subparagraph (d)(i)(2) or (B) is designated as immediate or cancel and meets the class, marketability, and size parameters of subparagraph (d)(i)(2), in both cases* regardless of the order's routing parameters or handling instructions (except for orders routed for manual handling), the System will send an RFR message to all Trading Permit Holders who have elected to receive RFR messages. Notwithstanding clause (2) of this subparagraph (ii), the System will reject back to a Trading Permit Holder any complex order with three or more legs that includes a request pursuant to Interpretation and Policy .04 that the order not COA. Any complex order *described in subparagraph (d)(ii)(2)* [with three or more legs] on PAR will COA even if the PAR operator requests that the order not COA. The RFR message will identify the component series, the size and side of the market of the COA-eligible order and any contingencies, if applicable.

(iii)–(ix) No change.

* * * * *

The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of 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

Introduction

On September 4, 2014, the Securities and Exchange Commission (the ''Commission'') approved a proposal to amend Exchange rules related to complex orders (''SR–CBOE–2014–017'').[5] SR–CBOE–2014–017 was intended to limit a potential source of unintended Market-Maker risk related to how the Exchange's Hybrid Trading System (the ''System'')[6] calculates risk parameters under Rule 8.18 when complex orders leg into the market.[7] SR–CBOE–2014–017 accomplished this by, among other things, providing that a COA[8] would be initiated ''[o]n receipt of (1) a COA-eligible order with two legs and request from the Trading Permit Holder representing the order or the PAR operator handling the order, as applicable, that it be COA'd or (2) a complex order with three or more legs, regardless of the order's routing parameters or handling instructions (except for orders routed for manual handling), the System will send an RFR message to all Trading Permit Holders who have elected to receive RFR messages.''[9] However, the System was designed to filter complex orders

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Exchange filed the proposed rule change with the Securities and Exchange Commission (the ''Commission'') on February 19, 2014. On March 3, 2014, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change, as modified by Amendment No. 1 thereto, was published for comment in the **Federal Register** on March 10, 2014. *See* Securities Exchange Act Release No. 71648 (March 5, 2014), 79 FR 13359 (March 10, 2014) (SR–CBOE–2014–017) (''Notice''). On June 5, 2014, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change. After receiving two comment letters in support of the proposal, the Commission approved the proposed rule change on September 4, 2014. *See* Securities Exchange Act Release No. 72986, 79 FR 53798 (September 10, 2014) (SR–CBOE–2014–017).

[6] The System is a trading platform that allows automatic executions to occur electronically and open outcry trades to occur on the floor of the Exchange. To operate in this ''hybrid'' environment, the Exchange has a dynamic order handling system that has the capability to route orders to the trade engine for automatic execution and book entry, to Trading Permit Holder and PAR Official workstations located in the trading crowds for manual handling, and/or to other order management terminals generally located in booths on the trading floor for manual handling. Where an order is routed for processing by the Exchange order handling system depends on various parameters configured by the Exchange and the order entry firm itself.

[7] As noted by the Amendment, Rule 6.53C(c)(ii)(1) provides that complex orders in the complex order book (''COB'') may execute against individual orders or quotes in the book provided the complex order can be executed in full (or a permissible ratio) by the orders and quotes in the book. Rule 6.53C(d)(v)(1) provides that orders that are eligible for the complex order auction (''COA'') may trade with individual orders and quotes in the book provided the COA-eligible order can be executed in full (or a permissible ratio) by the orders and quotes in the book. COA is an automated request for responses (''RFR'') auction process. Upon initiation of a COA, the Exchange sends an RFR message to all Trading Permit Holders who have elected to receive RFR messages, which RFR message identifies the series, size and side of the market of the COA-eligible order and any contingencies. Eligible market participants may submit responses during a response time interval. At the conclusion of the response time interval, COA-eligible orders are allocated in accordance with Rule 6.53C(d)(v), including against individual orders and quotes in the book.

[8] COA is the automated complex order RFR auction process. *See* Rule 6.53C(d)(i)(1).

[9] *See* Securities Exchange Act Release No. 71648 (March 5, 2014), 79 FR 13359 (March 10, 2014) (SR–CBOE–2014–017) (''Notice'')

through the COA eligibility requirements of subparagraph (d)(i)(2) prior to initiating a COA pursuant to paragraph (d)(ii). Therefore, the rule change from SR–CBOE–2014–017 was not implemented; instead, the Exchange immediately began drafting this corrective filing, which proposes to amend Rule 6.53C(d)(ii) to provide that a COA will be initiated upon receipt of a complex order with three or more legs that (A) meets the class, marketability, size, and complex order type parameters of subparagraph (d)(i)(2) or (B) is designated as immediate or cancel and meets the class, marketability, and size parameters of subparagraph (d)(i)(2), in both cases (*i.e.,* both (A) or (B)) regardless of the order's routing parameters or handling instructions (except for orders routed for manual handling).

Proposal

Prior to implementing SR–CBOE–2014–017, it was discovered that the filing did not reference certain System requirements that must be met before a COA would be initiated (*e.g.,* the marketability and size requirements of Rule 6.53C(d)(i)(2), which are determined by the Exchange on a class-by-class basis). This was not the Exchange's intent. In fact, the Exchange stated in SR–CBOE–2014–017 that the Exchange may determine on a class-by-class basis which complex orders are eligible for COA, including by complex order type and origin type.[10] The Exchange simply failed to reference the size and marketability parameters also set forth in Rule 6.53C(d)(i)(2). In addition, the System was not designed to initiate a COA even if a complex order did not meet the marketability and size requirements determined by the exchange in accordance with paragraph (d)(i)(2). The System was designed to filter complex orders through the COA eligibility requirements of paragraph (d)(i)(2) prior to initiating a COA pursuant to paragraph (d)(ii).[11] As it was never the intention of the Exchange to COA all complex orders with three or more legs irrespective of the COA eligibility requirements of paragraph (d)(i)(2), the Exchange proposes to amend Rule 6.53(d)(ii) to provide that a COA will be initiated:

> On receipt of (1) a COA-eligible order with two legs and request from the Trading Permit Holder representing the order or the PAR operator handling the order, as applicable, that it be COA'd or (2) a complex order with three or more legs that (A) meets the class, marketability, size, and complex order type parameters of subparagraph (d)(i)(2) or (B) is designated as immediate or cancel and meets the class, marketability, and size parameters of subparagraph (d)(i)(2), in both cases regardless of the order's routing parameters or handling instructions (except for orders routed for manual handling), the System will send an RFR message to all Trading Permit Holders who have elected to receive RFR messages. Notwithstanding clause (2) of this subparagraph (ii), the System will reject back to a Trading Permit Holder any complex order with three or more legs that includes a request pursuant to Interpretation and Policy .04 that the order not COA. Any complex order described in subparagraph (d)(ii)(2) on PAR will COA even if the PAR operator requests that the order not COA. The RFR message will identify the component series, the size and side of the market of the COA-eligible order and any contingencies, if applicable.[12]

The Exchange notes that complex orders that are not COA-eligible are either routed to the Public Automatic Routing System (''PAR'') (*e.g.,* orders that do not meet the size, order type, and origin type parameters are routed to PAR) or routed to COB (*e.g.,* orders that do not meet the marketability parameter).

As noted in the rule text above, the Exchange is proposing to hardcode the complex order type parameter as it relates to complex orders with three or more legs that are entered as immediate or cancel (''IOC''). Currently, the Exchange does not COA complex orders that are entered as IOC. The effect of this proposed rule will be that complex orders with three or more legs that are designated as IOC and meet the class, marketability, and size parameters will always be eligible to COA. Complex orders with three or more legs that are entered as IOC are the orders that primarily create the Market-Maker risk described in SR–CBOE–2014–017.[13] Therefore, the Exchange believes it is appropriate for complex orders with three or more legs that are entered as IOC to COA. The Exchange notes that the class, marketability, size, and complex order type parameters will have the same settings whether the complex order has two or three or more legs, except, as noted, complex orders with three or more legs will not be prohibited from accessing COA based on an IOC designation. The Exchange notes that all market participants submitting complex orders with three or more legs that are marked IOC are treated the same—that is, assuming the complex orders with three or more legs that are marked IOC meet the class, marketability and size parameters, the orders shall COA. The Exchange also notes that market participants determine whether an order is marked IOC; thus, it is market participants that decide whether an order with three or more legs will COA.

Additionally, the proposed rule does not affect the outcome of SR–CBOE–2014–017 as it relates to complex orders with three or more legs that are entered as IOC because neither SR–CBOE–2014–017 nor this proposal allow the Exchange to limit access to COA for orders with three or more legs based on the IOC designation. In other words, a market participant entering a complex order with three or more legs designated as IOC would expect (based on SR–CBOE–2014–017 providing that all complex orders with three or more legs shall COA) the order to COA. This proposed rule does not change that expectation. The only difference is that this proposed rule specifies that the complex order with three or more legs that is marked IOC must also meet the class, marketability, and size parameters in order to COA.

Further, the proposed rule does not materially affect the outcome or purpose of SR–CBOE–2014–017; rather, the proposed rule seeks to clarify that a complex order must meet the eligibility requirements of Rule 6.53C(d)(i)(2) prior to the Exchange initiating a COA. The Exchange still believes the proposed rule will allow Market-Makers to better manage their risk in their appointments and that the reduced risk will encourage Market-Makers to quote larger size, which will increase liquidity and enhance competition in those classes. The Exchange also notes that regardless of marketability requirements of paragraph (d)(i)(2), an order that is not

[10] *See* SR–CBOE–2014–017 at 29 (referencing some of the parameters that determine whether a complex order is eligible for COA, including order type and origin code).

[11] As noted in SR–CBOE–2014–017, Rule 6.53C(d)(i)(2) provides that the Exchange may determine on a class-by-class basis which complex orders are eligible for COA, including by complex order type and origin type; however, SR–CBOE–2014–017 inadvertently failed to reference the marketability and size of a complex order which is also a parameter under paragraph (d)(i)(2). *Id.*

[12] This proposed change applies to Hybrid classes only, and not Hybrid 3.0 classes. The Exchange does not believe the risk discussed in this rule filing is present in Hybrid 3.0 classes. The proposed rule change amends Rule 6.53C, Interpretation and Policy .10 to indicate that complex orders in Hybrid 3.0 classes, regardless of the number of legs, will COA in the same manner they currently do.

[13] The Exchange notes that the rule text provided for in SR–CBOE–2014–017 essentially required all complex orders with three or more legs to COA (including orders entered as IOC), but the Exchange never implemented the requirement with regards to complex orders with three or more legs because, as previously noted, it was not the Exchange's intention to COA all complex orders with three or more legs irrespective of the COA eligibility requirements. As soon as the Exchange realized SR–CBOE–2014–017 did not accurately reflect the Exchange's intentions, the Exchange began drafting this rule filing.

marketable will not be executed. The proposed rule change is simply intended to clarify when a COA will be initiated and to reflect the design of the System, which is set-up to filter complex orders through the COA eligibility requirements prior to the initiation of a COA. Additionally, the Exchange believes the proposed rule is non-controversial because, as with the current rule, all market participants submitting orders with three or more legs will be treated equally (*i.e.,* for orders with three or more legs the Exchange will not have the flexibility to limit COA-eligibility to certain origin types; rather, the Exchange will, by rule, accept all origin types for complex orders with three or more legs).

The Exchange will announce the implementation date of the proposed rule change in a Regulatory Circular to be published no later than 90 days following the effective date of this filing. The implementation date will be no later than 180 days following the effective date of this filing.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[14] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [15] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[16] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change serves to clarify SR–CBOE–2014–017 and does not materially affect the outcome of SR–CBOE–2014–017. As noted above, it was not the intent of SR–CBOE–2014–017 to COA all complex orders irrespective of the eligibility parameters of Rule 6.53C(d)(i)(2); rather, the filing was intended to reflect the System's design, which filters complex orders through the COA eligibility requirements of paragraph (d)(i)(2) prior to initiating a COA. Therefore, under the proposed rule, complex orders with three or more legs will need to meet the class, marketability, size, and order type parameters of subparagraph (d)(i)(2) in order to COA, except the Exchange, by rule, will not be able to limit COA-eligibility based on a complex order with three or more legs being entered as IOC. Additionally, complex Orders with three or more legs will filter through the origin type parameter of subparagraph (d)(i)(2); however, for complex orders with three or more legs the Exchange, by rule, will not have the flexibility to limit COA-eligibility to certain origin types. This is consistent with SR–CBOE–2014–017 because SR–CBOE–2014–017 also did not provide the Exchange the flexibility to limit COA-eligibility for complex orders with three or more legs to certain origin types.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the rule change does not materially affect the outcome or purpose of SR–CBOE–2014–017. SR–CBOE–2014–017 was designed to reduce risk to Market-Makers that are quoting in the regular market, and this proposed rule change will not affect that outcome. In addition, Rule 6.53C(d)(ii), as amended by SR–CBOE–2014–017, clearly provides that the origin type of a complex order with three or more legs has no bearing on whether the complex order will COA, and this proposed rule does not modify how different origin types will be treated for purposes of COA. This proposed rule also does not affect the outcome of SR–CBOE–2014–017 as it relates to complex orders with three or more legs that are entered as IOC because neither SR–CBOE–2014–017 nor this proposal allow the Exchange to limit access to COA for orders with three or more legs based on the IOC designation. In other words, a market participant entering a complex order with three or more legs designated as IOC would expect (based on SR–CBOE–2014–017 providing that all complex orders with three or more legs shall COA) the order to COA. This proposed rule does not change that expectation. The only difference is that this proposed rule specifies that the complex order with three or more legs that is marked IOC must also meet the class, marketability, and size parameters in order to COA. This proposed rule simply seeks to apply the class, marketability, size, and complex order type parameters of Rule 6.53C(d)(i)(2) to complex orders with three or more legs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. 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) of the Act [17] and Rule 19b–4(f)(6) [18] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2015–081 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] *Id.*

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6).

Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2015–081. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*.) Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2015–081 and should be submitted on or before November 5, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–26156 Filed 10–14–15; 8:45 am]

BILLING CODE 8011–01–P

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76108; File No. SR–OCC–2015–015]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Concerning the Requirement for Clearing Members To Participate in Operation Testing

October 8, 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 October 2, 2015, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change by OCC codifies the requirement for clearing members to participate in operational testing, including testing of OCC's business continuity and disaster recovery plans (''BCP Testing'').

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

This proposed rule change would codify OCC's current requirement for clearing members to participate in operational testing, including testing of OCC's BCP Testing. Article V of OCC's By-Laws sets forth OCC's initial membership requirements. Pursuant to Interpretation and Policy .02(b) of Article V, Section 1 of OCC's By-Laws, an applicant for clearing membership must demonstrate that it is operationally capable of: (i) Processing expected volumes and values of transactions cleared by the clearing member within required time frames, including at peak times and on peak days; (ii) fulfilling collateral, payment, and delivery obligations as required by OCC; and (iii) participating in applicable default management activities, as may be required by OCC and in accordance with applicable laws and regulations.[3]

Once a firm becomes a member of OCC, Chapter II of OCC's Rules sets forth additional operational requirements. In particular, OCC Rule 214(d) requires clearing members to maintain their operational capabilities as a continuing obligation of membership.[4] In accordance with such requirements, OCC annually conducts BCP Testing with certain clearing members through coordinated testing. Recently, the Commission promulgated Regulation System Compliance and Integrity (''Reg. SCI''), which would require OCC to establish standards to designate members[5] and require participation by such designated members in scheduled BCP Testing with OCC on an annual basis.[6] OCC is proposing to adopt Rule 218 so that OCC's Rules clearly articulate OCC's requirement with respect to BCP Testing.

Proposed Rule 218 would increase transparency regarding and ensure OCC's practice with respect to BCP Testing is consistent with Reg. SCI by articulating OCC's right to: (i) Designate clearing members required to participate in BCP Testing; (ii) determine the scope of such BCP Testing; and (iii) require clearing members to comply with the subject BCP Testing within specified timeframes. In connection therewith, OCC is planning to refine the criteria that it currently uses to designate firms for BCP Testing. For example, while OCC will continue to rely on volume thresholds to mandate participation in annual BCP Testing, OCC will also take into account additional factors when designating firms for BCP Testing, including but not limited to: (i) The nature of interconnectedness based on a firm's approved business activities; (ii) the existence of significant operational issues during the past twelve months, and (iii) past performance with respect to BCP Testing. Clearing members will be informed of the specific standards that will be used by OCC, along with

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* OCC's By-Laws, Article V, Section 1, Interpretation and Policy .02(b).

[4] *See* OCC Rule 214(d). OCC Rule 214(d) requires clearing members to maintain their ability to, among other things: (i) Process expected volumes and values of transactions cleared by the clearing member within required time frames, including at peak times and on peak days; (ii) fulfill collateral, payment, and delivery obligations as required by OCC; and (iii) participate in applicable default management activities, as may be required by OCC and in accordance with applicable laws and regulations.

[5] 17 CFR 242.1004(a). In adopting Reg. SCI, the Commission determined not to require covered entities to notify the Commission of its designations or the standards that will be used in designating its members, recognizing instead that each entity's standards, designations, and updates, if applicable, would be part of its records and, therefore, available to the Commission and its staff upon request. *See* 79 FR 72350.

[6] 17 CFR 242.1004(a) and (b).

any updates or changes to these standards, through established methods of communication between OCC and its firms. Likewise, clearing members will be notified in advance that they've been designated to participate in BCP Testing for the upcoming year, and will be provided details concerning the nature of such testing as the particular test plans are determined.

OCC believes the proposed rule would have no impact on OCC clearing members relative to what clearing members are currently required to do. As described above, OCC already requires certain clearing members to participate in BCP Testing on an annual basis. The proposed rule codifies OCC's practice and provides further clarity and transparency to OCC clearing members to ensure consistency with Reg. SCI.

2. Statutory Basis

OCC believes that the proposed rule change is consistent with applicable provisions of the Securities and Exchange Act (''Act'') and regulations promulgated thereunder. OCC believes providing further transparency regarding the requirement for clearing members to take part in its BCP Testing annually will help avoid ambiguity regarding such requirements, and will further ensure that business continuity and disaster recovery plans between OCC and its clearing members function as intended during an emergency. As such, OCC believes the proposed rule change would facilitate the prompt and accurate clearance and settlement of securities transactions and protect investors and the public interest consistent with Section 17A(b)(3)(F) of the Act,[7] and foster the objectives of the Commission under Reg. SCI by helping to ensure resilient and available markets.[8]

Codifying OCC's current practice of requiring clearing members to engage in BCP Testing annually is also consistent with Rule 17Ad–22(d)(1), requiring that OCC provide for a well-founded, transparent, and enforceable legal framework for each aspect of its activities in all relevant jurisdictions, as it makes this obligation transparent.[9] Finally, the proposed rule change is not inconsistent with any rules of OCC, including those proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.[10] OCC believes the proposed rule change would not unfairly inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another user because the proposed rule change would apply to all clearing members.

For the foregoing reasons, OCC believes that the proposed rule change is in the public interest, would be consistent with the requirements of the Act applicable to clearing agencies, and would not impose a burden on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been 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 and the public interest;

(ii) Impose an 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) of the Act and Rule 19b–4(f)(6) thereunder.

At any time within 60 days of the filing of this rule change, the Commission summarily may temporarily suspend the change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

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 Commissions Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–OCC–2015–015 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–OCC–2015–015. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549, 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 OCC and on OCC's Web site at *http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_15_015.pdf.*

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–OCC–2015–015 and should be submitted on or before November 5, 2015.

For the Commission by the Division of Trading and Markets, pursuant to delegated Authority.[11]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–26154 Filed 10–14–15; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 17 CFR 242.1004(a) and (b).

[9] 17 CFR 240.17Ad–22(d)(1).

[10] 15 U.S.C. 78–q1(b)(3)(I).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76114; File No. SR–NYSEArca–2015–89]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services

October 8, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that, on October 1, 2015, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services (''Fee Schedule''). The Exchange proposes to implement the change on October 1, 2015. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Routable Retail Order Tier (''Routable Retail'') applicable to Tape C Securities on the Fee Schedule. Currently, the Routable Retail pricing tier provides ETP Holders, including Market Makers, that (1) provide liquidity of 0.20% or more of the US consolidated average daily volume (''CADV'') during a billing month across all Tapes, (2) maintain a ratio during a billing month across all Tapes of executed provide liquidity that is eligible to route away from the Exchange (''Routable Orders'') [3] to total executed provide liquidity of 55% or more, and (3) execute an ADV of Retail Orders [4] that provide liquidity during the month that is 0.10% or more of the US CADV, with a credit of $0.0032 per share for Routable and non-Routable Orders in Tape C Securities that provide liquidity to the Book and a fee of $0.0030 per share in Tape C Securities that take liquidity from the Book.[5]

The Exchange proposes to lower the per share fee for Routable and non-Routable Orders in Tape C Securities that take liquidity from the Book to $0.0029 per share.[6] The Exchange proposes to implement the change on October 1, 2015.

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any problems that ETP Holders would have in complying with the proposed changes.

[3] ETP Holders are able to include an instruction with their orders to determine whether the order will be eligible to route to an away exchange (*e.g.,* to execute against trading interest with a better price than on the Exchange) or, for example, be cancelled if routing would otherwise occur.

[4] Retail Orders are defined in the Fee Schedule as orders designated as retail orders and that meet the requirements of Rule 7.44(a)(3), but that are not executed in the Retail Liquidity Program. The Retail Liquidity Program is a pilot program designed to attract additional retail order flow to the Exchange for NYSE Arca-listed securities and securities traded pursuant to unlisted trading privileges while also providing the potential for price improvement to such order flow. *See* Rule 7.44. *See* Securities Exchange Act Release No. 71176 (December 23, 2013), 78 FR 79524 (December 30, 2013) (SR–NYSEArca–2013–107).

[5] *See* Basic Rate. Basic Rates are applicable when tier rates do not apply.

[6] The Exchange recently submitted a proposed rule change to make a number of changes to the Fee Schedule to be implemented on October 1, 2015, including lowering the fee for orders in Tape C Securities tiers that take liquidity from the Book in certain pricing tiers. The Exchange intended to include the change proposed by this filing in the earlier filing but inadvertently failed to do so and is therefore submitting this proposed rule change separately. *See* SR–NYSEArca–2015–87.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes the proposed change to the Routable Retail Order Tier is reasonable and equitably allocated because it would apply to all Routable and non-Routable Orders sent by ETP Holders and Market Makers in Tape C Securities that take liquidity from the Book and the proposed lower fee would serve to incentivize these market participants to direct order flow to the Exchange rather than to a competing market. The Exchange believes that it is equitable and not unfairly discriminatory to charge a lower fee to ETP Holders, including Market Makers, because these market participants make significant contributions to market quality by providing higher volumes of liquidity, which benefits all market participants. The Exchange further believes that the proposed fee change is equitable and not unfairly discriminatory because the lowered fees would apply to all similarly situated ETP Holders, including Market Makers, equally.

Additionally, the Exchange, in an earlier filing, proposed to lower the per share fee for orders in Tape C Securities that take liquidity from the Book in a number of pricing tiers and is extending that same fee to the Routable Retail Order Tier which it intended to do in the earlier filing.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition. For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[9] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed fee change will encourage competition,

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

[9] 15 U.S.C. 78f(b)(8).

including by attracting additional liquidity to the Exchange, which will make the Exchange a more competitive venue for, among other things, order execution and price discovery. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change promotes a competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [10] of the Act and subparagraph (f)(2) of Rule 19b–4 [11] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [12] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2015–89 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–NYSEArca–2015–89. 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–NYSEArca–2015–89 and should be submitted on or before November 5, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–26149 Filed 10–14–15; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(2).

[12] 15 U.S.C. 78s(b)(2)(B).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76115; File No. SR–BOX–2015–32]

Self-Regulatory Organizations; BOX Options Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule on the BOX Market LLC Options Facility

October 8, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 30, 2015, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal 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 the Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the Fee Schedule to make changes to Section I.A., Exchange Fees for Non-Auction Transactions and Section II.B., Liquidity Fees and Credits for Facilitation and Solicitation transactions on the BOX Market LLC (''BOX'') options facility. While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on October 1, 2015. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

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

The Exchange proposes to make changes to Section I.A., Exchange Fees for Non-Auction Transactions and Section II.B., Liquidity Fees and Credits for Facilitation and Solicitation transactions.

Non-Auction Transactions

First, the Exchange proposes to raise certain fees for non-auction transactions in Non-Penny Pilot Classes which take liquidity from Public Customers. For all non-auction transactions, fees and credits are assessed depending upon three factors: (i) The account type of the Participant submitting the order; (ii) whether the Participant is a liquidity provider or liquidity taker; and (iii) the account type of the contra party. Non-Auction Transactions in Penny Pilot Classes are assessed different fees or credits than Non-Auction Transactions in Non-Penny Pilot Classes. The Exchange proposes to raise the fee assessed for Professional Customers and Broker Dealers taking liquidity from a Public Customer in a Non-Penny Pilot Class to $1.07 from $0.99. For Market Makers taking liquidity from a Public Customer in a Non-Penny Pilot Class, the Exchange proposes to raise the fee assessed to $1.03 from $0.90.

The fees for Non-Auction Transactions will be as follows:

Account type	Contra party	Penny pilot classes		Non-Penny pilot classes	
		Maker fee/ credit	Taker fee/ credit	Maker fee/ credit	Taker fee/ credit
Public Customer	Public Customer	$0.00	$0.00	$0.00	$0.00
	Professional Customer/Broker Dealer	0.00	0.00	0.00	0.00
	Market Maker	0.00	0.00	0.00	0.00
Professional Customer or Broker Dealer	Public Customer	0.60	0.64	0.95	1.07
	Professional Customer/Broker Dealer	0.25	0.40	0.35	0.40
	Market Maker	0.25	0.44	0.35	0.44
Market Maker	Public Customer	0.51	0.55	0.85	1.03
	Professional Customer/Broker Dealer	0.00	0.05	0.00	0.10
	Market Maker	0.00	0.29	0.00	0.29

The Exchange then proposes to amend the structure of the Tiered Volume Rebates for Public Customers in Non-Auction Transactions (Section I.A.1.) and distinguish between whether the Public Customer is a liquidity provider or liquidity taker within the transaction. While a majority of the rebate levels will remain unchanged, at the highest volume tier (65,001 contracts or greater) in Non-Penny Pilot Classes the Exchange proposes to award transactions where the Public Customer is a liquidity maker a per contract rebate of $0.90. Transactions where the Public Customer is a liquidity taker will continue to be awarded a $0.70 rebate.

The new per contract rebates for Public Customers in Non-Auction Transactions as set forth in Section I.A.1. of the BOX Fee Schedule will now be as follows:

Public customer monthly ADV	Per contract rebate			
	Penny pilot classes		Non-Penny pilot classes	
	Maker	Taker	Maker	Taker
65,001 contracts and greater	($0.40)	($0.40)	($0.90)	($0.70)
40,001 contracts to 65,000 contracts	(0.25)	(0.25)	(0.50)	(0.50)
15,001 contracts to 40,000 contracts	(0.15)	(0.15)	(0.40)	(0.40)
1 contract to 15,000 contracts	0.00	0.00	0.00	0.00

Liquidity Fees and Credits

The Exchange then proposes to amend Section II.B of the BOX Fee Schedule, liquidity fees and credits for Facilitation and Solicitation Transactions. Specifically, the Exchange proposes to establish higher liquidity credits for both Facilitation and Solicitation transactions in Penny Pilot and Non-Penny Pilot Classes. The Exchange proposes to raise the credit for removing liquidity in Facilitation and Solicitation transactions to $1.00 from $0.95 in Non-Penny Pilot Classes, and to $0.45 from $0.40 in Penny Pilot Classes.

The liquidity fees and credits for Facilitation and Solicitation transactions will be as follows:

Facilitation and solicitation transactions	Fee for adding liquidity (all account types)	Credit for removing liquidity (all account types)
Non-Penny Pilot Classes	$0.95	($1.00)

Facilitation and solicitation transactions	Fee for adding liquidity (all account types)	Credit for removing liquidity (all account types)
Penny Pilot Classes	0.40	(0.45)

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(4) and 6(b)(5)of the Act,[5] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The proposed changes will allow the Exchange to be competitive with other exchanges and to apply fees and credits in a manner that is equitable among all BOX Participants. Further, the Exchange operates within a highly competitive market in which market participants can readily direct order flow to any other competing exchange if they determine fees at a particular exchange to be excessive.

Non-Auction Transactions

The Exchange believes it is equitable, reasonable and not unfairly discriminatory to assess fees according to the account type of the Participant originating the order and the contra party. This fee structure has been in place on the Exchange for the past year and the Exchange is simply adjusting certain fees within the structure. The result of this structure is that a Participant does not know the fee it will be charged when submitting certain orders. Therefore, the Participant must recognize that it could be charged the highest applicable fee on the Exchange's schedule, which may, instead, be lowered or changed to a credit depending upon how the order interacts.

The Exchange believes raising the non-auction transaction fees for Professionals, Broker Dealers and Market Makers when taking liquidity from a Public Customer in a Non-Penny Pilot Class is reasonable, equitable and not unfairly discriminatory. The Exchange believes that participants taking liquidity from the BOX Book are willing to pay a higher fee for liquidity discovery in these less liquid names. Further, the Exchange believes the fees proposed are reasonable and in line with similar fees at a competing venue.[6]

Raising these fees is intended to partially offset the higher Public Customer liquidity maker rebate also proposed within this filing. The Exchange believes it is reasonable, equitable and not unfairly discriminatory to give Public Customers a rebate and, accordingly, charge non-Public Customers a higher fee when their orders execute against a Public Customer. The securities markets generally, and BOX in particular, have historically aimed to improve markets for investors and develop various features within the market structure for public customer benefit. Similar to the payment for order flow and other pricing models that have been adopted by the Exchange and other exchanges to attract Public Customer order flow, the Exchange increases fees to non-Public Customers in order to provide incentives for Public Customers. The Exchange believes that providing additional incentives for Public Customers to make liquidity is reasonable and, ultimately, will benefit all Participants trading on the Exchange by attracting Public Customer order flow.

The Exchange believes that charging Professional Customers and Broker Dealers $1.07 for taking liquidity against Public Customers in Non-Penny Pilot Classes is reasonable and comparable to similar fees at competing venues.[7] Further, the Exchange notes that Participants are only charged these higher fees when the Participant takes liquidity from a Public Customer in a Non-Penny Pilot Class. The Exchange also believes that charging Professional Customers and Broker Dealers higher fees than Public Customers for all non-auction transactions is equitable and not unfairly discriminatory. Professional Customers, while Public Customers by virtue of not being Broker Dealers, generally engage in trading activity more similar to Broker Dealer proprietary trading accounts (submitting more than 390 standard orders per day on average). The Exchange believes the higher level of trading activity from these Participants will draw a greater amount of BOX system resources than that of non-professional, Public Customers. Because this higher level of trading activity will result in greater ongoing operational costs, the Exchange aims to recover its costs by assessing Professional Customers and Broker Dealers higher fees for transactions.

The Exchange believes that charging Market Makers $1.03 for taking liquidity against Public Customers in Non-Penny Pilot Classes is reasonable and comparable to similar fees at competing venues.[8] Further, the Exchange notes that most Market Makers currently qualify for the Tiered Volume Rebate in Non-Auction transactions in Section I.A.1., which will result in a lower per contract fee for all the Participant's non-auction transactions. The Exchange also believes it is equitable and not unfairly discriminatory for BOX Market Makers to be assessed lower fees than Professional Customers and Broker Dealers for non-auction transactions because of the significant contributions to overall market quality that Market Makers provide. Specifically, Market Makers can provide higher volumes of liquidity, and lowering their fees will help attract a higher level of Market Maker order flow to the BOX Book and create liquidity, which the Exchange believes will ultimately benefit all Participants trading on BOX.

The Exchange believes amending the structure of the Tiered Volume Rebates for Public Customers in Non-Auction Transactions (Section I.A.1.) to distinguish whether the Public Customer is a liquidity provider or liquidity taker is reasonable, equitable and not unfairly discriminatory. The volume thresholds and applicable rebates are meant to incentivize Public Customers to direct order flow to the Exchange to obtain the benefit of the rebate, which will in turn benefit all market participants by increasing liquidity on the Exchange. Other exchanges employ similar incentive

[5] 15 U.S.C. 78f(b)(4) and (5).

[6] *See* the NASDAQ Stock Market LLC (''NOM''), NYSE Arca, Inc (''Arca'') and International Securities Exchange (''ISE'') Fee Schedules.

[7] Under the NOM and Arca Fee Schedules Broker Dealers and Professional Customers are charged $0.94 for removing liquidity in Non-Penny Pilot Classes.

[8] Under the ISE Fee Schedule Market Makers are charged $0.95 ($0.25 exchange fee combined with a $0.70 Payment for Order Flow Fee) and under the NOM Fee Schedule they are charged $0.94.

programs [9] and the Exchange believes that the proposed change to the rebate structure is reasonable and competitive when compared to incentive structures at other exchanges.

The proposed structure is intended to attract Public Customer order flow to the Exchange by offering these Participants incentives to submit their Non-Auction orders to the Exchange. The practice of providing additional incentives to increase order flow is, and has been, a common practice in the options markets.[10] Further, the Exchange believes it is appropriate to provide incentives for market participants which will result in greater liquidity and ultimately benefit all Participants trading on the Exchange.

The Exchange believes awarding a $0.90 rebate to those Public Customers who make liquidity in Non-Penny Pilot classes and achieve the highest volume tier during a month (65,001 contracts or greater) is reasonable, equitable and not unfairly discriminatory. As stated above, other exchanges employ similar incentive programs,[11] and the Exchange believes that the $0.90 maker rebate for Non-Penny Pilot Classes is reasonable and competitive when compared to credits and rebates at other exchanges. The Exchange also believes it is equitable and not unfairly discriminatory to only offer the higher rebate to Public Customers that have an average daily volume of 65,001 contracts or greater during the month. The Exchange believes offering a $0.90 rebate at the highest volume tier will incentivize all Public Customers to increase their non-auction order flow in these classes to the Exchange to achieve the higher rebate, which will in turn benefit all participants trading on BOX.

The Exchange continues to believe it is equitable and not unfairly discriminatory to offer these rebate structures to Public Customers in Non-Auction transactions. The practice of incentivizing increased Public Customer order flow is common in the options markets. The Exchange believes the proposed changes to the structure and per contract rebate for Public Customers who achieve the highest volume tier is equitable and not unfairly discriminatory as all Public Customers will benefit from the opportunity to obtain a greater rebate.

The Exchange believes it is reasonable to offer a higher per contract rebate for transactions in Non-Penny Pilot Classes compared to Penny Pilot Classes because Non-Penny Pilot Classes are typically less actively traded and have wider spreads. The Exchange believes that offering a higher rebate will incentivize Public Customer order flow in Non-Penny Pilot issues on the Exchange, ultimately benefitting all Participants trading on BOX.

Liquidity Fees and Credits

BOX believes that the changes to Facilitation and Solicitation transaction liquidity credits are equitable and not unfairly discriminatory in that they apply to all categories of participants and across all account types. The Exchange notes that liquidity fees and credits on BOX are meant to offset one another in any particular transaction. The liquidity fees and credits do not directly result in revenue to BOX, but will simply allow BOX to provide the credit incentive to Participants to attract order flow. Raising the credits for removing liquidity will result in BOX crediting a Participant a higher amount for removing liquidity than it received from collecting the corresponding liquidity fee. The Exchange believes it is appropriate to provide incentives to market participants to use the Facilitation and Solicitation auction mechanisms, because doing so may result in greater liquidity on BOX which would benefit all market participants.

The Exchange also believes the liquidity fees and credits are reasonable and competitive when compared to similar fees at competing venues.[12] Under the proposed changes, Initiators to the Facilitation and Solicitation auctions will never pay a fee and will only receive a credit of $0.45 in Penny Pilot Classes and $1.00 in Non-Penny Pilot Classes for the portion of the order that interacts with a Responder. In comparison, under the ISE Fee Schedule all Initiators except Public Customers are charged a $.20 fee for Penny Pilot Classes and $0.20 to $0.25 fee for Non-Penny Pilot Classes.[13]

The Exchange believes that the proposed difference between what an Initiator will pay compared to what a Responder will pay is reasonable, equitable and not unfairly discriminatory. Specifically, the difference is in line with the credits and fees at the ISE.[14] While Initiators on the ISE are assessed a fee, the ISE then uses volume based incentives that can greatly reduce the fees these Participants are charged. All Facilitation and Solicitation fees are subject to a fee cap of $75,000,[15] allowing Participants who use these auctions to potentially reduce their per contract fee to a much lower rate. In addition, depending on their overall monthly volume, Initiators can receive a rebate of $0.05 to $0.11 per contract for their orders.[16] Finally, if the order executes against a responder within one of these mechanisms the Initiator will receive an additional rebate of $0.15 for Penny Pilot Classes. For Non-Penny Pilot Classes, the Initiator will typically receive a proportional PFOF credit to their pool which they can allocate as they so choose.[17]

In conclusion, the Exchange believes the proposed Facilitation and Solicitation credits are reasonable when compared to fees and credits for similar mechanisms at the ISE. While it is difficult to exactly equate these two fee structures, most Responders on ISE (Market Makers interacting with Customer Orders) will pay $0.47 (Penny Pilot Classes) and $1.17 (Non-Penny Pilot Classes) while most Responders on

[9] *See* Section B of the NASDAQ OMX PHLX,(''PHLX'') Pricing Schedule entitled ''Customer Rebate Program;'' ISE Gemini, LLC (''Gemini'') Qualifying Tier Thresholds (page 6 of the ISE Gemini Fee Schedule); and Chicago Board Options Exchange, Inc. (''CBOE'') Volume Incentive Program (VIP). CBOE's Volume Incentive Program (''VIP'') pays certain tiered rebates to Trading Permit Holders for electronically executed multiply-listed option orders which include AIM orders. Note that some of these exchanges base these rebate programs on the percentage of total national Public Customer volume traded on their respective exchanges, which the Exchange is not proposing to do.

[10] *See* BATS Exchange, Inc. (''BATS'') BATS Options Exchange Fee Schedule ''Standard Rates''; CBOE Fee Schedule ''Volume Incentive Program'' (page 4); Gemini Schedule of Fees, Section I. Regular Order Fees and Rebates ''Penny Symbols and SPY, and Non-Penny Symbols'' (page 4); Miami International Securities Exchange, LLC (''MIAX'') Fee Schedule Section I(a)(i) ''Market Maker Transaction Fees'' and ''Market Maker Sliding Scale'', and Section I(a)(iii) ''Priority Customer Rebate Program''; NASDAQ OMX BX, Inc. (''BX Options'') Chapter XV, Section 2 BX Options Market—Fees and Rebates; NASDAQ OMX PHLX,(''PHLX''), Pricing Schedule Section B, ''Customer Rebate Program''; NOM Chapter XV, Section 2 NASDAQ Options Market—Fees and Rebates; NYSE Amex, Inc. (''AMEX'') Fee Schedule Section I.C. NYSE Amex Options Market Maker Sliding Scale—Electronic; and Arca Options Fees and Charges, ''Customer and Professional Customer Monthly Posting Credit Tiers and Qualifications for Executions in Penny Pilot Issues'' (page 4).

[11] *See* supra, note 9.

[12] See ISE Schedules of Fees.

[13] The ISE uses the term ''Crossing Order'' for orders executed on the Exchange's Facilitation and Solicitation mechanisms.

[14] While it is difficult to exactly equate these two fee structures at the ISE, depending on volume Initiators could receive a credit per contract for all Facilitation and Solicitation orders, and an additional $0.15 break up credit (Penny Pilot Classes) or PFOF credit (Non-Penny Pilot Classes) .14 [sic] In comparison under the BOX proposal Initiators would only receive a credit for the portion of the order that interacted with a Response, and the credit would be $0.45 (Penny Pilot Classes) or $1.00 (Non-Penny Pilot Classes).

[15] See Section IV.H of the ISE Fee Schedule.

[16] See Section IV.A of the ISE Fee Schedule.

[17] Under Section IV.D of the ISE Fee Schedule the fee for PFOF is $0.70 and the fee will be rebated proportionally to the members that paid the fee on a monthly basis.

BOX (Market Makers interacting with Customer Orders) will pay $0.60 (Penny Pilot Classes) and $1.15 (Non-Penny Pilot Classes). At the ISE, depending on volume, Initiators in this scenario could receive a credit per contract for all Facilitation and Solicitation orders, and an additional $0.15 break up credit (Penny Pilot Classes) or PFOF credit (Non-Penny Pilot Classes).[18] In comparison, under the BOX proposal, Initiators would only receive a credit for the portion of the order that interacted with a Response, and the credit would be $0.40 [sic] (Penny Pilot Classes) or $0.95 [sic] (Non-Penny Pilot Classes).

Finally, the Exchange believes it is reasonable to establish different fees and credits for Facilitation and Solicitation transactions in Penny Pilot Classes compared to transactions in Non-Penny Pilot Classes. The Exchange makes this distinction throughout the BOX Fee Schedule, including the liquidity fees and credits for PIP and COPIP Transactions. The Exchange believes it is reasonable to establish higher fees and credits for Non-Penny Pilot Classes because these Classes are typically less actively traded and have wider spreads. The Exchange believes that offering a higher rebate will incentivize order flow in Non-Penny Pilot issues on the Exchange, ultimately benefitting all Participants trading on BOX.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the proposed adjustments to fees and rebates in the Non-Auction Transactions fee structure will not impose a burden on competition among various Exchange Participants. The Exchange believes that a fee structure that is determined according to whether the order removes or adds liquidity, the account type of the Participant submitting the order, and the contra party will result in Participants being charged appropriately for these transactions is designed to enhance competition in Non-Auction transactions on BOX. Submitting an order is entirely voluntary and Participants can determine which type of order they wish to submit, if any, to the Exchange. Further, the Exchange believes that this proposal will enhance competition between exchanges because it is designed to allow the Exchange to better compete with other exchanges for order flow.

The Exchange does not believe that the proposed liquidity credits will burden competition by creating such a disparity between the fees an Initiating Participant in the Facilitation and Solicitation auction pays and the fees a competitive responder pays that would result in certain Participants being unable to compete with initiators. In fact, the Exchange believes that these changes will not impair these Participants from adding liquidity and competing in Facilitation and Solicitation auction transactions and will help promote competition by providing incentives for market participants to submit customer order flow to BOX and thus, create a greater opportunity for customers to receive additional price improvement.

The Exchange also believes that this proposal will enhance competition between exchanges because it is designed to allow the Exchange to better compete with other exchanges for Facilitation and Solicitation auction order flow.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act[19] and Rule 19b–4(f)(2) thereunder,[20] because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further 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–BOX–2015–32 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–BOX–2015–32. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2015–32, and should be submitted on or before November 5, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–26148 Filed 10–14–15; 8:45 am]

BILLING CODE 8011–01–P

[18] The Exchange notes that the language used in the ISE Fee Schedule states that there will be a proportional credit put into the monthly pool that the Initiator can then allocate. With this discretion the PFOF credit for these orders could be higher than $0.70.

[19] 15 U.S.C. 78s(b)(3)(A)(ii).

[20] 17 CFR 240.19b–4(f)(2).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76105; File No. SR–FINRA–2015–022]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change To Amend FINRA Rule 2210 (Communications With the Public)

October 8, 2015.

I. Introduction

On June 29, 2015, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend FINRA Rule 2210, Communications With the Public. The proposed rule change was published for comment in the **Federal Register** on July 13, 2015.[3] The Commission received nine comment letters on the proposed rule change [4] and a response to the comments from FINRA.[5] On August 13, 2015, FINRA extended the time period for Commission action on this proposed rule change to October 9, 2015. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

FINRA proposes to amend Rule 2210 to require each of its member's Web sites to include a readily apparent reference and hyperlink to BrokerCheck [6] on: (i) The initial Web page that the member intends to be viewed by retail investors; and (ii) any other Web page that includes a professional profile of one or more registered persons who conducts business with retail investors. These requirements would not apply to a member that does not provide products or services to retail investors, or to a directory or list of registered persons limited to names and contact information.

III. Comment Letters

Commenters generally support FINRA's proposal.[7] As discussed below, some commenters recommend that the proposal be expanded and include additional requirements, and some request additional guidance regarding the application of the proposal.

Requests for Additional Requirements

Some commenters state that FINRA should require a reference and hyperlink to BrokerCheck in members' and registered persons' emails and account statements to customers.[8] In its response letter, FINRA states that it did not propose these requirements because at this time FINRA believes such requirements would be overly burdensome and require significant system and operational changes without commensurate benefits.[9] Some commenters state that FINRA should require firms to include BrokerCheck links on certain third party Web sites.[10] In response, FINRA states that it recognizes the difficulties and costs associated with including links on third-party Web sites, and therefore has determined to limit the application of the proposed rule to members' Web sites at this time.[11] However, FINRA notes that it will continue to monitor investors' awareness and use of BrokerCheck and consider whether to pursue further rulemaking.[12]

Some commenters state that FINRA should require deep links to firms' and individuals' BrokerCheck reports.[13] In response, FINRA states while it has determined not to include deep links at this time, most investors should be able to find information concerning particular members and registered representatives without difficulty given the ease of operation of the BrokerCheck search feature.[14] FINRA also states that, while the proposed rule does not require deep links, it does not prohibit members from using deep links.[15]

Finally, some commenters note that BrokerCheck excludes certain information that is currently available on the CRD system, and state that investors should be able to view all relevant information that is available in the CRD system.[16] FINRA notes that these comments are outside the scope of the current proposal, but that it regularly assesses the BrokerCheck program and may consider including additional information in BrokerCheck at a later time.[17]

Requests for Additional Guidance

Two commenters seek guidance regarding the interpretation of the term ''readily apparent'' as used the proposed rule, including whether placing the link to BrokerCheck in a Web site's footer would satisfy the ''readily apparent'' requirement.[18] One commenter seeks guidance regarding the placement of the BrokerCheck reference and hyperlink on Web sites that are optimized for mobile devices.[19] One commenter requests confirmation that ''readily apparent reference'' is not meant to be an extensive disclosure and that a firm can simply reference the term BrokerCheck without any accompanying disclosure.[20] Another commenter seeks confirmation that language such as ''check the background of an investment professional'' would satisfy the proposed rule's ''reference'' requirement.[21] In its response letter, FINRA states that it is unable to provide specific guidance regarding what constitutes a readily apparent reference and hyperlink given the wide variety of Web pages that its members maintain.[22]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 75377 (July 7, 2015), 80 FR 40092 (''Notice'').

[4] *See* letters from David Neuman, Israels Neuman PLC, dated July 29, 2015 (''Neuman Letter''); Robert C. Port, Gaslowitz Frankel LLC, dated August 1, 2015 (''Gaslowitz Letter''); William Beatty, President, North American Securities Administrators Association, Inc., dated August 3, 2015 (''NASAA Letter''); David T. Bellaire, Executive Vice President & General Counsel, Financial Services Institute, dated August 3, 2015 (''FSI Letter''); Dorothy Donohue, Deputy General Counsel—Securities Regulation, Investment Company Institute, dated August 3, 2015 (''ICI Letter''); Elissa Germaine, Supervising Attorney and Jill Gross, Director, Pace Investor Rights Clinic, Pace Law School, dated August 3, 2015 (''PIRC Letter''); Melissa MacGregor, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, dated August 3, 2015 (''SIFMA Letter''); Joseph C. Peiffer, President, Public Investors Arbitration Bar Association, dated August 3, 2015 (''PIABA Letter''); and Sutherland Asbill & Brennan LLP on behalf of the Committee of Annuity Insurers, dated August 3, 2015 (''CAI Letter'').

[5] *See* letter from Jeanette Wingler, Assistant General Counsel, FINRA, dated September 21, 2015 (''FINRA Letter'').

[6] BrokerCheck provides the public with information on the professional background, business practices, and conduct of FINRA members and their associated persons. The information that FINRA releases through BrokerCheck is derived from the Central Registration Depository (''CRD''), the securities industry online registration and licensing database.

[7] *See* Neuman Letter; Gaslowitz Letter; ICI Letter at 1 and 3; SIFMA Letter at 1; PIRC Letter at 1; NASAA Letter at 1; FSI Letter at 1; and PIABA Letter at 1.

[8] *See* Neuman Letter and PIRC Letter at 1–2. *See also* NASAA Letter at 2.

[9] *See* FINRA Letter at 3.

[10] *See* PIRC Letter at 1–2; NASAA Letter at 2; and PIABA Letter at 1–2. *But see, e.g.,* SIFMA Letter at 2 and FSI Letter at 1 (both supporting the exclusion of third-party Web sites).

[11] *See* FINRA Letter at 3.

[12] *See id.*

[13] *See* PIRC Letter at 1; NASAA Letter at 1–2; and PIABA Letter at 1. *But see, e.g.,* FSI Letter at 3 (supporting the exclusion of deep links).

[14] *See* FINRA Letter at 2.

[15] *See id.*

[16] *See* Neuman Letter; PIRC Letter at 2; and PIABA Letter at 2.

[17] *See* FINRA Letter at 3–4.

[18] *See* SIFMA Letter at 3 and FSI Letter at 4.

[19] *See* SIFMA Letter at 3.

[20] *See* CAI Letter at 2–3.

[21] *See* SIFMA Letter at 3.

[22] *See* FINRA Letter at 6.

FINRA states, however, that it generally does not believe that including the reference and hyperlink in a footer would satisfy the ''readily apparent'' standard.[23] In addition, FINRA notes that members have flexibility as to the location of the BrokerCheck reference and hyperlink on Web sites that are optimized for mobile devices, so long as they are readily apparent.[24] Moreover, FINRA states that it anticipates that the readily apparent reference to BrokerCheck would be brief.[25]

One commenter seeks confirmation that, for firms that choose to provide the BrokerCheck link through an icon or button similar to that used by FINRA, such use would be a permissible use of any trademark or related intellectual property owned by FINRA.[26] In response, FINRA states that it anticipates making BrokerCheck-related icons or similar resources available to members as one option for complying with the proposed rule, but use of any such icons or similar resources by members would be subject to FINRA's terms and conditions for use.[27]

One commenter seeks clarification regarding the application of the proposed rule to Web sites maintained by independent contractor registered representatives.[28] In its response letter, FINRA states that it expects member firms to supervise and review for compliance Web sites operated by a registered representative that promote the business of the member and, that for purposes of Rule 2210, views such Web sites to be Web sites of the member firm.[29]

One commenter seeks confirmation that, for multi-faceted financial institutions, the link to BrokerCheck should be placed on the homepage of the broker-dealer member firm as opposed to the enterprise-level homepage,[30] as well as clarification that the term ''initial Web page that the member intends to be viewed by retail investors'' applies only to the main or primary homepage of a member firm, and not to any ''micro-sites'' or other sites maintained by the member firm.[31] With respect to multi-faceted financial institutions, FINRA states that the proposed rule would apply to the affiliated broker-dealer's main Web page but not to the enterprise-level homepage.[32] With respect to micro-sites, FINRA states that if a micro-site acts solely as a conduit to the member's main Web site that includes a readily apparent reference and hyperlink to BrokerCheck, then FINRA generally would not require a separate hyperlink and reference to BrokerCheck on the micro-site. Otherwise, the proposed rule would require a separate hyperlink and reference to BrokerCheck on the initial Web page of the micro-site that the member intends to be viewed by retail investors.[33]

One commenter seeks additional guidance on the treatment of Web pages of registered persons and/or branch offices under the proposal.[34] In response, FINRA states that, if a separate retail Web site has been established for a branch office or branch office personnel, then such a Web site would be treated as a separate Web site of the member and would require a separate hyperlink and reference to BrokerCheck.[35] On the other hand, if only a sub-page of the member's Web site was established for the branch office or branch office personnel, then such a Web page would not be treated as a separate Web site of the member.[36] Moreover, FINRA confirms that hyperlinks and references to BrokerCheck would be required for all Web pages where a registered person's profile information appears, including Web pages on the member's Web site and Web pages on a branch office's Web site.[37]

One commenter requests guidance regarding the application of the proposed rule to third-party Web sites that contain professional profiles of financial advisors that engage in a networking relationship with these third parties, such as Web sites owned and operated by credit unions and other non-FINRA members.[38] In response, FINRA notes that the proposed rule does not require hyperlinks and references to BrokerCheck on third-party Web sites and, therefore, the proposed rule would not apply to third party Web sites that contain the professional profiles of registered representatives who engage in networking or similar relationships with the third party.[39]

One commenter requests that FINRA promulgate a Regulatory Notice to provide interpretive guidance or responses to frequently asked questions, accompanied by a succinct reiteration of what information is and is not disclosed through BrokerCheck.[40] In response, FINRA states that its Web site provides readily available information regarding the information disclosed through BrokerCheck.[41] This commenter also requests a limited safe harbor for links to BrokerCheck that are broken as a result of script or programming issues that would permit a reasonable amount of time to respond to any link maintenance issues.[42] FINRA acknowledges that links occasionally may fail, but does not believe that the requested relief is necessary or warranted at this time.[43] Rather, FINRA would consider all of the facts and circumstances surrounding any such failures.[44]

One commenter requests a 12-month implementation period for the proposal.[45] In its response letter, FINRA recognizes that members would be required to identify the Web pages that would need to be updated, determine where to place the references and hyperlinks within the Web pages, and test and deploy the updated Web site. FINRA stated that it will consider the need for system and operational changes

[23] *See id.* FINRA states that members should adopt the perspective of a reasonable retail investor when making a determination regarding the reference and hyperlink. FINRA states that some of the factors that members should consider include placement, font size, and font color. *See id.* at 6–7.

[24] *See id.* at 7.

[25] *See id.* at 6.

[26] *See* SIFMA Letter at 3.

[27] *See* FINRA Letter at 7.

[28] *See* SIFMA Letter at 3–4. *See also* FSI Letter at 3–4 (asking whether the client-facing Web site of a financial advisor engaged in an independent contractor relationship with its broker-dealer would be considered a ''member Web site'' or a third-party Web site under the proposal).

[29] *See* FINRA Letter at 4. *See also* letter to Gordon S. Macklin, President, National Association of Securities Dealers, Inc. from Douglas Scarff, Director, Division of Market Regulation, dated June 18, 1982, regarding the status of ''independent contractors.''

[30] *See also* CAI Letter at 2 (requesting confirmation that, where a broker-dealer does not maintain its own independent Web site (as is often the case with respect to insurance-affiliated broker-dealers), the BrokerCheck link would not be required on the broker-dealer affiliate's main Web page, but rather on the first Web page in which the broker-dealer is identified).

[31] *See* SIFMA Letter at 4.

[32] *See* FINRA Letter at 4.

[33] *See id.* at 5.

[34] *See* CAI Letter at 2 (noting that including the BrokerCheck link on the initial page of the branch Web site would be helpful to investors; however, the current proposal is unclear on how to treat additional pages of a branch office Web site and, in certain circumstances, requiring a BrokerCheck link on all possible Web pages where a branch office registered person's profile information appears could result in redundant and ineffective disclosure).

[35] *See* FINRA Letter at 5.

[36] *See id.* at 5–6.

[37] *See id.* at 6.

[38] *See* FSI Letter at 4. *See also* SIFMA Letter at 4 (seeking clarification regarding the application of the proposed rule to Web sites of non-member firms who are parties to a networking or other similar arrangement with a member firm).

[39] *See* FINRA Letter at 5.

[40] *See* SIFMA Letter at 2–3.

[41] *See* FINRA Letter at 4.

[42] *See* SIFMA Letter at 4.

[43] *See* FINRA Letter at 7.

[44] *See id.*

[45] *See* FSI Letter at 4.

in establishing the effective date for the proposed rule change.[46]

IV. Discussion and Commission Findings

After careful review of the proposed rule change, the comment letters, and FINRA's response to the comments, the Commission finds 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 association.[47] Specifically, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[48] which requires, among other things, that FINRA rules 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. The proposed rule change, by requiring a hyperlink to BrokerCheck on members' Web sites is designed to increase investors' awareness and use of BrokerCheck. BrokerCheck is an important tool for investors to use to help them make informed choices about the individuals and firms with which they conduct business.[49] The Commission believes that the requirement for the hyperlink to BrokerCheck to be readily apparent should make it easy for investors to find and use BrokerCheck. The Commission appreciates FINRA's continuing efforts to enhance BrokerCheck and encourages FINRA to continue improving it and to consider the suggestions made by commenters that could result in increased use of BrokerCheck by the investing public.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[50] that the proposed rule change (SR–FINRA–2015–022) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[51]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–26157 Filed 10–14–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76107; File No. SR–CBOE–2015–084]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Delivery of the Regulatory Element of the Exchange's Continuing Education Program

October 8, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 30, 2015, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 9.3A (Continuing Education for Registered Persons) to provide for Web-based delivery of the Regulatory Element of the Exchange's continuing education (''CE'') program. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The CE requirements under Rule 9.3A consist of a Regulatory Element[5] and a Firm Element.[6] The Regulatory Element applies to all registered persons[7] and consists of periodic computer-based training on regulatory, compliance, ethical, and supervisory subjects and sales practice standards, which must be completed within prescribed timeframes.[8] In addition, a registered person is required to retake the Regulatory Element in the event that such person: (i) Becomes subject to any statutory disqualification as defined in Section 3(a)(39) of the Securities Exchange Act of 1934 (the ''Act''); (ii) becomes subject to suspension or to the imposition of a fine of $5,000 or more for violation of any provision of any securities law or regulation, or any agreement with or rule or standard of conduct of any securities governmental agency, securities self-regulatory organization, or as imposed by any such regulatory or self-regulatory organization in connection with a disciplinary proceeding; or (iii) is

[46] *See* FINRA Letter at 7.

[47] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[48] 15 U.S.C. 78*o*–3(b)(6).

[49] The Commission encourages investors to utilize all sources of information, including the databases of state regulators, as well as legal search engines and records searches to conduct a thorough search of any associated person or firm with which they are considering doing business. *See also* Securities Exchange Act Release No. 62476 (July 8, 2010), 75 FR 41254 (July 15, 2010) (SR–FINRA–2010–012).

[50] 15 U.S.C. 78s(b)(2).

[51] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Rule 9.3A(a) (Regulatory Element).

[6] *See* Rule 9.3A(c) (Firm Element).

[7] For purposes of the Regulatory Element, a ''registered person'' means a Trading Permit Holder (''TPH''), associated person, and/or Representative approved by and registered with the Exchange. *See* Interpretation and Policy .01 to Rule 9.3A.

[8] Pursuant to Rule 9.3A(a), each registered person shall complete the Regulatory Element of the continuing education program beginning with the occurrence of their second registration anniversary date and every three years thereafter, or as otherwise prescribed by the Exchange. On each occasion, the Regulatory Element must be completed within one hundred twenty days after the person's registration anniversary date. A person's initial registration date, also known as the ''base date'', shall establish the cycle of anniversary dates for purposes of the Rule. The content of the Regulatory Element of the program shall be determined by the Exchange for each registration category of persons subject to the Rule.

ordered as a sanction in a disciplinary action to re-take the Regulatory Element by any securities governmental agency or securities self-regulatory organization.[9] Currently, the Exchange offers the following Regulatory Elements for Exchange registered persons: The S201 Supervisor Program for registered principals and supervisors; the S106 Series 6 Program for Series 6 registered persons; the S501 Series 56 Proprietary Trader continuing education program for Series 56 registered persons, and the S101 General Program for Series 7 and all other registered persons.[10] Currently, the Regulatory Element may be administered in a test center or in-firm subject to specified procedures.[11]

The Firm Element consists of annual, TPH organization-developed and administered training programs for covered registered persons,[12] which must be appropriate for the business of the TPH or TPH organization and, at a minimum, must cover the following matters concerning securities products, services and strategies offered by the Trading Permit Holder or TPH organization: (a) General investment features and associated risk factors; (b) suitability and sales practice considerations; and (c) applicable regulatory requirements.

Today, most registered persons complete the Regulatory Element in a test center rather than in-firm. Given the advances in Web-based technology, the Exchange believes that there is diminishing utility in the test center and in-firm delivery methods. Moreover, according to FINRA,[13] TPHs and registered persons have raised concerns with the test center delivery method because of the travel involved, the limited time currently available to complete a Regulatory Element session[14] and the use of rigorous security measures at test centers, which are appropriate for taking qualification examinations, but onerous for a CE program.[15] Also, according to FINRA, the test center is expensive to operate.[16]

In response to the issues noted above, FINRA engaged in extensive outreach with the industry and completed a pilot of a Web-based delivery system for administering the Regulatory Element.[17] According to FINRA, the proposed Web-based system performed well during the pilot in terms of both performance and accessibility.[18] FINRA also received positive feedback from firms and the individual pilot participants.[19] FINRA noted that among other things, pilot participants appreciated the expanded time to focus on the provided learning materials without the pressure of a timed session and the ability to resume or complete their session from where they left off.[20]

Proposal

Based on the recent amendments to FINRA Rule 1250,[21] the Exchange proposes to amend Rule 9.3A to provide for a Web-based delivery method for completing the Regulatory Element. Specifically, the Exchange proposes to amend Rule 9.3A(b) to provide that the continuing education Regulatory Element set forth in paragraph (a) of Rule 9.3A will be administered through Web-based delivery or such other technological manner and format as specified by the Exchange. Should the Exchange determine to administer the Regulatory Element through a delivery mechanism other than Web-based delivery, however, the Exchange would notify the Commission and would need to file a further rule change with the Commission.

In addition to proposing to amend Rule 9.3A to provide for a Web-based delivery method for completing the Regulatory Element, the Exchange also proposes to remove the option for Series 56 registered persons to participate in the S501 Series 56 Proprietary Trader continuing education program in order to satisfy the Regulatory Element. The S501 Series 56 Proprietary Trader continuing education program is being phased out along with the Series 56 Proprietary Trader qualification examination and being replaced with the Series 57 Securities Trader qualification examination.[22] As a result, effective January 4, 2016, the S501 Series 56 Proprietary Trader continuing education program for Series 56 registered persons will cease to exist. In place of the S501 Series 56 Proprietary Trader continuing education program for Series 56 registered persons, the Exchange proposes that Series 57 registered persons be permitted to enroll in the S101 General Program for Series 7 and all other registered persons.

The first phase of the Web-based delivery system would be launched October 1, 2015 and include the Regulatory Element of the S106 Program for Series 6 registered persons and the S201 Supervisor Program for registered principals and supervisors. The second phase of the Web-based delivery system would be launched January 4, 2016 and include the Regulatory Element of the S101 General Program for Series 7 and all other registered persons, including, but not limited to Securities Traders.[23]

The Exchange is proposing to phase out test-center delivery by no later than six months after January 4, 2016. Registered persons will continue to have the option of completing the Regulatory Element in a test center, but they will be required to use the Web-based system after that date.[24]

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[9] *See* Rule 9.3A(a)(2) (Disciplinary Actions).

[10] *See* Rule 9.3A(a)(3) (Required Programs).

[11] Under current Rule 9.3A(b) (In-House Delivery of Regulatory Element), TPH organizations are permitted to administer the Regulatory Element of the CE program to their registered persons by instituting a firm program acceptable to the Exchange. Among others, the following procedures are required in order to administer the Regulatory Element of the CE program in-house: (1) The TPH organization must designate a senior officer or partner to be responsible for the firm's delivery of the Regulatory Element of the CE program; (2) the location of the delivery site must be under the control of the TPH organization; (3) the communication links and firm delivery computer hardware must comply with standards defined by the Exchange or its designated vendor; (4) the TPH organization's written supervisory procedures must contain the procedures implemented to comply with the requirements of its delivery of Regulatory Element continuing education; (5) all sessions must be proctored by an authorized person during the entire Regulatory Element continuing education session; (6) all appointments must be scheduled in advance using the procedures and software specified by the Exchange, its agent or designated vendor; and (7) a Letter of Attestation for In-Firm Delivery of Regulatory Element CE must be completed.

[12] Under Rule 9.3A(c)(1) (Persons Subject to the Firm Element), a ''covered registered person'' means any registered person who has a Series 56 registration or direct contact with customers in the conduct of the TPH's or TPH organization's securities sales, trading or investment banking activities, and to the immediate supervisors of such persons.

[13] FINRA is currently responsible for the operation of the test centers used for test center delivery method of the Regulatory Element.

[14] The current session time is three-and-a-half hours.

[15] *See* Securities Exchange Act Release No. 75154 (June 11, 2015), 80 FR 34777 (Notice of Filing of a Proposed Rule Change To Provide a Web-Based Delivery Method for Completing the Regulatory Element of the Continuing Education Requirements) (SR–FINRA–2015–015).

[16] *Id.* at 34779.

[17] *Id.*

[18] *Id.*

[19] *Id.*

[20] *Id.*

[21] *See* FINRA Rule 1250 (Continuing Education Requirements). *See also* Securities Exchange Act Release No. 75581 (July 31, 2015) (Order Approving a Proposed Rule Change to Provide a Web-based Delivery Method for Completing the Regulatory Element of the Continuing Education Requirements) (SR–FINRA–2015–015).

[22] *See* Securities Exchange Act Release No. 75783 (August 28, 2015) (Order Approving a Proposed Rule Change to Establish the Securities Trader and Securities Trader Principal Registration Categories) (SR–FINRA–2015–017).

[23] The Exchange has submitted a proposal to the Commission that would replace the Proprietary Trader registration category as referred to in Interpretation and Policy .08 to Rule 3.6A (Registration and Qualification of Trading Permit Holders and Associated Persons) with the Securities Trader registration category effective January 4, 2016.

[24] The Exchange anticipates filing fee filings to reduce the cost for Web-delivery of the Regulatory

Further, the Exchange is proposing to phase out the current option for in-firm delivery on a rolling basis as each Regulatory Element program becomes available for Web-based delivery. Firms will not be able to establish new in-firm delivery programs after October 1, 2015. Moreover, firms that have pre-existing in-firm delivery programs established prior to October 1, 2015 would not be able to use that delivery method for the S106 and S201 Regulatory Element programs after October 1, 2015, which is the anticipated launch date of Web-based delivery for these programs. However, such firms may continue to use their pre-existing in-firm delivery programs for the S501 Regulatory Element and S101 Regulatory Element program until January 4, 2016, which is the anticipated launch date of Web-based delivery for the S101 program.[25] The Exchange is also proposing to eliminate Rule 9.3A(b) relating to in-firm delivery of the Regulatory Element of these CE programs. The proposed Web-based delivery method will provide registered persons the flexibility to complete the Regulatory Element at a location of their choosing, including their private residence, at any time during their 120-day window for completion of the Regulatory Element.[26]

The Exchange notes that the Web-based format will include safeguards to authenticate the identity of the CE candidate. For instance, prior to commencing a Web-based session, the candidate will be asked to provide a portion of their SSN (either first five or last four digits) and their date of birth. This information will only be used for matching data in FINRA's Web-CRD system. The Web CE system will discard this information after the matching process. Further, before commencing a Web-based session, each candidate will be required to agree to the Rules of Conduct for Web-based delivery. Among other things, the Rules of Conduct will require each candidate to attest that he or she is in fact the person who is taking the Web-based session. The Rules of Conduct will also require that each candidate agree that the Regulatory Element content is intellectual property and that the content cannot be copied or redistributed by any means. If the Exchange discovers that a candidate has violated the Rules of Conduct, the candidate will forfeit the results of the Web-based session and may be subject to disciplinary action by the Exchange.[27] Violation of the Rules of Conduct will be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of Rule 4.1 (Just and Equitable Principles of Trade). The Exchange is not proposing any changes to the Firm Element requirements under Rule 9.3A other than to change references from the Series 56 Proprietary Trader registration category to the Series 57 Securities Trader registration category, consistent with recently proposed changes to Rule 3.6A (Qualification and Registration of Trading Permit Holders and Associated Persons) and NASD Rules 1022(a) (General Securities Principal) and 1032(f) (Limited Representative—Securities Trader).[28] The Exchange will announce the effective date for Web-delivery of the Regulatory Element of the S106 Program for Series 6 registered persons and the S201 Supervisor Program for registered principals and supervisors in a Regulatory Circular in October 2015 and the launch of Web-delivery of the Regulatory Element of the S101 General Program for Series 7 and all other registered persons, including, but not limited to Securities Traders in a Regulatory Circular at a date prior to January 4, 2016.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[29] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[30] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[31] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers and Section 6(c)(3)[32] of the Act, which authorizes the Exchange to, among other things, prescribe standards of financial responsibility or operational capability and standards of training, experience and competence for its Trading Permit Holders and person associated with Trading Permit Holders.

In particular, the Exchange believes that the proposed rule change will improve TPHs' compliance efforts and will allow registered persons to spend a greater amount of time on the review of CE materials and potentially achieve better learning outcomes, which will in turn enhance investor protection. Further, while the proposed rule change will provide more flexibility to TPHs and registered persons, it will maintain the integrity of the Regulatory Element of the CE program and the CE program in general.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change is specifically intended to reduce the burden on firms while preserving the integrity of the CE program. As described above, the Web-based delivery method will provide registered persons the flexibility to complete the Regulatory Element at any location that they choose. Further, Web-based delivery is efficient and offers significant cost savings over test-center and in-firm deliveries. With respect to the authentication process for Web-based delivery, the CE candidate's personal identifying information will be masked and will be submitted to FINRA through a secure, encrypted, network. The personal identifying information submitted via the Web-based system will be used for authentication purposes only—the information will not be stored in the Web-based system.

Element from $100 to $55 by October 1, 2015 for the S106 and S201 Regulatory Element Programs and by January 4, 2016 for Web-delivery of the S101 Regulatory Element Program. Fees for completing the Regulatory Element of the respective programs at a test center will remain $100.

[25] No firms currently provide the Regulatory Element of the S501 program in-house.

[26] Although the proposed rule change provides such flexibility, firms may choose to impose their own conditions based on their supervisory and compliance needs. For instance, a firm that wishes to have registered persons complete CE on the firm's premises can do so by having the registered person access Web-based CE from a firm device and location. Moreover, firms would have to update their written policies and procedures regarding the Regulatory Element to reflect the transition to Web-based CE and communicate the update to registered persons.

[27] *See generally* Chapter XVII (Discipline).

[28] *See* Securities Exchange Act Release No. 75394 (July 8, 2015), 80 FR 41119 (July 14, 2015) (Notice of Filing of a Proposed Rule Change to Establish the Securities Trader and Securities Trader Principal Registration Categories) (SR–FINRA–2015–017).

[29] 15 U.S.C. 78f(b).

[30] 15 U.S.C. 78f(b)(5).

[31] *Id.*

[32] 15 U.S.C. 78f(c)(3).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. 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) of the Act [33] and Rule 19b–4(f)(6) [34] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2015–084 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2015–084. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2015–084 and should be submitted on or before November 5, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–26155 Filed 10–14–15; 8:45 am]

BILLING CODE 8011–01–P

[33] 15 U.S.C. 78s(b)(3)(A).

[34] 17 CFR 240.19b–4(f)(6).

[35] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76113; File No. SR–BATS–2015–80]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt an Issuer Incentive Program Applicable to Securities Listed on BATS Exchange, Inc.

October 8, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 30, 2015, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fees applicable to securities listed on the Exchange, which are set forth in BATS Rule 14.13.

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 parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On August 30, 2011, the Exchange received approval of rules applicable to the qualification, listing, and delisting of companies on the Exchange,[3] which it modified on February 8, 2012 in order to adopt pricing for the listing of exchange traded products (''ETPs'') [4] on the Exchange,[5] which it subsequently modified again on June 4, 2014.[6] On October 16, 2014, the Exchange modified Rule 14.13, entitled ''Company Listing Fees'' to eliminate the annual fees for ETPs not participating in the Exchange's Competitive Liquidity

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

[4] As defined in BATS Rule 11.8(e)(1)(A), the term ''ETP'' means any security listed pursuant to Exchange Rule 14.11.

[5] *See* Securities Exchange Act Release No. 66422 (February 17, 2012), 77 FR 11179 (February 24, 2012) (SR–BATS–2012–010).

[6] *See* Securities Exchange Act Release No. 72377 (June 12, 2014), 79 FR 34822 (June 18, 2014) (SR–BATS–2014–024).

Provider Program pursuant to Rule 11.8, Interpretation and Policy .02 (the ''CLP Program'').[7] On May 22, 2015, the Exchange further modified Rule 14.13 to eliminate the $5,000 application fee for ETPs, effectively eliminating any compulsory fees for both new ETP issues and transfer listings in ETPs on the Exchange.[8] The Exchange is now proposing to offer an incentive payment to ETPs that are listed on the Exchange based on the consolidated average daily volume (the ''CADV'') of the ETP (the ''Issuer Incentive Program''). The Exchange notes that the payments would be made payable to the ETP or fund, and not to the sponsor of the ETP.[9]

Specifically, the Exchange is proposing that the Issuer Incentive Program would allow the Exchange to provide payments to the fund on a quarterly basis that would be based on the CADV of the ETP for each trading day of the preceding calendar quarter that the ETP was listed on the Exchange, as follows:

CADV Range	Annualized payment
1,000,000–3,000,000 shares	$3,000
3,000,001–5,000,000 shares	10,000
5,000,001–10,000,000 shares	50,000
10,000,001–20,000,000 shares	100,000
20,000,001–35,000,000 shares	250,000
Greater than 35,000,000 shares	400,000

Because the payments would be provided for each trading day, where an ETP had a CADV of 4,000,000 over the course of a full calendar quarter that it was listed on the Exchange, the ETP would receive a payment of $2,500 (.25 * $10,000, the annualized payment for that CADV) for the quarter. Where the same ETP had a CADV of 4,000,000, but was only listed on the Exchange for exactly half of the trading days in the calendar quarter, the ETP would receive a payment of $1,250 ((.25 * $10,000) * .5).

The Exchange is proposing the Issuer Incentive Program as a way to attract both new ETP issues and transfer ETP listings to the Exchange. The Exchange notes that the Issuer Incentive Program would also be applicable to ETPs currently listed on the Exchange. Traditionally, ETP issuers have paid between $5,000 and $55,000 on an annual basis in order to be listed on an exchange,[10] a paradigm only recently broken by BATS implementing free ETP listings on the Exchange, as described above. If the only revenue source associated with listing these ETPs was the listing fee, the pay-per-listing model would make sense, however, the primary listing exchange also earns additional revenue from trading fees. Such additional trading fees are earned by exchanges from the outsized share of intraday trading volume that a primary listed security typically garners for the listing exchange as well as trading fees for orders participating in the opening and closing auctions. As the CADV increases for an ETP, so does the additional trading fee revenue earned by the primary listing exchange. As such, the Exchange is proposing to adopt the above described tiered payment structure for ETPs listed on the Exchange, which it believes creates a more equitable and appropriate relationship between the Exchange and issuers based on the revenue and expenses associated with listing ETPs on the Exchange.

In addition to the proposed changes described above, the Exchange proposes to eliminate reference to fees for securities participating in the CLP Program because such program is no longer operational and has been replaced by the Supplemental Competitive Liquidity Provider Program, as described in Rule 11.8, Interpretation and Policy .03 (the ''ETP CLP Program'').

The Exchange proposes to implement the amendments to Rule 14.13(b)(2)(C) effective October 1, 2015.

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 of the Act.[11] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) and 6(b)(5) of the Act,[12] in that it provides for the equitable allocation of reasonable dues, fees and other charges among issuers and it does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed amendment to the annual listing fees in Rule 14.13(b)(2)(C) to provide payment to ETPs listed on the Exchange is a reasonable, fair and equitable, and not unfairly discriminatory allocation of fees and other charges because it would create a distribution of fees and other charges applicable to all issuers that reflect the additional revenue that an ETP listed on the Exchange creates for the Exchange through executions occurring in the auctions and additional shares executed on the Exchange. As the market is currently structured, ETPs typically pay a flat fee to an exchange for listing services regardless of the amount of additional revenue that the product will bring to the exchange. The Issuer Incentive Program, on the other hand, acknowledges the additional revenue brought to the Exchange by virtue of an ETP listing on the Exchange and is designed to reward the issuer of an ETP for such additional revenue, which the Exchange believes creates a more equitable and appropriate relationship between the Exchange and issuers based on the revenue and expenses associated with listing ETPs on the Exchange. As such, the Exchange believes that that it is reasonable, fair and equitable, and not unfairly discriminatory allocation of fees and other charges to provide payment to issuers of ETPs listed on the Exchange.

Similarly, the Exchange believes that the proposed amendment to the annual listing fees in Rule 14.13(b)(2)(C) to provide tiered payments to issuers of ETPs listed on the Exchange based on the CADV of an ETP is a reasonable, fair and equitable, and not unfairly discriminatory allocation of fees and other charges because it would create a distribution of fees and other charges applicable to all issuers that are commensurate with the additional revenue that an ETP listed on the Exchange creates for the Exchange through executions occurring in the auctions and additional shares executed on the Exchange. As described above, where the CADV of an ETP increases, so does the additional trading fee revenue earned by the primary listing exchange. Accordingly, the tiers within the Issuer Incentive Program are designed to reward the issuer of an ETP on the basis of the additional revenue potential that the ETP brings to the Exchange. Further to this point, the Exchange does not believe that the proposal is unfairly discriminatory because, as described above, the annualized payments associated with the various CADV tiers in the Issuer Incentive Program are designed to account for the approximate additional revenue that the Exchange

[7] *See* Securities Exchange Act Release No. 73414 (October 23, 2014), 79 FR 64434 (October 29, 2014) (SR–BATS–2014–050).

[8] *See* Securities Exchange Act Release No. 75085 (June 1, 2015), 80 FR 32190 (June 5, 2015) (SR–BATS–2015–39).

[9] The sponsor of an ETP is the registered investment adviser that provides investment management services to such ETP.

[10] *See, e.g.,* NYSE Arca Equities Schedule of Fees and Charges for Exchange Listing Services, *available at*: *https://www.nyse.com/publicdocs/nyse/listing/nyse_arca_e_listing_fees.pdf*; *see also* NASDAQ Rules 5930 and 5940.

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(4) and (5).

will receive from an ETP listed on the Exchange within a particular CADV tier. The Exchange notes that certain ETPs in the proposed tiers with higher CADV would receive disproportionately higher rebates than ETPs in other tiers with lower CADV. The Exchange believes it is equitable and not unfairly discriminatory to provide a disproportionately higher payment to ETPs in higher tiers because such ETPs would likely bring a disproportionately larger amount of revenue to the Exchange from the auctions the Exchange would conduct for such securities and increased trading activity on the Exchange in such securities. The Exchange believes that the additional revenue it will generate from ETPs that receive payments through the Issuer Incentive Program, including ETPs that qualify for the higher tiers, will exceed the amount of such payments. To the extent the additional revenue generated by ETPs that receive payments through the Issuer Incentive Program does not exceed the amount of such payments, the Exchange will modify the structure of the Issuer Incentive Program such that the program does generate revenue for the Exchange.

In addition, the Exchange does not believe that it is unfairly discriminatory to exclude ETPs with a CADV of less than 1,000,000 from the Issuer Incentive Program because such ETPs do not typically generate revenue to the same degree as the higher CADV products. The Exchange notes that ETPs with a CADV of less than 1,000,000 are eligible to participate in the ETP CLP Program, which is designed to incent market makers to provide liquidity in less actively traded products with the goal of facilitating the growth of such products.[13]

The Exchange believes that the proposal creates a more equitable and appropriate relationship between the Exchange and issuers tied directly to the revenue and expenses associated with listing ETPs on the Exchange. As such, the Exchange believes that that it is reasonable, fair and equitable, and not unfairly discriminatory allocation of fees and other charges to offer payments to issuers of ETPs listed on the Exchange that are tiered on the basis of the CADV of the ETP.

The Exchange is not currently proposing to extend the Issuer Incentive Program to corporate securities despite the fact that it currently maintains rules and fees necessary to support the listing of a corporate security on the Exchange.[14] The Exchange believes it is reasonable and equitable to limit the Issuer Incentive Program to ETPs and not to extend such proposal to corporate listings because the economic structure of operating a listings program for ETPs is significantly different than operating a listings program for corporates. A primary distinction between ETPs and corporate listings is that the regulation and oversight of ETPs is scalable, such that while each new ETP requires surveillance and results in additional regulatory burden on the Exchange, such burden is rarely related to the governance structure of the fund as many funds are often issued through the same governance structure (*e.g.,* a trust). In contrast, each corporate issuance is typically distinct from any other issuance, and thus, the regulatory burden does not as easily scale as the number of listings increases. In addition, corporate listings often demand additional oversight with respect to governance and services that are typically not provided for ETPs, including investor relations services, public relations, sales and marketing. These services often demand a large capital commitment from the listings exchange. Thus, while the Exchange believes that it can adopt a competitive and profitable program for ETPs that includes the Issuer Incentive Program as proposed, the Exchange would have to further analyze whether such a program could be applied to corporate securities and remain profitable.

Based on the foregoing, the Exchange believes that the proposed amendment to Rule 14.13(b)(2)(C) to implement the Issuer Incentive Program is a reasonable, equitable, and non-discriminatory allocation of fees to issuers.

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, as amended. With respect to the proposed new pricing for the listing of ETPs, the Exchange does not believe that the changes burden competition, but instead, enhance competition, as it is intended to increase the competitiveness of the Exchange's listings program by allowing the Exchange to provide ETPs with quarterly payments based on the CADV of the ETP, which the Exchange believes will be directly related to the amount of additional revenue that the Exchange receives from additional transactions in the ETP. As such, the proposal is a competitive proposal that is intended to attract additional ETP listings, which will, in turn, benefit the Exchange and all other BATS-listed ETPs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[15] and paragraph (f) of Rule 19b–4 thereunder.[16] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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 No. SR–BATS–2015–80 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 No. SR–BATS–2015–80. This file number should be included on the subject line

[13] Pursuant to Rule 11.8, Interpretation and Policy .03(n), a security participating in the ETP CLP Program will no longer be eligible to participate once such security sustains CADV of 1,000,000 shares or more for three consecutive months.

[14] The Exchange notes that it does not currently list any corporate securities and would consider applicable fees and incentives in the future if the Exchange is to list one or more corporate securities, particularly if the Exchange was seeking to operate a competitive corporate listing business. To the extent the Exchange did propose to extend the Issuer Incentive Program to corporate securities it would file a separate proposal pursuant to Section 19(b)(1) of the Act and Rule 19b–4 thereunder.

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f).

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 will also 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 No. SR–BATS–2015–80 and should be submitted on or before November 5, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–26150 Filed 10–14–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76110 ; File No. SR–NYSE–2015–44]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Sections 902.03, 902.04, 902.05 and 902.06 of the Listed Company Manual To Increase Certain of the Fees Set Forth Therein

October 8, 2015

Pursuant to section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 25, 2015, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes toamend[sic] sections 902.03, 902.04, 902.05 and 902.06 of the Listed Company Manual (the ''Manual'') to increase certain of the fees set forth therein. The Exchange proposes to immediately reflect the proposed changes in the Manual, but not to implement the proposed fee changes until January 1, 2016. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend sections 902.03, 902.04, 902.05 and 902.06 of the Manual to increase certain of the fees set forth therein. The Exchange proposes to immediately reflect the proposed changes in the Manual, but not to implement the proposed fee changes until January 1, 2016.[4]

Section 902.03 of the Manual currently provides, in part, for annual fees for listed equity securities. Currently, the annual fee for an issuer's primary class of common shares or, if no class of common shares is listed on the Exchange, the preferred stock of such issuer is the greater of $45,000 or $0.001 per share. The Exchange proposes to increase these thresholds to $52,500 and $0.001025, respectively. Currently, the annual fee for each additional class of common shares, each additional class of preferred stock and each class of warrants is calculated as the greater of a specified minimum fee or $0.001 per share. The Exchange proposes to leave the minimum fee for those three categories unchanged, but to increase the fee per share for each category to $0.001025 per share.

Sections 902.04, 902.05 and 902.06 of the Manual set forth, in part, the annual fees for closed-end funds, structured products and short-term securities, respectively. In each case, the current annual fee for these securities is calculated as the greater of a specified minimum fee or $0.001 per share. The Exchange proposes to leave the minimum fee for those three categories of securities unchanged, but to increase the fee per share for each category to $0.001025 per share.[5]

As described below, the Exchange proposes to make the aforementioned fee increases to better reflect the Exchange's costs related to listing equity securities and the corresponding value of such listing to issuers.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[6] in general, and furthers the objectives of sections 6(b)(4)[7] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with section 6(b)(5)[8] of the Act in that it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that it is reasonable to amend section 902.03 of the Manual to increase the minimum annual fee for an issuer's primary class of common shares and primary class of

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange has proposed changes to the Manual, as reflected in Exhibit 5 attached hereto, in a manner that would permit readers of the Manual to identify the changes that would be implemented on January 1, 2016. The Commission notes that Exhibit 5 is attached to the filing, not to this Notice.

[5] With respect to closed-end funds, the increase to the fee per share will be applicable to both the primary listed security and each additional class of listed equity securities.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78f(b)(5).

preferred stock, to the greater of $52,500 or $0.001025 per share and to increase the fee per share for each additional class of common shares, each additional class of preferred stock, each class of warrants, each class of listed securities of closed-end funds, structured products and short-term securities to $0.001025 per share because the resulting fees would better reflect the Exchange's costs related to such listing and the resulting value that that such listings provide to the issuers. In that regard, the Exchange notes that it has incurred increased expenses as it continues to improve and increase the services it provides to listed companies. These improvements include renovating and upgrading the Exchange building to provide meeting spaces for listed companies and a significant upgrade to the NYSE Connect online community accessible to all listed companies. The Exchange believes that the proposed fee increases are equitably allocated because the per share fee increase will be the same for all issuers on the Exchange. Therefore, the proposed fee increases will not be unfairly discriminatory towards any individual issuer. Further, the Exchange believes it is consistent with section 6(b)(5) of the Act to increase the minimum fee for the primary class of common shares and primary class of preferred stock but not the minimum fee for each additional class of such securities. The Exchange notes that the minimum fee for an additional class of common shares or preferred stock is already less than the fee for a primary class and that such fee differential has been approved under the Act. The Exchange has determined to leave the minimum fee for an additional class of common shares or preferred stock unchanged at this time as there are only a few listed companies with more than one class of common shares or preferred stock listed on the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to ensure that the fees charged by the Exchange accurately reflect the services provided and benefits realized by listed companies. The market for listing services is extremely competitive. Each listing exchange has a different fee schedule that applies to issuers seeking to list securities on its exchange. Issuers have the option to list their securities on these alternative venues based on the fees charged and the value provided by each listing. Because issuers have a choice to list their securities on a different national securities exchange, the Exchange does not believe that the proposed fee changes impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to section 19(b)(3)(A) [9] of the Act and subparagraph (f)(2) of Rule 19b–4 [10] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under section 19(b)(2)(B) [11] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2015–44 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2015–44. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2015–44 and should be submitted on or before November 5, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–26153 Filed 10–14–15; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(2).

[11] 15 U.S.C. 78s(b)(2)(B).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76116; File No. SR–BX–2015–050]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Order Approving Proposed Rule Change To Adopt a Kill Switch

October 8, 2015.

I. Introduction

On August 7, 2015, NASDAQ OMX BX, Inc. (the ''Exchange'' or ''BX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule

[1] 15 U.S.C. 78s(b)(1).

19b–4 thereunder,[2] a proposed rule change to adopt a risk protection functionality referred to as a kill switch that will be available to all Participants of the Exchange. The proposed rule change was published for comment in the **Federal Register** on August 27, 2015.[3] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to offer to all its members a new optional risk protection functionality for options to help members control their quote and order activity on the Exchange.[4] Referred to as a ''Kill Switch,'' the functionality will allow BX Participants to remove quotes and cancel open orders, and will prevent the submission of new quotes and orders until the Exchange re-enables access to the BX System for the Participant.

To use the Kill Switch, a Participant will send a message [5] to the BX System to: (i) Promptly remove quotes; and/or (ii) promptly cancel orders for certain specified Identifiers (*e.g.,* a particular Exchange account, port, or badge or mnemonic, or for a group of Identifiers).[6] The Exchange's proposal does not allow Participants to remove quotes or cancel orders by symbol. The BX System will send an automated message to the Participant when it has processed a Kill Switch request.

The BX Participant will be unable to enter any new quotes or orders using the affected Identifier(s) until the Participant makes a verbal request to the Exchange and Exchange staff enables re-entry. Once enabled for re-entry, the Exchange will send a message to the Participant and, if it requests to receive such notifications, to the Participant's clearing firm as well.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange,[7] and, in particular, the requirements of section 6 of the Act.[8] In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,[9] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and that the rules are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

According to the Exchange, the proposed rule change is designed to protect BX Participants in the event that the Participant encounters a situation, like a systems issue, for which they would like to withdraw temporarily from the market.[10] The Exchange further notes that the proposed Kill Switch is designed to increase systemic protections and, in so doing, so should encourage liquidity generally while removing impediments to market participation.[11] To the extent that the Exchange's proposal provides member firms with greater control over their quotes and orders, and allows firms to remove quotes and cancel orders in an appropriate manner, then the proposal may encourage firms to provide liquidity on BX and thus contribute to fair and orderly markets in a manner that protects the public interest, protects investors, and is not designed to permit unfair discrimination.

Further, the Commission agrees that it would be appropriate to notify a Participant's clearing member, at the clearing member's request, once a Participant's selected Identifiers are re-enabled following the Participant's use of the Kill Switch. Because the clearing member accepts financial responsibility for clearing the Participant's trades, notifying the applicable clearing member of a Participant's re-enabled Identifiers following use of the Kill Switch may be appropriate and help the clearing member manage the risk associated with the Participant's trading activity.

The Commission notes that the Exchange represented in its proposal that the Kill Switch will operate consistently with a broker-dealer's firm quote obligations pursuant to Rule 602 of Regulation NMS,[12] and that the proposal does not diminish a market-maker's obligation to provide continuous two-sided quotes on a daily basis under BX rules.[13] Specifically, the Exchange represents that ''any interest that is executable against a BX Participant's quotes and orders that are received by the Exchange prior to the time the Kill Switch is processed by the System will automatically execute at the price up to the BX Participant's size.'' [14] In that respect, the Exchange further represented that ''[t]he Kill Switch message will be accepted by the System in the order of receipt in the queue and will be processed in that order so that interest that is already accepted into the System will be processed prior to the Kill Switch message.'' [15] Based on these representations, the Commission believes that the proposal is designed to promote just and equitable principles of trade and perfect the mechanism of a free and open market.

Accordingly, the Commission finds that the Exchange's proposal is consistent with the Act, including section 6(b)(5) thereof, in that it is designed to promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[16] that the proposed rule change (SR–BX–2015–050) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–26147 Filed 10–14–15; 8:45 am]

BILLING CODE 8011–01–P

[2] 17 CFR 240.19b–4

[3] *See* Securities Exchange Act Release No. 75744 (August 27, 2015), 80 FR 52068 (''Notice'').

[4] *See id.*

[5] BX Participants will be able to utilize an interface to send a message to the Exchange to initiate the Kill Switch, or they may contact the Exchange directly. *See* Notice, *supra* note 3, at note 3.

[6] Permissible groups could be formed only within a single broker-dealer. For example, a group could include, but would not be limited to, all market maker accounts or all order entry ports. *See* Notice, *supra* note 3.

[7] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(5).

[10] *See* Notice at 52069.

[11] *See id.*

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] *Id.*

[16] 15 U.S.C. 78s(b)(2).

[17] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2015–0058]

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB)
Office of Management and Budget,
Attn: Desk Officer for SSA,
Fax: 202–395–6974,
Email address: *OIRA_Submission@omb.eop.gov.*

(SSA)
Social Security Administration, OLCA,
Attn: Reports Clearance Director,
3100 West High Rise,
6401 Security Blvd.,
Baltimore, MD 21235,
Fax: 410–966–2830,
Email address: *OR.Reports.Clearance@ssa.gov*.

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2015–0058].

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than December 14, 2015. Individuals can obtain copies of the collection instruments by writing to the above email address.

Promoting Readiness of Minors in SSI (PROMISE) Evaluation—0960–0799

Background

The Promoting Readiness of Minors in SSI (PROMISE) demonstration pursues positive outcomes for children with disabilities who receive Supplemental Security Income (SSI) and their families by reducing dependency on SSI. The Department of Education (ED) awarded six cooperative agreements to states to improve the provision and coordination of services and support for children with disabilities who receive SSI and their families to achieve improved education and employment outcomes. ED awarded PROMISE funds to five single-state projects, and to one six-state consortium.[1] With support from ED, the Department of Labor (DOL), and the Department of Health and Human Services (HHS), SSA is evaluating the six PROMISE projects. SSA contracted with Mathematica Policy Research to conduct the evaluation.

Under PROMISE, targeted outcomes for youth include an enhanced sense of self-determination; achievement of secondary and post-secondary educational credentials; an attainment of early work experiences culminating with competitive employment in an integrated setting; and long-term reduction in reliance on SSI. Outcomes of interest for families include heightened expectations for and support of the long-term self-sufficiency of their youth; parent or guardian attainment of education and training credentials; and increases in earnings and total income. To achieve these outcomes, we expect the PROMISE projects to make better use of existing resources by improving service coordination among multiple state and local agencies and programs.

ED, SSA, DOL, and HHS intend the PROMISE projects to address key limitations in the existing service system for youth with disabilities. By intervening early in the lives of these young people, at ages 14–16, the projects engage the youth and their families well before critical decisions regarding the age 18 redetermination are upon them. We expect the required partnerships among the various state and Federal agencies that serve youth with disabilities to result in improved integration of services and fewer dropped handoffs as youth move from one agency to another. By requiring the programs to engage and serve families and provide youth with paid work experiences, the initiative is mandating the adoption of critical best practices in promoting the independence of youth with disabilities.

Project Description

SSA is requesting clearance for the collection of data needed to implement and evaluate PROMISE. The evaluation provides empirical evidence on the impact of the intervention for youth and their families in several critical areas, including: (1) Improved educational attainment; (2) increased employment skills, experience, and earnings; and (3) long-term reduction in use of public benefits. We base the PROMISE evaluation on a rigorous design that entails the random assignment of approximately 2,000 youth in each of the six projects to treatment or control groups (12,000 total). The PROMISE projects provide enhanced services for youth in the treatment groups; whereas youth in the control groups are eligible only for those services already available in their communities independent of the interventions.

The evaluation assesses the effect of PROMISE services on educational attainment, employment, earnings, and reduced receipt of disability payments. The three components of this evaluation include:

- The process analysis, which documents program models, assesses the relationships among the partner organizations, documents whether the grantees implemented the programs as planned, identifies features of the programs that may account for their impacts on youth and families, and identifies lessons for future programs with similar objectives.
- The impact analysis, which determines whether youth and families in the treatment groups receive more services than their counterparts in the control groups. It also determines whether treatment group members have better results than control group members with respect to the targeted outcomes noted above.
- The cost-benefit analysis, which assesses whether the benefits of PROMISE, including increases in employment and reductions in benefit receipt, are large enough to justify its costs. We conduct this assessment from a range of perspectives, including those of the participants, state and Federal governments, SSA, and society as a whole.

SSA planned several data collection efforts for the evaluation. These include: (1) Follow-up interviews with youth and their parent or guardian 18 months and 5 years after enrollment; (2) phone and in-person interviews with local program administrators, program supervisors, and service delivery staff at two points in time over the course of the demonstration; (3) two rounds of focus groups with participating youth in the treatment group; (4) two rounds of focus groups with parents or guardians of participating youth; (5) staff activity logs

[1] The six-state consortium project goes by the name Achieving Success by Promoting Readiness for Education and Employment (ASPIRE) rather than by PROMISE.

which provide data on aspects of service delivery; and (6) collection of administrative data.

At this time, SSA requests clearance for the staff activity logs. SSA will request clearance for the 5-year survey interviews in a future submission. The respondents are the administrative and direct service staff, as well as some subcontractors whose primary roles with their organizations involve PROMISE service delivery.

Type of Request: Revision of an OMB-approved information collection.

Time Burden on Respondents

2015: Interviews and Focus Group Discussions, and 18-Month Survey Interviews

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Staff Interviews with Administrators or Directors	24	1	66	26
Staff Interviews with PROMISE Project Staff	48	1	66	53
Youth Focus Groups—Non-participants	20	1	5	8
Youth Focus Groups—Participants	100	1	100	33
Parents or Guardian Focus Groups—Non-participants	100	1	5	8
Parents or Guardian Focus Groups—Participants	20	1	100	33
Totals	312			161

2015: Interviews and Focus Group Discussions, and 18-Month Survey Interviews

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Staff Interviews with Administrators or Directors	51	1	66	56
Staff Interviews with PROMISE Project Staff	97	1	66	107
Youth Focus Groups—Non-participants	220	1	5	18
Youth Focus Groups—Participants	60	1	100	100
Parents or Guardian Focus Groups—Non-participants	220	1	5	18
Parents or Guardian Focus Groups—Participants	60	1	100	100
18-Month Survey Interviews—Parent	850	1	41	595
18-Month Survey Interviews—Youth	850	1	30	425
Totals	2,408			1,405

2016: Interviews and Focus Group Discussions, Staff Activity Logs, and 18-Month Survey Interviews

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Staff Interviews with Administrators or Directors	75	1	66	83
Staff Interviews with PROMISE Project Staff	145	1	66	160
Activity Logs for Administrators or Directors	45	14	5	52
Activity Logs for PROMISE Project Staff	135	14	5	157
Youth Focus Groups—Non-participants	320	1	5	27
Youth Focus Groups—Participants	80	1	100	133
Parents or Guardian Focus Groups—Non-participants	320	1	5	27
Parents or Guardian Focus Groups—Participants	80	1	100	133
18-Month Survey Interviews—Parent	5,100	1	41	3,485
18-Month Survey Interviews—Youth	5,100	1	30	2,550
Totals	11,400			6,807

2017: 18-Month Survey Interviews

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
18-Month Survey Interviews—Parent	4,250	1	41	2,904
18-Month Survey Interviews—Youth	4,250	1	30	2,125
Totals	8,500			5,029

GRAND TOTAL

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Grand Total	22,620			13,402

Cost Burden for Respondents

2014: ANNUAL COST TO RESPONDENTS

Respondent type	Number of respondents	Frequency of response	Average burden per response (minutes)	Median hourly wage rate (dollars)	Total respondent cost (dollars)
Parent or Guardian Focus Group—Non-Participants	100	1	5	$7.38	$61.00
Parent or Guardian Focus Group—Participants	20	1	100	7.38	246.00
Total	120				307.00

2015: ANNUAL COST TO RESPONDENTS

Respondent type	Number of respondents	Frequency of response	Average burden per response (minutes)	Median hourly wage rate (dollars)	Total respondent cost (dollars)
Parent or Guardian Focus Group—Non-Participants	220	1	5	$7.38	$135.00
Parent or Guardian Focus Group—Participants	60	1	100	7.38	738.00
Total	280				873.00

2016: ANNUAL COST TO RESPONDENTS

Respondent type	Number of respondents	Frequency of response	Average burden per response (minutes)	Median hourly wage rate (dollars)	Total respondent cost (dollars)
Parent or Guardian Focus Group—Non-Participants	320	1	5	$7.38	$196.00
Parent or Guardian Focus Group—Participants	80	1	100	7.38	984.00
Total	400				1,180.00

GRAND TOTAL

Respondent type	Number of respondents	Frequency of response	Average burden per response (minutes)	Median hourly wage rate (dollars)	Total respondent cost (dollars)
Grand Total	800				$2,360.00

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than November 16, 2015. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov.*

Important Information About Your Appeal, Waiver Rights, and Repayment Options—20 CFR 404.502–521—0960–0779. When SSA accidentally overpays beneficiaries, the agency informs them of the following rights: (1) The right to reconsideration of the overpayment determination; (2) the right to request a waiver of recovery and the automatic scheduling of a personal conference if SSA cannot approve a request for waiver; and (3) the availability of a different rate of withholding when SSA proposes the full withholding rate. SSA uses Form SSA–3105, Important Information About Your Appeal, Waiver Rights, and Repayment Options, to explain these rights to overpaid individuals and allow them to notify SSA of their decision(s) regarding these rights. The respondents are overpaid claimants requesting a waiver of recovery for the overpayment, reconsideration of the fact of the overpayment, or a lesser rate of withholding of the overpayment. This is a correction notice: SSA published the incorrect burden information for this collection at 80 FR 43828, on 7/23/15. We are correcting this error here.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–3105 Paper form	600,000	1	15	150,000
Debt Management System	200,000	1	15	50,000
Totals	800,000			200,000

Dated: October 8, 2015.

Naomi R. Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2015–26120 Filed 10–14–15; 8:45 am]

BILLING CODE 4191–02–P

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Rescinded for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the approved by rule projects rescinded by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: July 1–31, 2015.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, being rescinded for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(e) and 806.22(f) for the time period specified above:

Rescinded ABR(e) Issued June 1–31, 2015

1. Marcellus GTL, LLC, Altoona Project, ABR–201307005, Blair and Allegheny Townships, Blair County, Pa.: Rescind Date: July 29, 2015.

Rescinded ABR(f) Issued July 1–31, 2015

1. Chief Oil & Gas, LLC, Pad ID: Inderlied Drilling Pad, ABR–201304020, Lathrop Township, Susquehanna County, Pa.; Rescind Date: June 5, 2015.

2. Energy Incorporated, Pad ID: Everbe Farms Unit B, ABR–201202024, Franklin Township, Lycoming County, Pa.; Rescind Date: June 24, 2015.

3. XTO Energy Incorporated, Pad ID: Free Library Unit E, ABR–201107024, Beech Creek Township, Clinton County, Pa.; Rescind Date: June 24, 2015.

4. XTO Energy Incorporated, Pad ID: PA Tract Unit H, ABR–201206018, Chapman Township, Clinton County, Pa.; Rescind Date: June 24, 2015.

5. XTO Energy Incorporated, Pad ID: PA Tract K, ABR–201208014, Chapman Township, Clinton County, Pa.; Rescind Date: June 24, 2015.

6. XTO Energy Incorporated, Pad ID: Shaner8507H, ABR–201011019, Jordon Township, Lycoming County, Pa.; Rescind Date: June 24, 2015.

7. XTO Energy Incorporated, Pad ID: West Brown A, ABR–201210008, Moreland Township, Lycoming County, Pa.; Rescind Date: June 24, 2015.

8. XTO Energy Incorporated, Pad ID: West Brown B, ABR–201209005, Moreland Township, Lycoming County, Pa.; Rescind Date: June 24, 2015.

9. WPX Energy Appalachia, LLC, Pad ID: S. Farver 1V, ABR–201008102, Benton Township, Columbia County, Pa.; Rescind Date: June 24, 2015.

10. WPX Energy Appalachia, LLC, Pad ID: Campbell Well Pad, ABR–201012010, Benton Township, Columbia County, Pa.; Rescind Date: June 24, 2015.

11. SWN Production Company, LLC, Pad ID: Wells Pad, ABR–201011014, Benton Township, Lackawanna County, Pa.; Rescind Date: June 24, 2015.

12. SWN Production Company, LLC, Pad ID: NR–19 WALKER–DIEHL PAD, ABR–201412009, Oakland Township, Susquehanna County, Pa.; Rescind Date: June 24, 2015.

13. SWEPI, LP, Pad ID: Fox 813, ABR–201007006, Gaines Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

14. SWEPI, LP, Pad ID: Geiser 907, ABR–201104003, Abbott Township, Potter County, Pa.; Rescind Date: June 25, 2015.

15. SWEPI, LP, Pad ID: Granger 850, ABR–201101004, Gaines Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

16. SWEPI, LP, Pad ID: Granger 853, ABR–201203017, Gaines Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

17. SWEPI, LP, Pad ID: McConnell 471, ABR–201012055, Charleston Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

18. SWEPI, LP, Pad ID: Palmer 809, ABR–201006106, Chatham Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

19. SWEPI, LP, Pad ID: Ritter 828, ABR–201008136, Gaines Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

20. SWEPI, LP, Pad ID: Schimmell 828, ABR–201010052, Farmington Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

21. SWEPI, LP, Pad ID: Sherman 498, ABR–201009101, Richmond Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

22. SWEPI, LP, Pad ID: Smith 140, ABR–201007079, Charleston Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

23. SWEPI, LP, Pad ID: State 811, ABR–201009020, Elk Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

24. SWEPI, LP, Pad ID: State 814, ABR–201010007, Elk Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

25. SWEPI, LP, Pad ID: State 816, ABR–201010039, Elk Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

26. SWEPI, LP, Pad ID: State 818, ABR–201010038, Elk Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

27. SWEPI, LP, Pad ID: State 819, ABR–201007039, Gaines Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

28. SWEPI, LP, Pad ID: State 820, ABR–201010037, Gaines Township,

Tioga County, Pa.; Rescind Date: June 25, 2015.

29. SWEPI, LP, Pad ID: State 824, ABR–201007041, Gaines Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

30. SWEPI, LP, Pad ID: State 825, ABR–201007042, Gaines Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

31. SWEPI, LP, Pad ID: State 826, ABR–201007043, Shippen Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

32. SWEPI, LP, Pad ID: State 827, ABR–201010036, Elk Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

33. SWEPI, LP, Pad ID: State 841, ABR–201010035, Elk Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

34. SWEPI, LP, Pad ID: State 842, ABR–201010047, Elk Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

35. SWEPI, LP, Pad ID: State 843, ABR–201010048, Elk Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

36. SWEPI, LP, Pad ID: State 844, ABR–201009021, Elk Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

37. SWEPI, LP, Pad ID: Stewart 805, ABR–201007003, Elk Township, Tioga County, Pa.; Rescind Date: June 25, 2015.

38. SWEPI, LP, Pad ID: Wood 513R, ABR–201007014, Rutland Township, Tioga County, Pa.; Rescind Date: June 30, 2015.

39. Chesapeake Appalachia, LLC, Pad ID: Gunn, ABR–201101006, Rome Township, Bradford County, Pa.; Rescind Date: July 1, 2015.

40. Chesapeake Appalachia, LLC, Pad ID: Lantz, ABR–201102025, Sheshequin Township, Bradford County, Pa.; Rescind Date: July 1, 2015.

41. Chesapeake Appalachia, LLC, Pad ID: King, ABR–201103050, Sheshequin Township, Bradford County, Pa.; Rescind Date: July 1, 2015.

42. Anadarko E&P Onshore, LLC, Pad ID: Abel, ABR–201010062, Shrewsbury Township, Sullivan County, Pa.; Rescind Date: July 27, 2015.

43. Anadarko E&P Onshore, LLC, Pad ID: COP Tr 231 Pad E, ABR–201007097, Boggs Township, Sullivan County, Pa.; Rescind Date: July 27, 2015.

44. Anadarko E&P Onshore, LLC, Pad ID: Field, ABR–201010020, Cherry Township, Sullivan County, Pa.; Rescind Date: July 27, 2015.

45. Anadarko E&P Onshore, LLC, Pad ID: Jason M. Phillips Pad A, ABR–201007070, Cogan House Township, Lycoming County, Pa.; Rescind Date: July 27, 2015.

46. Anadarko E&P Onshore, LLC, Pad ID: Kohler, ABR–201009103, Liberty Township, Tioga County, Pa.; Rescind Date: July 27, 2015.

47. Anadarko E&P Onshore, LLC, Pad ID: Marilyn Ely, ABR–201008143, Gamble Township, Lycoming County, Pa.; Rescind Date: July 27, 2015.

48. Anadarko E&P Onshore, LLC, Pad ID: Maurice D Bieber Pad A, ABR–201008024, Cascade Township, Lycoming County, Pa.; Rescind Date: July 27, 2015.

49. Anadarko E&P Onshore, LLC, Pad ID: Stephen M Sleboda Pad A, ABR–201112008, Cascade Township, Lycoming County, Pa.; Rescind Date: July 27, 2015.

50. Chesapeake Appalachia, LLC, Pad ID: Lyon, ABR–201201038, Tuscarora Township, Bradford County, Pa.; Rescind Date: July 31, 2015.

51. XTO Energy Incorporated, Pad ID: King Unit, ABR–20091225.R1, Shrewsbury Township, Lycoming County, Pa.; Rescind Date: July 31, 2015.

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: October 8, 2015.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2015–26163 Filed 10–14–15; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Buy America Waiver Notification

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This notice provides information regarding FHWA's finding that a Buy America waiver is appropriate for the use of non-domestic Vanessa 30,000 series water line valves (two 42 inch, three 16 inch, and one 8 inch) for the Woodmen Road corridor improvement project, phase 2 in Colorado Springs, Colorado.

DATES: The effective date of the waiver is October 16, 2015.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, (202) 366–1562, or via email at *gerald.yakowenko@dot.gov.* For legal questions, please contact Mr. Jomar Maldonado, FHWA Office of the Chief Counsel, (202) 366–1373, or via email at *Jomar.Maldonado@dot.gov.* Office hours for the FHWA are from 8:00 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the **Federal Register**'s home page at: *http://www.archives.gov* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Background

The FHWA's Buy America policy in 23 CFR 635.410 requires a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in a Federal-aid construction project. The regulation also provides for a waiver of the Buy America requirements when the application would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not sufficiently available. This notice provides information regarding FHWA's finding that a Buy America waiver is appropriate for use of non-domestic Vanessa 30,000 series water line valves (two 42 inch, three 16 inch, and one 8 inch) for the Woodmen Road corridor improvement project, phase 2, in Colorado Spring, Colorado. These waterline materials are required to relocate an existing 42 inch high pressure water line outside of the roadway. These valves would meet a zero leakage performance that is necessary for worker safety during water line construction.

In accordance with Division K, section 122 of the ''Consolidated and Further Continuing Appropriations Act, 2015'' (Pub. L. 113–235), FHWA published a notice of intent to issue a waiver on its Web site (*http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=111*) on August 18. The FHWA received no comments in response to the publication. Based on all the information available to the agency, FHWA concludes that there are no domestic manufacturers of Vanessa 30,000 series water line valves.

In accordance with the provisions of section 117 of the SAFETEA–LU Technical Corrections Act of 2008 (Pub. L. 110–244, 122 Stat. 1572), FHWA is providing this notice as its finding that a waiver of Buy America requirements is appropriate. The FHWA invites public comment on this finding for an additional 15 days following the effective date of the finding. Comments may be submitted to FHWA's Web site

via the link provided to the waiver page noted above.

(Authority: 23 U.S.C. 313; Pub. L. 110–161, 23 CFR 635.410)

Issued on: October 6, 2015.

Gregory G. Nadeau,

Administrator, Federal Highway Administration.

[FR Doc. 2015–26191 Filed 10–14–15; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2015–0022]

Application From the State of Ohio to the Surface Transportation Project Delivery Program and Proposed Memorandum of Understanding (MOU) Assigning Environmental Responsibilities to the State

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Notice of proposed MOU and request for comments.

SUMMARY: This notice announces that FHWA has received and reviewed an application from the Ohio Department of Transportation (ODOT) requesting participation in the Surface Transportation Project Delivery Program (Program). This Program allows FHWA to assign and States to assume, responsibilities under the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*), and all or part of FHWA's responsibilities for environmental review, consultation, or other actions required under any Federal environmental law with respect to one or more Federal highway projects within the State. The FHWA has determined the application to be complete, and developed a draft MOU with ODOT outlining how the State will implement the program with FHWA oversight. The public is invited to comment on ODOT's request, including its application, and the proposed MOU, which includes the proposed assignments and assumptions of environmental review, consultation and other activities to be assigned.

DATES: Please submit comments by November 16, 2015.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- *Facsimile (Fax):* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Ave. SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE., Washington, DC 20590 between 9:00 a.m. and 5:00 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: You must include the agency name and docket number at the beginning of your comments. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT:

Jeff Blanton P.E., Director of Program Development, Federal Highway Administration Ohio Division, 200 N. High St., Room 326, Columbus, Ohio 43215, 8:00 a.m.–4:00 p.m. (ET), (614) 280–6824, *jeffrey.blanton@dot.gov.*

Timothy M. Hill, Administrator, Office of Environmental Services, Ohio Department of Transportation, 1980 West Broad Street, Mail Stop 4170, Columbus, Ohio 43223, 7:30 a.m.–4:30 p.m. (ET), (614) 466–7100, *Tim.Hill@dot.ohio.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this notice may be downloaded from the **Federal Register**'s home page at *http://www.archives.gov.* An electronic version of the application materials and proposed MOU may be downloaded by accessing the DOT docket, as described above, at *http://www.regulations.gov/.*

Background

Section 327 of title 23, United States Code (23 U.S.C. 327), allows the Secretary of the DOT (Secretary), to assign, and a State to assume, responsibility for all or part of FHWA's responsibilities for environmental review, consultation, or other actions required under any Federal environmental law with respect to one or more Federal-aid highway projects within the State pursuant to regulations promulgated by the Council on Environmental Quality under part 1500 of title 40, Code of Federal Regulations (CFR) (as in effect on October 1, 2003). The FHWA is authorized to act on behalf of the Secretary with respect to these matters.

Under the proposed MOU, FHWA would assign to the State, through ODOT, the responsibility for making decisions on the following types of highway projects:

1. All Class I, or environmental impact statement (EIS) projects, both on the State highway system (SHS) and local government projects off the SHS that are funded by FHWA or require FHWA approvals.
2. All Class II, or categorically excluded (CE), projects, both on the SHS and local government projects off the SHS that are funded by FHWA or require FHWA approvals.
3. All Class III, or environmental assessment (EA) projects, both on the SHS and local government projects off the SHS that are funded by FHWA or require FHWA approvals.
4. Projects funded by other Federal agencies [or projects without any Federal funding] of any Class that also includes funding by FHWA or require FHWA approvals. For these projects, ODOT would not assume the NEPA responsibilities of other Federal agencies.

Excluded from assignment are highway projects authorized under 23 U.S.C. 202 and 203, highway projects under 23 U.S.C. 204 unless the project will be designed and constructed by ODOT, projects that cross State boundaries, and projects that cross or is adjacent to international boundaries.

The following projects are examples of projects that will not be assigned because they are projects that cross State borders:

- HAM–50/State Line Road Improvements, PID 93507
- HAM–IR 71/IR 75–0.00/0.22—Brent Spence Bridge, PID 75119
- SCI–US23–0.00, PID 98150
- JEF-Wellsburg Bridge, PID 79353

The assignment also would give the State the responsibility to conduct the following environmental review, consultation, and other related activities:

Air Quality

- Clean Air Act (CAA), 42 U.S.C. 7401–7671q, with the exception of any project level conformity determinations

Noise

- Noise Control Act of 1972, 42 U.S.C. 4901–4918
- Airport Noise and Capacity Act of 1990, 49 U.S.C. 47251–47534
- Compliance with the noise regulations in 23 CFR 772

Wildlife

- Section 7 of the Endangered Species Act of 1973, 16 U.S.C. 1531–1544
- Marine Mammal Protection Act, 16 U.S.C. 1361–1423h
- Anadromous Fish Conservation Act, 16 U.S.C. 757a–757f

- Fish and Wildlife Coordination Act, 16 U.S.C. 661–667d
- Migratory Bird Treaty Act, 16 U.S.C. 703–712
- Magnuson-Stevens Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 180l–1891d *et seq.,* with Essential Fish Habitat requirements at 1855(b)(2)

Hazardous Materials Management

- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) 42 U.S.C. 9601–9675
- Superfund Amendments and Reauthorization Act (SARA), 42 U.S.C. 9671–9675
- Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901–6992k

Historic and Cultural Resources

- Section 106 of the National Historic Preservation Act of 1966, as amended, 54 U.S.C. 306101 *et seq.*
- 23 U.S.C. 138 and Section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. 303 and implementing regulations at 23 CFR part 774
- Archeological Resources Protection Act of 1979, 16 U.S.C. 470aa–470mm
- Title 54, Chapter 31—Preservation of Historical and Archeological Data, 54 U.S.C. 312501–312508
- Native American Grave Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3001–30131; 18 U.S.C. 1170

Social and Economic Impacts

- American Indian Religious Freedom Act, 42 U.S.C. 1996
- Farmland Protection Policy Act (FPPA), 7 U.S.C. 4201–4209

Water Resources and Wetlands

- Clean Water Act, 33 U.S.C. 1251–1377— Section 404, Section 401, Section 319
- Coastal Barrier Resources Act, 16 U.S.C. 3501–3510
- Coastal Zone Management Act, 16 U.S.C. 1451–1465
- Safe Drinking Water Act (SDWA), 42 U.S.C. 300f–300j–26
- General Bridge Act of 1946, 33 U.S.C. 525–533
- Rivers and Harbors Act of 1899, 33 U.S.C. 401–406
- Wild and Scenic Rivers Act, 16 U.S.C. 1271–1287
- Emergency Wetlands Resources Act, 16 U.S.C. 3901 and 3921
- Wetlands Mitigation, 23 U.S.C. 119(g) and 133(b)(l4)
- FHWA wetland and natural habitat mitigation regulations, 23 CFR part 777
- Flood Disaster Protection Act, 42 U.S.C. 4001–4130

Parklands

- Section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. 303
- Land and Water Conservation Fund (LWCF) Act, 54 U.S.C. 200302–200310

FHWA-Specific

- Planning and Environmental Linkages, 23 U.S.C. 168, with the exception of those FHWA responsibilities associated with 23 U.S.C. 134 and 135
- Programmatic Mitigation Plans, 23 U.S.C. 169 with the exception of those FHWA responsibilities associated with 23 U.S.C. 134 and 135

Executive Orders Relating to Highway Projects

- E.O. 11990, Protection of Wetlands
- E.O. 11988, Floodplain Management
- E.O. 13690, Federal Flood Risk Management Standard (FFRMS)
- E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations
- E.O. 13112, Invasive Species

The MOU would allow ODOT to act in the place of FHWA in carrying out the environmental review-related functions described above, except with respect to government-to-government consultations with federally recognized Indian tribes. The FHWA will retain responsibility for conducting formal government-to-government consultation with federally recognized Indian tribes, which is required under some of the listed laws and executive orders. The ODOT will continue to handle routine consultations with the tribes and understands that a tribe has the right to direct consultation with FHWA upon request. The ODOT also may assist FHWA with formal consultations, with consent of a tribe, but FHWA remains responsible for the consultation. The ODOT also will not assume FHWA's responsibilities for conformity determinations required under Section 176 of the Clean Air Act (42 U.S.C. 7506) or any responsibility under 23 U.S.C. 134 or 135, or under 49 U.S.C. 5303 or 5304.

A copy of the proposed MOU may be viewed on the DOT DMS Docket, as described above, or may be obtained by contacting the FHWA or the State at the addresses provided above. A copy also may be viewed on ODOT's Web site at *http://www.dot.state.oh.us/NEPA-Assignment/Pages/default.aspx.*

The FHWA Ohio Division, in consultation with FHWA Headquarters, will consider the comments submitted when making its decision on the proposed MOU revision. Any final MOU approved by FHWA may include changes based on comments and consultations relating to the proposed MOU and will be made publicly available.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 327; 42 U.S.C. 4331, 4332; 23 CFR 771.117; 40 CFR 1507.3, 1508.4.

Issued on: October 6, 2015.

Gregory G. Nadeau,

Administrator, Federal Highway Administration.

[FR Doc. 2015–26192 Filed 10–14–15; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Buy America Waiver Notification

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This notice provides information regarding FHWA's finding that a Buy America waiver is appropriate for the use of non-domestic Voith 21/R5 propulsion units for ferry boat Pocahontas' propulsion unit replacement by Virginia DOT.

DATES: The effective date of the waiver is October 16, 2015.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, (202) 366–1562, or via email at *gerald.yakowenko@dot.gov.* For legal questions, please contact Mr. Jomar Maldonado, FHWA Office of the Chief Counsel, (202) 366–1373, or via email at *Jomar.Maldonado@dot.gov.* Office hours for the FHWA are from 8:00 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the **Federal Register**'s home page at: *http://www.archives.gov* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Background

The FHWA's Buy America policy in 23 CFR 635.410 requires a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in a Federal-aid construction project. The regulation also provides for a waiver of the Buy America requirements when the application would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not sufficiently available. This notice provides information regarding FHWA's finding that a Buy America waiver is appropriate for use of non-domestic Voith 21/R5 propulsion units to replace the existing propulsion units, Voith 24/65, which have reached the end of their useful life.

In accordance with Division K, section 122 of the ''Consolidated and Further Continuing Appropriations Act, 2015'' (Pub. L. 113–235), FHWA published a notice of intent to issue a waiver on its Web site (*http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=112*) on August 18. The FHWA received no comments in response to the publication. During the 15-day comment period, FHWA conducted an additional review to locate potential domestic manufacturers of propulsion units that are equivalent to Voith 21/R5 units. Based on all the information available to the agency, FHWA concludes that there are no domestic manufacturers of propulsion units that are equivalent to Voith 21/R5 units.

In accordance with the provisions of section 117 of the SAFETEA–LU Technical Corrections Act of 2008 (Pub. L. 110–244, 122 Stat. 1572), FHWA is providing this notice as its finding that a waiver of Buy America requirements is appropriate. The FHWA invites public comment on this finding for an additional 15 days following the effective date of the finding. Comments may be submitted to FHWA's Web site via the link provided to the waiver page noted above.

Authority: 23 U.S.C. 313; Pub. L. 110–161, 23 CFR 635.410)

Issued on: October 6, 2015.

Gregory G. Nadeau,

Administrator, Federal Highway Administration.

[FR Doc. 2015–26189 Filed 10–14–15; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Buy America Waiver Notification

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This notice provides information regarding FHWA's finding that a Buy America waiver is appropriate for the use of non-domestic motor and machinery brakes for a moveable bridge in the State of Florida.

DATES: The effective date of the waiver is October 16, 2015.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, (202) 366–1562, or via email at *gerald.yakowenko@dot.gov.* For legal questions, please contact Mr. Jomar Maldonado, FHWA Office of the Chief Counsel, (202) 366–1373, or via email at *Jomar.Maldonado@dot.gov.* Office hours for the FHWA are from 8:00 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the **Federal Register**'s home page at: *http://www.archives.gov* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Background

The FHWA's Buy America policy in 23 CFR 635.410 requires a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in a Federal-aid construction project. The regulation also provides for a waiver of the Buy America requirements when the application would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not sufficiently available. This notice provides information regarding FHWA's finding that a Buy America waiver is appropriate for use of non-domestic motor and machinery brakes that meet American Association of State Highway Transportation Officials (AASHTO) Moveable Highway Bridge Design Specifications and Florida DOT Structures Design Guidelines for the Flagler Memorial Bridge Replacement Project, Palm Beach County, Florida.

In accordance with Division K, section 122 of the ''Consolidated and Further Continuing Appropriations Act, 2015'' (Pub. L. 113–235), FHWA published a notice of intent to issue a waiver on its Web site (*http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=110*) on July 20. The FHWA received no comments in response to the publication. During the 15-day comment period, FHWA conducted an additional review to locate potential domestic manufacturers of motor and machinery brakes that meet AASHTO and Florida DOT standards. Based on all the information available to the agency, FHWA concludes that there are no domestic manufacturers of motor and machinery brakes that meet the specifications.

In accordance with the provisions of section 117 of the SAFETEA–LU Technical Corrections Act of 2008 (Pub. L. 110–244, 122 Stat. 1572), FHWA is providing this notice as its finding that a waiver of Buy America requirements is appropriate. The FHWA invites public comment on this finding for an additional 15 days following the effective date of the finding. Comments may be submitted to FHWA's Web site via the link provided to the waiver page noted above.

(Authority: 23 U.S.C. 313; Pub. L. 110–161, 23 CFR 635.410).

Issued on: October 6, 2015.

Gregory G. Nadeau,

Administrator, Federal Highway Administration.

[FR Doc. 2015–26190 Filed 10–14–15; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0069]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 41 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before November 16, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management

System (FDMS) Docket No. FMCSA–2015–0069 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy*.

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 41 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b) (3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

David V. Bartel

Mr. Bartel, 45, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bartel understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bartel meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Derwin M. Beckles

Mr. Beckles, 43, has had ITDM since 2013. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Beckles understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Beckles meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New Jersey.

John H. Bell Jr.

Mr. Bell, 52, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bell understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bell meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Florida.

Robert G. Chadwick

Mr. Chadwick, 58, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Chadwick understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Chadwick meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Utah.

Brian D. Correll

Mr. Correll, 45, has had ITDM since 1985. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Correll understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Correll meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist

examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Pennsylvania.

Stephen V. Danczak

Mr. Danczak, 37, has had ITDM since 1992. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Danczak understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Danczak meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Ohio.

Thomas W. Feeley

Mr. Feeley, 56, has had ITDM since 2010. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Feeley understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Feeley meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New York.

Jeffrey S. Gurcik

Mr. Gurcik, 47, has had ITDM since 2009. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gurcik understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gurcik meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that does not have diabetic retinopathy. He holds an operator's license from New Jersey.

Robert Hackney, Jr.

Mr. Hackney, 58, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hackney understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hackney meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New Jersey.

Lawrence D. Hastings

Mr. Hastings, 53, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hastings understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hastings meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Wisconsin.

Michael P. Haun

Mr. Haun, 49, has had ITDM since 1989. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Haun understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Haun meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Rhode Island.

Anthony G. Hill

Mr. Hill, 52, has had ITDM since 2013. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hill understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hill meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Georgia.

Charles H. Hillman

Mr. Hillman, 67, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hillman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hillman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Oregon.

Alan L. Hodge

Mr. Hodge, 57, has had ITDM since 2011. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hodge understands diabetes management and monitoring,

has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hodge meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Minnesota.

Hans G. Horschig

Mr. Horschig, 58, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Horschig understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Horschig meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Mexico.

Nicholas C. Huber

Mr. Huber, 23, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Huber understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Huber meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

Joseph S. Hurlburt

Mr. Hurlburt, 64, has had ITDM since 2013. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hurlburt understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hurlburt meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from New York.

Robert J. Johnson

Mr. Johnson, 30, has had ITDM since 2009. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Johnson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Johnson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

Christopher E. Jones

Mr. Jones, 54, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Jones understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jones meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

Roger L. Killion

Mr. Killion, 44, has had ITDM since 2011. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Killion understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Killion meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from North Carolina.

Robert L. Lawson

Mr. Lawson, 36, has had ITDM since 1987. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lawson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lawson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from South Carolina.

Leroy Madison

Mr. Madison, 63, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Madison understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Madison meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from South Carolina.

Mark L. Martin

Mr. Martin, 51, has had ITDM since 2010. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the

assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Martin understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Martin meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Washington.

Wendell J. Matthews

Mr. Matthews, 54, has had ITDM since 2011. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Matthews understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Matthews meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Missouri.

Peter G. Mattos

Mr. Mattos, 60, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Mattos understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mattos meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Vermont.

Randy G. Moody

Mr. Moody, 59, has had ITDM since 2007. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Moody understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Moody meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Tennessee.

Michael J. Murray, Jr.

Mr. Murray, 41, has had ITDM since 2015. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Murray understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Murray meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from California.

Joseph K. Neisen

Mr. Neisen, 31, has had ITDM since 2009. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Neisen understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Neisen meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Illinois.

Manuel Pereira

Mr. Pereira, 61, has had ITDM since 1998. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Pereira understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pereira meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Connecticut.

Herman Powell, Jr.

Mr. Powell, 58, has had ITDM since 2013. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Powell understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Powell meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Texas.

William H. Riley, Jr.

Mr. Riley, 51, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Riley understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Riley meets the requirements of the vision standard at 49 CFR

391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

James W. Smith

Mr. Smith, 50, has had ITDM since 2015. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Smith understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Smith meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from South Carolina.

Thomas H. Smith

Mr. Smith, 57, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Smith understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Smith meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Wisconsin.

Michael J. Swanson

Mr. Swanson, 58, has had ITDM since 1996. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Swanson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Swanson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Illinois.

Patrick J. Sweeney

Mr. Sweeney, 51, has had ITDM since 1991. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Sweeney understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sweeney meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from New Jersey.

Richard T. Tabeling

Mr. Tabeling, 79, has had ITDM since 2007. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Tabeling understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Tabeling meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Kentucky.

David Tellez

Mr. Tellez, 51, has had ITDM since 2010. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Tellez understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Tellez meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Montana.

Mark A. Turley

Mr. Turley, 43, has had ITDM since 1976. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Turley understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Turley meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Pennsylvania.

Kristi L. Turner

Ms. Turner, 47, has had ITDM since 2000. Her endocrinologist examined her in 2015 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Turner understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Turner meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2015 and certified that she does not have diabetic retinopathy. She holds a Class B CDL from Texas.

Jon T. Webster

Mr. Webster, 54, has had ITDM since 2015. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or

more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Webster understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Webster meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Minnesota.

Owen E. Whetzel

Mr. Whetzel, 63, has had ITDM since 2015. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Whetzel understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Whetzel meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from West Virginia.

III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).[1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136 (e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2015–0069 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2015–0069 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Dated: October 7, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–26243 Filed 10–14–15; 8:45 am]

BILLING CODE 4910–EX–P

[1] Section 4129(a) refers to the 2003 notice as a ''final rule.'' However, the 2003 notice did not issue a ''final rule'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0055]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 45 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions were granted August 25, 2015. The exemptions expire on August 25, 2017.

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, (202) 366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov*.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov*, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On July 24, 2015, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (80 FR 44188). That notice listed 45 applicants' case histories. The 45 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 45 applications on their merits and made a determination to grant exemptions to each of them.

III. Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 45 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including amblyopia, aphakia, central retinal scar, chorioretinal scar complete loss of vision due to traumatic injury, corneal scarring, large optic nerve coloboma, macular degeneration, macular edema retinal scarring, no light perception, ocular hypertension ocular nerve damage, optic nerve atrophy, ocular sarcoidosis, prosthetic eye due to traumatic injury, refractive amblyopia, retinal damage, retinal disease, retinal vein occlusion, and traumatic glaucoma. In most cases, their eye conditions were not recently developed. Thirty of the applicants were either born with their vision impairments or have had them since childhood.

The 15 individuals that sustained their vision conditions as adults have had it for a range of 4 to 38 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 45 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision in careers ranging for 2 to 50 years. In the past three years, two drivers were involved in crashes, and two drivers were convicted of moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the July 24, 2015 notice (80 FR 44188).

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates

and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 45 applicants, two drivers were involved in crashes, and two drivers were convicted of moving violations in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 45 applicants listed in the notice of July 24, 2015 (80 FR 44188).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 45 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

V. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based upon its evaluation of the 45 exemption applications, FMCSA exempts the following drivers from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)):

Charles R. Airey (MD)
Harold D. Albrecht (IL)
Joseph W. Bahr, Jr. (NJ)
Jerry A. Bordelon (LA)
Stephen C. Brueggeman (KY)
Dale E. Bunke (ID)
James E. Byrne (MO)
Larry O. Cheek (CA)
Louise D. Curtis (FL)
Marvin P. Cusey (MN)
Bradford W. Davis (KS)
Roy H. Degner (IA)
Chris DeJong (NM)
Jonathan G. Estabrook (MA)
Robert J. Falanga (FL)
Elhadji M. Faye (CA)
Donald A. Hall (NC)
Willard D. Hall (CA)
Refugio Haro (IL)
Kevin L. Harrison (TN)
Timothy N. Hollenbeck (OR)
Elmer G. Isenhart, Jr. (OH)
Abdullah T. Khalil (VA)
Don J. Labrum (UT)
Scott E. Landegent (SD)
Steven D. Leonard (MD)
Bruce A. Lloyd (MA)
Duane S. Lozinski (IA)
Rob A. Matthews, Jr. (SC)
Keith W. McNabb (ID)
Ronald W. Neujahr (KS)
Frank L. Novich Jr. (MO)
Russell Nutter (OH)
Lonnie D. Prejean (TX)
Robert C. Reid (KY)
Thomas E. Riley (NJ)
Danilo A. Rivera (MD)
Steven L. Roberts (AR)
John B. Stiltner (KY)
James M. Stroupe (VA)
Steven W. Stull (IL)
Dale R. Sweigart (PA)
Rick R. Warner (MI)
Theodore White (PA)
Larry L. Yow (NC)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: October 7, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–26248 Filed 10–14–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0053]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 27 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions were granted August 13, 2015. The exemptions expire on August 13, 2017.

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov*.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy*.

II. Background

On July 13, 2015, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (80 FR 40122). That notice listed 27 applicants' case histories. The 27 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 27 applications on their merits and made a determination to grant exemptions to each of them.

III. Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 27 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including esotropia, strabismic amblyopia, amblyopia, aphakia, torn iris, farsightedness, complete loss of vision, keratoconnus, prosthetic eye, no light perception, exudative retinopathy, central vein occlusion, corneal scar, phthisis bulbi, optic nerve damage, refractive amblyopia, and retinal detachment. In most cases, their eye conditions were not recently developed. Sixteen of the applicants were either born with their vision impairments or have had them since childhood.

The 11 individuals that sustained their vision conditions as adults have had it for a range of four to 45 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 27 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision in careers ranging for three to 49 years. In the past three years, two drivers were involved in crashes, and no drivers were convicted of moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the July 13, 2015 notice (80 FR 40122).

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a

driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 27 applicants, two drivers were involved in crashes, and no drivers were convicted of moving violations in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 27 applicants listed in the notice of July 13, 2015 (80 FR 40122).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 27 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

V. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based upon its evaluation of the 27 exemption applications, FMCSA exempts the following drivers from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)):

Joel D. Barchard (MA)
Homer L. Butler (PA)
William D. Cherry (MA)
Thomas W. Chism (KS)
Pedro Del Bosque (TX)
Anthony C. DeNaples (PA)
Michael R. Doerr (ID)
Mark J. Dufresne (NH)
Edward Dugue III (NC)
Adoum H. Fadoul (IN)
Larry R. Hayes, Jr. (KS)
Bradley A. Hetrick (PA)
Wayne E. Jakob (IL)
Michael A. Kimbler (TX)
Colon W. King (ME)
Earney J. Knox (MO)
James R. Leoffler, Jr. (CO)
Jimmy D. Mannis (AR)
George A. McCue (NV)
Kevin D. Mendoza (WA)
Stephen M. Nomack (CT)
James Smentkowski (NJ)
Neil G. Sturges (NY)
Travis L. Watson (TN)
Bruce W. Williams (IL)
Norman G. Wooten (TX)
Kurt A. Yoder (OH)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: October 7, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–26242 Filed 10–14–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2000–7257, Notice No. 7]

Northeast Corridor Safety Advisory Committee; Notice of Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Announcement of Northeast Corridor Safety Advisory Committee (NECSC) Meeting.

SUMMARY: FRA announces the fifth meeting of the Northeast Corridor Safety Committee, a Federal Advisory Committee mandated by section 212 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA). The NECSC is made up of stakeholders operating on the Northeast Corridor, and the purpose of the NECSC is to provide annual recommendations to the Secretary of Transportation. NECSC meeting topics will include a presentation on recent FRA safety advisories and emergency orders, Amtrak derailment safety lessons learned, vehicle intrusions at other-than-grade crossings, NEC Positive Train Control implementation timeline/issues and challenges, and a general discussion of safety issues.

DATES: The NECSC meeting is scheduled to commence at 9:30 a.m. on Wednesday, November 18, 2015, and will adjourn by 4:30 p.m.

ADDRESSES: The NECSC meeting will be held at the National Housing Center located at 1201 15th Street NW., Washington, DC 20005. The meeting is open to the public on a first-come, first-served basis, and is accessible to individuals with disabilities. Sign and oral interpretation can be made available if requested 10 calendar days before the meeting.

FOR FURTHER INFORMATION CONTACT: Larry Woolverton, RSAC/NECSC Administrative Officer/Coordinator, FRA, 1200 New Jersey Avenue SE., Mailstop 25, Washington, DC 20590, (202) 493–6212; or Robert Lauby, Associate Administrator for Railroad Safety and Chief Safety Officer, FRA, 1200 New Jersey Avenue SE., Mailstop 25, Washington, DC 20590, (202) 493–6474.

SUPPLEMENTARY INFORMATION: The NECSC is mandated by a statutory provision in section 212 of the PRIIA (codified at 49 U.S.C. 24905(f)). The NECSC is chartered by the Secretary of Transportation and is an official Federal Advisory Committee established in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. title 5–Appendix.

Issued in Washington, DC, on October 8, 2015.

Robert C. Lauby,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2015–26135 Filed 10–14–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2000–7257; Notice No. 80]

Railroad Safety Advisory Committee; Notice of Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Railroad Safety Advisory Committee (RSAC) meeting.

SUMMARY: FRA announces the fifty-fourth meeting of the RSAC, a Federal Advisory Committee that develops railroad safety regulations through a consensus process. The RSAC meeting topics will include opening remarks from the FRA Acting Administrator and the Associate Administrator for Railroad Safety and Chief Safety Officer. Briefings will be provided on recent FRA-issued safety advisories, and recent Notices of Proposed Rulemakings and status reports will be provided by the Remote Control Locomotive and Risk Reduction Working Groups. A status report will also be provided by the Engineering Task Force. This agenda is subject to change, including the possible addition of further proposed tasks.

DATES: The RSAC meeting is scheduled to commence at 9:30 a.m. on Thursday, November 5, 2015, and will adjourn by 4:30 p.m.

ADDRESSES: The RSAC meeting will be held at the National Housing Center located at 1201 15th Street NW., Washington, DC 20005. The meeting is open to the public on a first-come, first-served basis, and is accessible to individuals with disabilities. Sign and oral interpretation can be made available if requested 10 calendar days before the meeting.

FOR FURTHER INFORMATION CONTACT: Larry Woolverton, RSAC Administrative Officer/Coordinator, FRA, 1200 New Jersey Avenue SE., Mailstop 25, Washington, DC 20590, (202) 493–6212; or Robert Lauby, Associate Administrator for Railroad Safety and Chief Safety Officer, FRA, 1200 New Jersey Avenue SE., Mailstop 25, Washington, DC 20590, (202) 493–6474.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), FRA is giving notice of a meeting of the RSAC. The RSAC was established to provide advice and recommendations to FRA on railroad safety matters. The RSAC is composed of 60 voting representatives from 39 member organizations, representing various rail industry perspectives. In addition, there are non-voting advisory representatives from the agencies with railroad safety regulatory responsibility in Canada and Mexico, the National Transportation Safety Board, and the Federal Transit Administration. The diversity of the Committee ensures the requisite range of views and expertise necessary to discharge its responsibilities. See the RSAC Web site for details on prior RSAC activities and pending tasks at *http://rsac.fra.dot.gov/*. Please refer to the notice published in the **Federal Register** on March 11, 1996 (61 FR 9740), for additional information about the RSAC.

Issued in Washington, DC, on October 8, 2015.

Robert C. Lauby,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2015–26136 Filed 10–14–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015–0116]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel FROG PRINTS; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before November 16, 2015.

ADDRESSES: Comments should refer to docket number MARAD–2015–0116. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation,

Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel FROG PRINTS is:

INTENDED COMMERCIAL USE OF VESSEL: ''Passengers for hire, for sailing classes and recreational charters generally originating in Seattle, WA''

GEOGRAPHIC REGION: ''Washington State, Oregon, California ''

The complete application is given in DOT docket MARAD–2015–0116 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

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).

By Order of the Maritime Administrator.

Dated: October 6, 2015.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–26209 Filed 10–14–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015 0114]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel WAVELENGTH; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before November 16, 2015.

ADDRESSES: Comments should refer to docket number MARAD–2015–0114. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel WAVELENGTH is:

Intended Commercial Use of Vessel: ''TO CARRY PASSENGERS ONLY AND SPORT FISHING WHERE THE FISH CAUGHT WILL NOT BE SOLD COMMERCIALLY''

Geographic Region: ''CALIFORNIA, OREGON, WASHINGTON, ALASKA (excluding waters in Southeastern Alaska and waters north of a line between Gore Point to Cape Suckling [including the North Gulf Coast and Prince William Sound])''

The complete application is given in DOT docket MARAD–2015–0114 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

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 (65 FR 19477).

By Order of the Maritime Administrator.

Dated: October 6, 2015.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–26211 Filed 10–14–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. DOT–MARAD–2015–0119]

Agency Requests for Renewal of a Previously Approved Information Collection(s): Maritime Administration (MARAD) Jones Act Vessel Availability Determinations

AGENCY: Maritime Administration.

ACTION: Notice and request for comments.

SUMMARY: The Maritime Administration (MARAD) invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The information collected ensures that the Maritime Administrator has sufficient information regarding the capacities and schedules of qualified vessels in order to make determinations required by 46 U.S.C. 501(b). The information will be used by the Maritime Administration (MARAD) to fulfill its statutory obligation in determining availability of Jones Act (*i.e.,* coastwise-qualified vessels) in all applicable circumstances. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995, Public Law 104–13.

DATES: Written comments should be submitted by December 14, 2015.

ADDRESSES: You may submit comments [identified by Docket No. DOT–MARAD–2015–0119] through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael Hokana, (202) 366–0760, Office of Cargo and Commercial Sealift, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2133–0545.

Title: Maritime Administration (MARAD) Jones Act Vessel Availability Determinations.

Form Numbers: MA–1074, MA–1075.

Type of Review: Renewal of an information collection.

Background: This collection of information will be used to gather information regarding the availability, location, and specifications of U.S.-flag vessels for the purpose of making vessel availability determinations. The information is needed in order for the Maritime Administrator to make a timely and informed decision on the availability of coastwise qualified vessels in support of a request from the Department of Homeland Security prior to the final decision on granting a waiver request under 46 U.S.C. 501(b). The information will be specifically used to determine if there are coastwise qualified vessels available for a certain requirement.

Respondents: Respondents include but are not limited to coastwise qualified vessel owners, operators, charterers, brokers and representatives.

Number of Respondents: 85.

Number of Responses: 255/3 responses per respondent.

Total Annual Burden: 127.5 Hrs.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1:93.

Dated: October 6, 2015.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–26205 Filed 10–14–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015 0117]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SUNDOG; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before November 16, 2015.

ADDRESSES: Comments should refer to docket number MARAD–2015–0117. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SUNDOG is:

Intended Commercial Use of Vessel: ''Parasailing and spectator passengers''

Geographic Region: ''Florida, Alabama, Mississippi, Louisiana, Texas, Georgia, North Carolina, South Carolina''

The complete application is given in DOT docket MARAD–2015–0117 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

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 (65 FR 19477).

By Order of the Maritime Administrator.
Dated: October 6, 2015.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–26210 Filed 10–14–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015–0113]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SURLY MERMAID; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before November 16, 2015.

ADDRESSES: Comments should refer to docket number MARAD–2015–0113. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SURLY MERMAID is:

INTENDED COMMERCIAL USE OF VESSEL: ''Uninspected Passenger Vessel (UPV) carrying no greater than six (6) passengers for hire''

GEOGRAPHIC REGION: Delaware, Maryland, Virginia, North Carolina, South Carolina

The complete application is given in DOT docket MARAD–2015–0113 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments.

Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

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).

By Order of the Maritime Administrator.
Dated: September 29, 2015.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–26207 Filed 10–14–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015–0115]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel FREEDOM; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before November 16, 2015.

ADDRESSES: Comments should refer to docket number MARAD–2015–0115. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel FREEDOM is:

INTENDED COMMERCIAL USE Of VESSEL: ''Passenger tours of San Francisco Bay and surrounding coast and waterways as well as passenger tours along the west coast states. Tours would be intended for pleasure and not for transport of passengers, cargo or freight.''

Geographic Region: ''California, Oregon and Washington States.''

The complete application is given in DOT docket MARAD–2015–0115 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses

U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

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 (65 FR 19477).

By Order of the Maritime Administrator.
Dated: October 6, 2015.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–26212 Filed 10–14–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[FI–189–84]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning the existing final regulations, FI–189–84 (TD 8517, Final), Debt Instruments With Original Discount; Imputed Interest on Deferred Payment Sales or Exchanges of Property.

DATES: Written comments should be received on or before December 14, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Elaine Christophe, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Sara Covington at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Debt Instruments With Original Discount; Imputed Interest on Deferred Payment Sales or Exchanges of Property.

OMB Number: 1545–1353.

Regulation Project Number: FI–189–84.

Abstract: These regulations provide definitions, reporting requirements, elections, and general rules relating to the tax treatment of debt instruments with original issue discount and the imputation of, and accounting for, interest on certain sales or exchanges of property.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 525,000.

Estimated Time per Respondent: 2 hours 45 minutes.

Estimated Total Annual Burden Hours: 185,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 29, 2015.

Elaine H. Christophe,

IRS Supervisory Tax Analyst.

[FR Doc. 2015–26197 Filed 10–14–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Advisory Committee to the Internal Revenue Service; Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: The Information Reporting Program Advisory Committee (IRPAC) will hold a public meeting on Wednesday, October 28, 2015.

FOR FURTHER INFORMATION CONTACT: Ms. Caryl Grant, National Public Liaison, CL:NPL:SRM, Rm. 7559, 1111 Constitution Avenue NW., Washington, DC 20224.

Phone: 202–317–6851 (not a toll-free number). Email address: *PublicLiaison@irs.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), that a public meeting of the IRPAC will be held on Wednesday, October 28, 2015 from 9:00 a.m. to 12:00 p.m. at Residence Inn Marriott, 1199 Vermont Avenue NW., Washington, DC 20005. Report recommendations on issues that may be discussed include: Foreign Account Tax Compliance Act; TIN Matching; W–9 Revision; Assisting SBSE and OSP to Improve the Penalty Abatement Process and RCA; Suggestions for Improvements to the IRS Use of FAQs; Electronic Transmittal of Employer Withheld IRS Tax Levy Proceeds; Pensions and IRA Complications; Publication 1586 Revision, Reasonable Cause Regulations & Requirements for Missing and Incorrect Name/TINs; Theft of Business Taxpayer's Identity; Publications and Forms Changes; Reporting by Insurance Companies and Third Parties under § 6055 and § 6056; ACA Education; IRC § 6050W and Form 1099–K Reporting; Form 1099–B Aggregate Reporting of Sales; Transfers of Section 1256 Options; Complex Debt Reporting Requirements; Form 1098–T. Last minute agenda changes may preclude

advance notice. Due to limited seating and security requirements, please call or email Caryl Grant to confirm your attendance. Ms. Grant can be reached at 202–317–6851 or *PublicLiaison@irs.gov*. Should you wish the IRPAC to consider a written statement, please call 202–317–6851, or write to: Internal Revenue Service, Office of National Public Liaison, CL:NPL:SRM, Room 7559, 1111 Constitution Avenue NW., Washington, DC 20224 or email: *PublicLiaison@irs.gov*.

Dated: October 6, 2015.

John Lipold,

Designated Federal Official, Branch Chief, National Public Liaison.

[FR Doc. 2015–26198 Filed 10–14–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8935, Airline Payments Report, and Form 8935–T, Transmittal of Airline Payments Reports.

DATES: Written comments should be received on or before December 14, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Elaine Christophe, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Sara Covington, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Sara.L.Covington@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Permitted Elimination of Preretirement Optional Forms of Benefit.

OMB Number: 1545–2140.

Form Number: Form 8935 and Form 8935–T.

Abstract: Form 8935 will provide to the employee, current or former, the amount of the payment that was received from the airline that is eligible for rollover treatment into a Roth IRA. Form 8935–T (Transmittal form) will provide the Secretary the names, years, and amounts of such payments.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and not-for-profit institutions.

Estimated Number of Responses: 40.

Estimated Average Time per Respondent: 1 hour and 6 minutes.

Estimated Total Annual Burden Hours: 44.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 29, 2015.

Elaine H. Christophe,

IRS Supervisory Tax Analyst.

[FR Doc. 2015–26196 Filed 10–14–15; 8:45 am]

BILLING CODE 4830–01–P

UNITED STATES INSTITUTE OF PEACE

Notice of Meeting

AGENCY: United States Institute of Peace.

Date/Time: Friday, October 23, 2015 (10:00 a.m.–1:45 p.m.).

Location: 2301 Constitution Avenue NW., Washington, DC 20037.

Status: Open Session—Portions may be closed pursuant to subsection (c) of section 552(b) of title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.

Agenda: October 23, 2015 Board Meeting; Approval of Minutes of the One Hundred Fifty-sixth Meeting (July 24, 2015) of the Board of Directors; Chairman's Report; Vice Chairman's Report; President's Report; Prime Minister Nawaz Sharif Event; Reports from USIP Board Committees; Annual Update—Strategic Plan Evaluation.

Contact: Nick Rogacki, Special Assistant to the President, Email: *nrogacki@usip.org.*

Dated: September 25, 2015.

Nicholas Rogacki,

Special Assistant to the President.

[FR Doc. 2015–26247 Filed 10–14–15; 8:45 am]

BILLING CODE 6820–AR–P

DEPARTMENT OF VETERANS AFFAIRS

Non-VA Care Core Provider Network

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Tribal Consultation.

SUMMARY: The Department of Veterans Affairs (VA), Veterans Health Administration (VHA) is seeking a Tribal Consultation on VHA's effort to improve continuity of care and health care access via the development of a non-VA care core provider network utilizing agreements with high quality partners who also share the privilege of serving Veterans.

DATES: Comments must be received by VA on or before Monday, October 26, 2015.

FOR FURTHER INFORMATION CONTACT: Clay Ward, VA Office of Tribal Government Relations by phone at (202) 461–7445 (this is not a toll-free number), or by email at *Tribalgovernmentconsultation@va.gov,* or by mail at Suite 915B, 810 Vermont Avenue NW., Washington, DC 20420.

ADDRESSES: Written comments may be submitted to the VA Office of Public and Intergovernmental Affairs, Office of Tribal Government Relations by email at

Tribalgovernmentconsultation@va.gov, by fax at (202) 273–5716, or by mail at U.S. Department of Veterans Affairs, Suite 915L, 810 Vermont Avenue NW., Washington, DC 20420. Comments should indicate that the submission is in response to ''Notice of Tribal Consultation Non-VA Care Core Provider Network.''

SUPPLEMENTARY INFORMATION: In July 2015, Congress passed the VA Budget and Choice Improvement Act, which calls for VA to develop by November 1, 2015 a plan to consolidate and streamline VA community care. In the plan due to Congress, VA proposes to reference, in the plan due to Congress, the Indian Health Service (IHS) and Tribal Health Programs (THP) as members of the VA core provider network. Inclusion in the core network of providers would preserve and build on VA's existing relationship IHS and THP and facilitate future collaborations to improve health care services provided to all eligible, enrolled Veterans. This Tribal Consultation is seeking input from tribal governments regarding this proposed inclusion in the core provider network.

Signing Authority: The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Nabors II, Chief of Staff, Department of Veterans Affairs, approved this document on October 9, 2015, for publication.

Dated: October 9, 2015.

Jeffrey M. Martin,

Office Program Manager, Office of Regulation Policy & Management, Office of the General Counsel, Department of Veterans Affairs.

[FR Doc. 2015–26254 Filed 10–14–15; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 80 Thursday,
No. 199 October 15, 2015

Part II

Office of Personnel Management

SES Positions That Were Career Reserved During CY 2014; Notice

OFFICE OF PERSONNEL MANAGEMENT

SES Positions That Were Career Reserved During CY 2014

AGENCY: U.S. Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: As required by section 3132(b)(4) of title 5, United States Code, this gives notice of all positions in the Senior Executive Service (SES) that were career reserved during calendar year 2014.

FOR FURTHER INFORMATION CONTACT: Eloise Jefferson, Senior Executive Resource Services, Senior Executive Services and Performance Management, Employee Services, 202–606–2246.

SUPPLEMENTARY INFORMATION: Below is a list of titles of SES positions that were career reserved at any time during calendar year 2014, regardless of whether those positions were still career reserved as of December 31, 2014. Section 3132(b)(4) of title 5, United States Code, requires that the head of each agency publish such lists by March 1 of the following year. The Office of Personnel Management is publishing a consolidated list for all agencies.

Agency	Organization	Title
ADMINISTRATIVE CONFERENCE OF THE UNITED STATES.	Administrative Conference of the United States.	Executive Director.
		General Counsel.
ADVISORY COUNCIL ON HISTORIC PRESERVATION.	Office of the Executive Director	Executive Director.
DEPARTMENT OF AGRICULTURE	Office of Communications	Deputy Director, Creative Development.
	Office of the Chief Information Officer	Associate Chief Information Officer, International Technology Services.
		Deputy Chief Information Officer, Operations.
	Office of the Chief Financial Officer	Associate Chief Financial Officer, Financial Policy and Planning.
		Associate Chief Financial Officer, Financial Systems Planning and Management.
		Deputy Chief Financial Officer.
	National Finance Center	Director, Information Resources Management Division.
		Deputy Director, National Finance Center.
		Director, Financial Services Division.
	Office of the General Counsel	Associate General Counsel, General Law and Research Division.
		Assistant General Counsel, Natural Resources and Environment Division.
	Office of the Chief Economist	Director, Office of Energy Policy and New Uses.
		Director, Global Change Program Office.
		Director, Office of Risk Assessment and Cost-Benefit Analysis.
		Chairperson.
	Office of Human Resources Management.	Provost, United States Department of Agriculture Virtual University.
		Executive Director, Executive Resources Management Division.
	Office of Advocacy and Outreach	Director, Office of Advocacy and Outreach.
	Office of Operations	Director, Office of Operations.
		Deputy Director, Office of Operations.
	Procurement and Property Management.	Director, Procurement and Property Management.
		Associate Director, Procurement and Property Management.
	Rural Business Service	Deputy Administrator, Business Programs.
	Rural Housing Service	Deputy Administrator, Centralized Servicing Center.
		Deputy Administrator, Multi-Family Housing.
		Director, Loans Receivable Center of Excellence.
		Chief Financial Officer.
		Director, Human Resources.
		Deputy Administrator, Operations and Management.
	Agricultural Marketing Service	Deputy Administrator, Dairy Programs.
		Deputy Administrator, Poultry Programs.
		Deputy Administrator, Science and Technology Programs.
		Deputy Administrator, Cotton and Tobacco Programs.
		Deputy Administrator, Transportation and Marketing Programs.
		Deputy Administrator, National Organic Programs.
		Deputy Administrator, Compliance and Analysis.
		Deputy Administrator, Livestock and Seed Programs.
		Deputy Administrator, Information Technology Services.
		Associate Administrator.
		Deputy Administrator, Fruit and Vegetable Programs.
	Animal and Plant Health Inspection Service.	Chief Advisor (Government, Academia and Industry Partnership).
		Chief Financial Officer.
		Human Resources Officer.
		Director, National Wildlife Research Center.
		Director, Investigative and Enforcement Services.
		Director, Information Technology Division.

Agency	Organization	Title
		Director, Center for Veterinary Biologics.
		Associate Deputy Administrator, Emerging and International Programs.
		Deputy Administrator, Legislative and Public Affairs.
		Deputy Administrator, International Services.
		Deputy Administrator, Biotechnology Regulatory Programs.
		Associate Deputy Administrator, Veterinary Services.
		Director, Western Region, Wildlife Services.
		Deputy Administrator, Wildlife Services.
		Associate Deputy Administrator, Marketing and Regulatory Programs-Business Services.
		Deputy Administrator, Marketing and Regulatory Programs-Business Services.
		Deputy Administrator, Animal Care.
		Director, Center for Plant Health Science and Technology.
		Assistant Deputy Administrator, Emergency and Domestic Programs.
		Associate Deputy Administrator, Wildlife Services.
		Director, Eastern Region, Wildlife Services.
		Associate Deputy Administrator, Animal Care.
	Veterinary Services	Director, Western Region, Veterinary Services.
		Executive Director, Surveillance, Preparedness and Response Services, Veterinary Services.
		Director, National Center for Veterinary Epidemiology.
		Associate Deputy Administrator, National Animal Health Policy Programs.
	Plant Protection and Quarantine Service.	Director, Plant Health Programs, Plant Protection and Quarantine.
		Director, Eastern Region, Plant Protection and Quarantine.
		Director, Western Region, Plant Protection and Quarantine.
	Office of the Under Secretary for Food Safety.	Deputy Under Secretary, Food Safety.
	Food Safety and Inspection Service	International Affairs Liaison Officer.
		Executive Associate, Regulatory Operations, Office of Field Operations.
		Chief Information Officer.
		Chief Financial Officer.
		Assistant Administrator, Office of Field Operations.
		Deputy Administrator.
		Deputy Assistant Administrator, Office of Data Integration and Food Program.
		Assistant Administrator, Office of Data Integration and Food Protection.
		Assistant Administrator, Office of Management.
		Assistant Administrator, Office of Public Affairs, Education and Outreach.
		Deputy Assistant Administrator, Office of Public Health Science.
		Deputy Assistant Administrator, Office of Field Operations.
		Assistant Administrator.
		Assistant Administrator, Office of International Affairs.
		Executive Associate, Laboratory Services, Office of Public Health Science.
		Executive Associate, Regulatory Operations, Office of Field Operations.
		Deputy Assistant Administrator, Office of International Affairs.
		Executive Associate, Regulatory Operations, Office of Field Operations.
		Executive Associate, Public Health.
		Executive Associate, Regulatory Operations, Office of Field Operations.
		Deputy Assistant Administrator, Office of Management.
		United States Manager, Codex.
		Assistant Administrator, Office of Program Evaluation Enforcement and Review.
		Deputy Administrator.
		Assistant Administrator, Office of Policy and Program Development.
		Deputy Assistant Administrator, Office of Policy and Program Development.
		Director, Enforcement Operations.
		Assistant Administrator, Office of Catfish Inspection Programs.

Agency	Organization	Title
	Food and Nutrition Service	Associate Administrator, Management and Finance.
		Program Manager and Deputy Administrator, Management.
		Financial Manager.
		Program Manager and Associate Administrator, Regional Operations and Support.
		Director, Office of Research, Nutrition and Analysis.
	Foreign Agricultural Service	Associate Administrator and Chief Operating Officer.
		Deputy Administrator, Office of Global Analysis.
	Farm Service Agency	Director, Business and Program Integration.
		Deputy Administrator, Farm Loan Programs.
		Assistant Deputy Administrator, Farm Programs.
		Director, Human Resources Division.
		Director, Office of Budget and Finance.
	Risk Management Agency	Deputy Administrator, Research and Development.
		Deputy Administrator, Insurance Services Division.
	Office of the Under Secretary for Research, Education, and Economics.	Director, Office of the United States Department of Agriculture Chief Scientist.
	Agricultural Research Service	Deputy Administrator, Nutrition, Food Safety and Quality.
		Deputy Administrator, Animal Production and Protection.
		Associate Administrator, Research Operations and Management.
		Chief Information Officer.
		Assistant Administrator, Technology Transfer.
		Director, Office of Pest Management Policy.
		Deputy Administrator, Administrative and Financial Management.
		Associate Deputy Administrator, Administrative and Financial Management.
		Chief Financial Officer.
	National Program Staff Office	Deputy Administrator, Natural Resources and Sustainable Agriculture Systems.
		Associate Administrator, National Programs.
		Deputy Administrator.
	Northeast Area Office	Associate Director, Northeast Area.
		Director, Beltsville Agricultural Research Center.
		Director, Eastern Regional Research Center.
		Director, Northeast Area Office.
		Associate Director, Northeast Area.
	Beltsville Area Office	Associate Director, Beltsville Agricultural Research Center.
		Director, United States National Arboretum.
	North Atlantic Area Office	Associate Director, North Atlantic Area.
	Southeast Area Office	Director, Southeast Area.
		Associate Director, Southeast Area (2).
		Director, Southern Regional Research Center.
	Midwest Area Office	Associate Director, Midwest Area.
		Director, National Center for Agriculture Utilization.
		Director, Midwest Area.
	Mid-South Area Office	Director, Mid-South Area.
	Plains Area Office	Associate Director, Plains Area Office.
		Director, United States Meat Animal Research Center.
		Associate Director, Plains Area.
		Director, Plains Area.
	Southern Plains Area Office	Director, Southern Plains Area.
	Pacific West Area Office	Director, Western Regional Research Center.
		Associate Director, Pacific West Area Office (2).
		Director, Pacific West Area Office.
		Director, Western Human Nutrition Research Center.
	National Institute of Food and Agriculture.	Deputy Director, Office of Information Technology.
		Deputy Director, Institute of Food Safety and Nutrition.
		Deputy Director, Institute of Bioenergy, Climate, and Environment.
		Deputy Director, Office of Grants and Financial Management.
	Economic Research Service	Director, Market and Trade Economics Division.
		Director, Information Services Division.
		Associate Administrator, Economic Research Service.
		Director, Resource and Rural Economics Division.
		Director, Food Economics Division.
		Administrator, Economic Research Service.

Agency	Organization	Title
	National Agricultural Statistics Service ..	Director, Census and Survey Division.
		Director, Statistics Division.
		Director, Eastern Field Operations.
		Director, Western Field Operations.
		Associate Administrator.
		Chairperson, United States Agricultural Statistics Board.
		Director, National Operations Center.
		Director, Methodology Division.
		Director, Information Technology Division.
		Administrator, National Agricultural Statistics Service.
		Director, Research and Development Division.
	Natural Resources Conservation Service.	Director, Resource Economics, Analysis and Policy Division.
		Director, Conservation Planning and Technical Assistance Division.
		Director, Resource Inventory Division.
		Deputy Chief, Strategic Planning and Accountability.
		Director, Easement Programs Division.
		Associate Chief, Operations/Chief Operating Officer.
		Director, Conservation Engineering Division.
		Director, Ecological Sciences Division.
		Director, Soil Science Division.
		Chief Financial Officer.
		Special Assistant to Chief (2).
		Director, Resource Assessment Division.
		Deputy Chief, Programs.
		Director, Financial Assistance Programs Division.
		Special Assistant to the Chief.
		Regional Conservationist, Northeast.
	Forest Service	Associate Deputy Chief, Research and Development (2).
		Director, Law Enforcement and Investigations.
		Director, Acquisition Management.
		Director, Fire and Aviation Staff.
		Associate Deputy Chief, Business Operations.
		Deputy Chief, Business Operations.
		Chief Financial Officer.
	Office of Research	Director, Environmental Sciences.
		Director, Forest Management Sciences.
		Director, Resource Use Sciences.
		Director, Science Policy, Planning, and Information Staff.
	National Forest System	Director, Forest Management Staff.
		Director, Rangeland Management.
		Director, Minerals and Geology Management Staff.
		Director, Water, Fish, Wasteland, Air and Rare Plants.
		Director, Ecosystem Management Coordination.
		Director, Lands Management Staff.
		Director, Engineering.
	Office of State and Private Forestry	Director, Cooperative Forestry.
		Senior Advisor to the Deputy Chief, State and Private Forestry.
		Director, Forest Health Protection.
	Field Units	Director, Southern Research Station, Asheville.
		Director, Forest Products Laboratory, Madison.
		Director, Rocky Mountain Forest and Range Experiment Station, Fort Collins.
		Director, Pacific Southwest Forest and Range Experiment Station, Vallejo.
		Director, Pacific Northwest Research Station.
		Director, North Eastern Forest Experiment Station, Newtown Square.
		Northeast Area Director, State and Private Forestry.
	International Forest System	Director, International Institute of Tropical Forest, Rio Piedras.
DEPARTMENT OF AGRICULTURE OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Counsel to the Inspector General.
		Deputy Inspector General.
	Office of the Assistant Inspector General for Management.	Assistant Inspector General, Management.
	Office of the Assistant Inspector General for Audit.	Deputy Assistant Inspector General, Audit.
		Deputy Assistant Inspector General, Audit.
		Assistant Inspector General, Audit.
		Deputy Assistant Inspector General, Audit.
	Office of the Assistant Inspector General for Investigations.	Assistant Inspector General, Investigations.
		Deputy Assistant Inspector General, Investigations.

Agency	Organization	Title
AMERICAN BATTLE MONUMENTS COMMISSION.	Office of the Executive Director	Deputy Secretary.
	Office of the Director, European Region	Director, European Region.
ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (UNITED STATES ACCESS BOARD).	Architectural and Transportation Barriers Compliance Board (United States Access Board).	Director, Office of Technical and Information Services. Executive Director.
BROADCASTING BOARD OF GOVERNORS.	International Broadcasting Bureau	Deputy, Engineering Resource Control. Deputy, Network Operations. Associate Director, Management. Chief Executive Officer.
CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD.	Office of the Chief Operating Officer	Chief Operating Officer.
DEPARTMENT OF COMMERCE	Office of the Secretary	Deputy Assistant Inspector General, Auditing. Deputy Chief Financial Officer/Deputy Chief Administrative Officer. Regional Director, Detroit. Director, Finance.
	Office of the Deputy Secretary	Interim Executive Director.
	Office of the Chief Information Officer	Deputy Chief Information Officer and Chief Technology Officer. Special Assistant, Program Management. Director, Cyber Security and Chief Information Security Officer.
	Office of the General Counsel	Chief, Ethics Division. General Counsel. Assistant General Counsel, Finance and Litigation.
	Office of the Chief Financial Officer and Assistant Secretary for Administration.	Director, Human Resources Operations Center. Executive Director, Business, United States. Director, Office of Budget. Deputy, Acquisition Program Management. Deputy Assistant Secretary, Resource Management. Deputy, Procurement Performance Excellence. Deputy Chief Information Officer, Management and Business Operations. Deputy Director, Office of Budget. Director, Facilities and Environmental Quality. Deputy Director, Facilities and Environmental Quality. Director, Office of Acquisition Management.
	Office of the Deputy Assistant Secretary for Administration.	Deputy Director, Sustainability and Facilities Asset Management. Deputy, Procurement Management, Policy and Performance Excellence. Director, Office of Security. Director, Human Capital Strategy and Diversity.
	Office of Human Resources Management.	Deputy Director, Human Resources Management and Deputy Chief Human Capital Officer. Director, Human Resources Management. Deputy Director, Human Resources Management. Director, Human Resources Management and Chief Human Capital Officer.
	Office of the Deputy Chief Financial Officer for Financial Management.	Director, Financial Reporting and Internal Controls. Director, Office of the Secretary Financial Management. Director, Financial Management and Deputy Chief Financial Officer.
	Office of Budget	Director, Office of Budget.
	Office of Security	Deputy Director, Office of Security.
	Office of the Inspector General	Deputy Assistant Inspector General, Economic and Statistical Program Assessment.
	Office of Inspector General	Assistant Inspector General, Systems Evaluation. Assistant Inspector General, Administration.
	Office of Counsel to the Inspector General.	Counsel to the Inspector General.
	Office of Inspections and Program Evaluation.	Assistant Inspector General, Inspections and Program Evaluation.
	Office of Audits	Assistant Inspector General, Auditing.
	Office of Investigations	Assistant Inspector General, Investigations.
	Economics and Statistics Administration	Director, Policy and Planning. Chief Financial Officer and Director, Administration.
	Bureau of the Census	Chief, Office of Survey and Census Analytics. Chief, Application Services Division. Assistant Director, IT and Deputy Chief Information Officer. Chief, Center for Survey Measurement.

Agency	Organization	Title
		Senior Advisor, Service Delivery.
		Chief, Decennial Research and Planning Office.
		Associate Director, 2020 Census.
		Chief, Center, Administrative Records Research and Applications.
		Assistant Director, Research and Methodology (2).
		Chief Technology Officer.
		Senior Advisor, Project Management.
		Associate Director, Administration and Chief Financial Officer.
		Chief, Budget Division.
		Associate Director, Performance Improvement.
		Associate Director, Information Technology and Chief Information Officer.
		Chief, Center for Economic Studies and Chief Economist.
		Assistant Director, American Community Survey and Decennial Census.
		Chief, Field Division.
		Chief, Human Resources Division.
	Office of the Director	Associate Director, Field Operations.
		Chief, Decennial Systems and Contracts Management Office.
	Administrative and Customer Services Division.	Chief, Administrative and Customer Services Division.
	Office of Associate Director for Information Technology.	Executive Advisor, Cloud Solutions.
	Office of Associate Director for Finance and Administration.	Chief, Acquisition Division.
		Chief, Finance Division.
	Data Preparation Division	Chief, National Processing Center.
	Office of Associate Director for Economic Programs.	Chief, Economic Management Division.
		Chief, Economy-Wide Statistics Division.
		Chief, Company Statistics Division.
		Assistant Director, Economic Programs.
		Chief, Economic Indicators Division.
		Chief, Economic Applications Division.
		Chief, International Trade Management Division.
		Associate Director, Economic Programs.
		Chief, Economic Reimbursable Surveys Division.
	Manufacturing and Construction Division.	Chief, Manufacturing and Construction Division.
	Office of Associate Director for Decennial Census.	Chief, American Community Survey Office.
		Associate Director, Decennial Census.
	Decennial Management Division	Chief, Decennial Management Division.
	Geography Division	Chief, Geography Division.
	Decennial Statistical Studies Division	Chief, Decennial Statistical Studies Division.
	Office of Associate Director for Demographic Programs.	Chief, Population Division.
		Chief, Demographic Surveys Division.
		Assistant Director, Demographic Programs.
		Associate Director, Demographic Programs.
	Housing and Household Economic Statistics Division.	Chief, Social, Economic, and Housing Statistics Division.
	Demographic Statistical Methods Division.	Chief, Demographic Statistical Methods Division.
	Statistical Research Division	Chief, Statistical Research Division.
	Bureau of Economic Analysis	Chief Administrative Officer.
		Chief, Balance of Payments Division.
		Chief Information Officer.
		Associate Director, Industry Accounts.
		Chief, Direct Investment Division.
	Office of the Director	Chief Economist.
		Director, Bureau of Economic Analysis.
		Deputy Director, Bureau of Economic Analysis.
		Chief Statistician.
	Office of Associate Director for Regional Economics.	Associate Director, Regional Economics.
	Office of Associate Director for International Economics.	Associate Director, International Economics.
	Office of Associate Director for National Income, Expenditure and Wealth Accounts.	Chief, National Income and Wealth Division.
		Associate Director, National Income, Expenditure and Wealth Accounts.
	Bureau of Industry and Security	Chief Financial Officer and Director, Administration.
		Director, Office of Enforcement Analysis.

Agency	Organization	Title
		Deputy Chief Financial Officer.
	Office of the Assistant Secretary for Export Enforcement.	Deputy Director, Office of Export Enforcement.
		Director, Office of Export Enforcement.
		Deputy Assistant Secretary, Export Enforcement.
	Office of the Assistant Secretary for Economic Development.	Chief Financial Officer and Chief Administrative Officer.
	Office of the Deputy Assistant Secretary.	Chief Financial Officer and Chief Administrative Officer.
	Office of the Under Secretary	Deputy Chief Financial and Administrative Officer.
		Chief Financial and Administrative Officer.
	Office of the Assistant Secretary for Industry and Analysis.	Director, Office of Standards and Investment Policy.
	Office of the Assistant Secretary for Enforcement and Compliance.	Associate Deputy Assistant Secretary, Antidumping/Countervailing Duty Operations.
		Senior Director, Antidumping/Countervailing Duty Enforcement Office VII.
	Office of the Director General of the U.S. and Foreign Commercial Service and Assistant Secretary for Global Markets.	Executive Director, China.
	Office of the Assistant Secretary for Global Markets.	Director, Trade Compliance Center.
	Office of the Director	Associate Director, Management.
	National Oceanic and Atmospheric Administration.	Chief, Resource and Operations Management.
		Director, Joint Polar Satellite Systems.
		Deputy Chief Information Officer.
		Director, Acquisition and Grants Office.
		Deputy Director, Workforce Management.
		Deputy Director, Office of Marine and Aviation Operations.
		Director, Office of Ocean Exploration and Research.
		Chief Administrative Officer.
		Director, Integrated Ocean Observing System.
		Deputy Assistant Administrator, Systems.
		Director, Ocean Prediction Center.
		Director, Office of Education.
		Deputy Director, Acquisition and Grants Office.
		Deputy Director, Office of Satellite and Product Operations.
		Director, Program Risk Management.
		Chief Financial Officer and Chief Administrator Officer.
		Assistant Chief Information Officer, National Environmental Satellite, Data and Information Services.
		Chief Information Officer and Director, High Performance Computing and Communications.
		Chief Financial Officer.
		Deputy Chief Administrative Officer.
		Director, Space Weather Prediction Center.
	National Oceanic and Atmospheric Administration Coastal Ocean Program Office.	Director, Budget Office.
	Office of Finance and Administration	Director, Workforce Management.
		Director, Finance Office and Comptroller.
		Director, Real Property, Facilities and Logistics Office.
	National Ocean Service	Director, Center for Operational Oceanographic Products and Services.
		Associate Assistant Administrator, Management and Chief Financial Officer/Chief Administrative Officer.
		Director, Office of National Geodetic Survey.
	National Oceanic and Atmospheric Administration Coastal Services Center.	Director, National Centers for Coastal Ocean Science.
	Hazardous Materials Response and Assessment Division.	Director, Office of Response and Restoration.
	Office of the Assistant Administrator for Weather Services.	Director, Strategic Planning and Policy Office.
	Office of the Chief Information Officer	Chief Information Officer, Weather Service.
	Office of the Federal Coordinator for Meteorology.	Director, Office of the Federal Coordinator for Meteorology.
	Office of Hydrologic Development	Director, Office of Hydrologic Development.
	Hydrology Laboratory	Chief, Hydrology Laboratory.
	Office of Science and Technology	Chief, Programs and Plans Division.
		Director, Office of Science and Technology.
	Meteorological Development Laboratory	Director, Meteorological Development Laboratory.
	Systems Engineering Center	Director, Systems Engineering Center.

Agency	Organization	Title
	Office of Operational Systems	Director, Office of Operational Systems.
	Telecommunications Operations Center	Chief, Telecommunications Operations Center.
	Maintenance, Logistics, and Acquisition Division.	Chief, Operations Division.
	Radar Operations Center	Director, Radar Operations Center.
	National Data Buoy Center	Director, National Data Buoy Center.
	Office of Climate, Water, and Weather Services.	Director, Office of Climate, Water, and Weather Services.
		Chief, Meteorological Services Division.
	Eastern Region	Director, Eastern Region National Weather Service.
	Southern Region	Director, Southern Region.
	Central Region	Director, Central Region.
	Western Region	Director, Western Region.
	Alaska Region	Director, Alaska Region, Anchorage.
	National Centers for Environmental Prediction.	Director, Aviation Weather Center.
		Director, Weather Prediction Center.
		Director, National Centers for Environmental Prediction.
		Director, National Severe Storms Laboratory.
		Director, Environmental Modeling Center.
	National Centers for Environmental Prediction Central Operations.	Director, Central Operations.
	Climate Prediction Center	Director, Climate Prediction Center.
	Storm Prediction Center	Director, Storm Prediction Center.
	Tropical Prediction Center	Director, National Hurricane Center.
	Office of Assistant Administrator for Fisheries.	Director, Office of Management and Budget.
	National Marine Fisheries Service	Director, Office of Habitat Conservation.
		Director, Office of Sustainable Fisheries.
		Director, Science and Research, Southwest Region.
		Director, Science and Research, Pacific Island Region.
		Director, International Affairs and Seafood Inspection.
		Deputy Assistant Administrator, Regulatory Programs.
	Office of Fisheries Conservation and Management.	Director, Scientific Programs and Chief Science Advisor.
		Director, Office of Enforcement.
	Office of Protected Resources	Director, Office of Science and Technology.
	Northeast Fisheries Science Center	Director, Science and Research, Northeast Region.
	Southeast Fisheries Science Center	Director, Science and Research, Southeast Region.
	Northwest Fisheries Science Center	Director, Science and Research, Northwest Region.
	Alaska Fisheries Science Center	Director, Science and Research.
	Office of Assistant Administrator Satellite, Data Information Service.	Director, Satellite Ground Services.
		Senior Scientist, Environmental Satellite, Data and Information Services (National Environmental Satellite, Data and Information Services).
		System Program Director, Goes-R Program.
		Chief Financial Officer and Chief Administrative Officer.
	National Climatic Data Center	Director, National Climatic Data Center.
	National Oceanographic Data Center	Director, National Oceanographic Data Center.
	National Geophysical Data Center	Director, National Geophysical Data Center.
	Office of Systems Development	Director, Office of Systems Development.
		Director, Systems Engineering Program.
	Office of Assistant Administrator, Ocean and Atmospheric Research.	Deputy Assistant Administrator, Laboratories and Cooperative Institutes and Director, Air Resources Laboratory.
		Director, Earth System Research Laboratory and Principal Science Advisor.
		Director, Climate Program Office.
		Chief Financial Officer and Chief Administrative Officer.
	National Sea Grant College Program	Director, National Sea Grant College Program.
	Aeronomy Laboratory	Director, Chemical Science Division.
	Atlantic Ocean and Meteorology Laboratory.	Director, Atlantic Oceanographic and Meteorological.
	Geophysical Fluid Dynamics Laboratory	Director, Office of Geophysical Fluid Dynamics Laboratory.
	Great Lake Environmental Research Laboratory.	Director, Office of Great Lakes Environmental Research Laboratory.
	Pacific Marine Environmental Research Laboratory.	Director, Office of Pacific Marine Environmental Laboratory.
	Environmental Technology Laboratory	Director, Physical Science Division.
	Forecast Systems Laboratory	Director, Global Systems Division.
	Climate Monitoring and Diagnostics Laboratory.	Director, Global Monitoring Division.
	National Telecommunications and Information Administration.	Chief Financial Officer and Director, Administration.

Agency	Organization	Title
		Chief Digital Officer.
	Office of the Assistant Secretary for Communications and Information.	Chief Information Officer and Deputy Director, Administration.
	First Responder Network Authority	Chief Information Officer, First Responder Network Authority.
		Chief Administrative Officer, First Responder Network Authority.
		Chief Financial Officer, First Responder Network Authority.
		Chief Technical Officer, First Responder Network Authority.
	Office of International Affairs	Associate Administrator, Office of International Affairs.
	Institute for Telecommunication Sciences.	Deputy Director, Systems and Networks.
	Office of the Under Secretary	Executive, Patent Trail and Appeal Board.
		Chairman, Trademark Trial and Appeal Board.
		Chief Administrative Patent Judge.
		Vice Chief Administrative Patent Judge.
		Deputy Chief Administrative Patent Judge.
		Deputy Chief Administrative Trademark Judge.
		Director, Office of Equal Employment Opportunity and Diversity.
	Office of Policy and International Affairs	Deputy Chief Policy Officer, Operations.
		Deputy Chief Policy Officer.
		Administrator, Policy and External Affairs.
		Deputy Director, Intellectual Property Policy and Enforcement.
		Chief Policy Officer and Director, International Affairs.
		Director, Intellectual Property Policy and Enforcement.
		Director, Governmental Affairs.
	Office of the General Counsel	Deputy General Counsel, Intellectual Property Law and Solicitor.
		Deputy Solicitor and Assistant General Counsel, Intellectual Property Law.
		Deputy General Counsel, Enrollment and Discipline.
	Board of Patent Appeals and Interferences.	Executive, Patent Trial and Appeal Board.
	Office of the Chief Administrative Officer.	Director, Human Capital Management.
		Director, Office of Administrative Services.
		Deputy Chief Administrative Officer.
		Director, Office of Administrative Services.
	Office of the Chief Financial Officer	Director, Office of Budget and Planning (2).
		Director, Office of Procurement.
		Chief Financial Officer.
		Deputy Chief Financial Officer.
	Office of the Chief Information Officer ..	Director, Organizational Policy and Governance.
		Director, Office of Infrastructure Engineering and Operations.
		Director, Office of Information Management Services.
		Director, Office of Program Administration Organization.
		Chief Technology Officer.
	Office of the Commissioner for Trademarks.	Director, Trademark Information Resources.
		Group Director, Trademark Law Offices (2).
		Deputy Commissioner, Trademark Examination Policy.
		Deputy Commissioner, Trademark Operations (2).
	Office of the Commissioner for Patents	Associate Commissioner, Patent Information Management.
		Deputy Commissioner, International Patent Cooperation.
		Deputy Commissioner, Patent Administration.
		Director, Office of Patent Training.
		Associate Commissioner, Patent Resources and Planning.
		Deputy Director, Patent Training Academy.
		Administrator, Search and Information Resources Administration.
		Deputy Associate Commissioner, Patent Information Management.
		Director, Office of the Central Reexamination Unit.
		Deputy Commissioner, Patent Operations.
		Director, Office of Patent Legal Administration.
		Regional Director.
		Associate Administrator, Telecommunications Science.
		Associate Commissioner, Patent Examination Policy.
	Examining Group Directors	Assistant Deputy Commissioner, Patents (3).
		Regional Group Director.
		Group Director (39).

Agency	Organization	Title
		Regional Director, Denver.
		Assistant Deputy Commissioner for Patent Operations (2).
	National Institute of Standards and Technology.	Chief Facilities Management Officer.
		Associate Director, Management Resources.
		Director, National Institute of Standards and Technology Center for Neutron Research.
		Chief of Staff, National Institute for Standards and Technology.
		Deputy Director, National Institute of Standards and Technology Center for Neutron Research.
		Director, Center for Nanoscale Science and Technology.
		Deputy Director, Center for Nanoscale Science and Technology.
		Chief Cybersecurity Advisor.
		Chief Safety Officer.
		Boulder Laboratories Site Manager.
		Senior Advisor, Cloud Computing.
		Associate Director, Innovation and Industry Services.
		Director, Law Enforcement Standards Office.
		Associate Director, Laboratory Programs.
		Senior Advisor, Voting Standards.
		Director, Standards Coordination Office.
		Senior Information Technology Policy Advisor.
		Director, Smart Grid and Cyber-Physical Systems Program Office.
		Director, Special Programs Office.
		Deputy Director, Special Program Office.
		Director, Information Technology and Applications Office.
	Office of the Director, National Institute of Standards and Technology.	Senior Advisor, Laboratory Programs.
		Chief Information Officer, National Institute of Standards and Technology.
		Chief Financial Officer, National Institute of Standards and Technology.
		Chief Manufacturing Officer.
		Director, Communications Technology Laboratory.
		Senior Advisor to the Director, Physical Measurement Laboratory.
	Baldrige Performance Excellence Program.	Deputy Director, Office of Quality Programs.
		Director, Baldrige Performance Excellence Program.
	Manufacturing Extension Partnership Program.	Director, Manufacturing Extension Partnership Program.
		Deputy Director, Manufacturing Extension Partnership Program.
	Electronics and Electrical Engineering Laboratory.	Deputy Director, Measurement Services.
	Manufacturing Engineering Laboratory	Deputy Director, Manufacturing.
	Chemical Science and Technology Laboratory Office.	Deputy Director, Chemical Scientist and Technology Laboratory.
		Director, Material Measurement Laboratory.
	Physics Laboratory Office	Director, Physical Measurement Laboratory.
	Building and Fire Research Laboratory	Chief, Fire Safety Engineering Division.
		Director, Engineering Laboratory.
	National Technical Information Service	Deputy Director, National Technical Information Service.
	Information Technology Laboratory	Deputy Director, Information Technology Laboratory.
		Director, Information Technology Laboratory.
	Office of the Chief Financial Officer	Director, Acquisition and Grants Management.
DEPARTMENT OF COMMERCE OFFICE OF THE INSPECTOR GENERAL.	Office of Inspector General	Deputy Inspector General and Assistant Inspector General, Investigations.
	Office of Audit and Evaluation	Deputy Assistant Inspector General, Audits.
		Assistant Inspector General, Intellectual Property and Special Program Audits.
		Assistant Inspector General.
		Principal Assistant Inspector General, Audit and Evaluation.
	Office of Economic and Statistical Program Assessment.	Assistant Inspector General, Economic and Statistical Program Assessment.
	Office of Systems Acquisitions and Information Technology Security.	Assistant Inspector General, Systems Acquisitions and Information Technology Security.
	Office of Audit	Assistant Inspector General, Audit.
	Office of Program Assessment	Assistant Inspector General, Administration.
	Office of Investigations	Assistant Inspector General, Investigations.

Agency	Organization	Title
	Office of Counsel	Counsel to the Inspector General.
CONSUMER PRODUCT SAFETY COMMISSION.	Office of Executive Director	Assistant Executive Director, Information and Tech Services.
		Director, Office of International Programs and Intergovernmental Affairs.
		Assistant Executive Director, Compliance and Administrative Litigation.
	Office of Hazard Identification and Reduction.	Associate Executive Director, Epidemiology.
		Associate Executive Director, Engineering Sciences.
		Associate Executive Director, Economic Analysis.
		Assistant Executive Director, Hazard Identification and Reduction.
		Deputy Assistant Executive Director, Hazard Identification and Reduction.
	Office of Import Surveillance	Director, Office of Import Surveillance.
COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA.	Court Services and Offender Supervision Agency for the District of Columbia.	Associate Director, Research and Evaluation.
		Deputy Director.
		Associate Director, Human Resources.
		Associate Director, Administration.
		Chief Financial Officer.
		Associate Director, Special Criminal Justice Programs.
		Associate Director, Legislative, Intergovernmental and Public Affairs.
		Associate Director, Community Justice Programs.
		Associate Director, Community Supervision.
		Chief Information Officer.
	Pretrial Services Agency	Associate Director, Operations.
		Director.
		Deputy Director.
		Associate Director, Management and Administration.
OFFICE OF THE SECRETARY OF DEFENSE.	Office of the Secretary	Assistant to the Secretary of Defense, Intelligence Oversight.
	Office of the Under Secretary of Defense (Policy).	Special Assistant, Career Broadening.
		Foreign Relations and Defense Policy Manager/Defense Technology Security Administration (DTSA).
		Special Assistant, Career Broadening.
	Office of Principal Deputy Under Secretary for Policy.	Foreign Relations and Defense Policy Manager, Special Assistant to the Principal Deputy Under Secretary of Defense, Policy.
	Office of the Assistant Secretary of Defense (Asian and Pacific Security Affairs).	Deputy Assistant Secretary of Defense, East Asia.
	Director, Operational Test and Evaluation.	Deputy Director, Live Fire Test and Evaluation.
	Office of the Deputy Chief Management Officer.	Director, Oversight and Compliance.
		Director, Enterprise Performance Division.
		Director, Administration.
		Department of Defense Senior Intelligence Oversight Official and Deputy Director, Oversight and Compliance.
	Office of Inspector General	Assistant Inspector General, Acquisition and Contract Management.
	Office of the Under Secretary of Defense (Personnel and Readiness).	Chief of Staff.
	Office Assistant Secretary of Defense (Health Affairs).	Military Health System Chief Information Officer.
		Deputy Chief, Tricare Acquisitions Directorate.
		General Counsel.
		Regional Director, Tricare Regional Office, South.
		Regional Director, Tricare Regional Office, North.
	Office of Assistant Secretary of Defense (Reserve Affairs).	Principal Director, Manpower and Personnel.
	Office of the Under Secretary of Defense (Comptroller).	Deputy Chief Financial Officer.
	Washington Headquarters Services	Deputy Director, Defense Facilities Directorate.
		Deputy Director, Human Resources Directorate.
		Director, Facilities Services Directorate.
		Director, Human Resources Directorate.
		Director, Department of Defense Consolidated Adjudications Facility.

Agency	Organization	Title
		Director, Acquisition Directorate.
		Director, Policy, Plans and Requirements.
		Principal Assistant Responsible for Contracting.
	Pentagon Force Protection Agency	Director, Pentagon Force Protection Agency.
		Assistant Director, Law Enforcement.
		Principal Deputy Director, Pentagon Force Protection Agency.
	Office of the General Counsel	Director, Defense Office of Hearings and Appeals.
		Director, Office of Litigation.
		General Counsel.
	Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics).	Principal Deputy Director, Administration.
		Principal Deputy, Acquisition Resources and Analysis.
		Deputy Director, Enterprise Information.
		Deputy Director, Office of the Secretary Studies and Federally Funded Research and Development Center Management.
		Deputy Director, Acquisition Technology.
		Deputy Director, Resource Analysis.
		Deputy Director, Enterprise Information and Office of the Secretary Studies.
		Director, Defense Procurement and Acquisition Policy.
		Director, Administration.
		Director, Acquisition Resources and Analysis.
		Deputy Director, Treaty Compliance and Homeland Defense.
	Assistant Secretary of Defense (Acquisition).	Special Assistant, Concepts and Plans.
		Principal Deputy Assistant Secretary of Defense, Acquisition.
		Deputy Director, Naval Warfare.
		Deputy Director, Defense Acquisition Regulations System.
		Technical Director, Force Development.
		Deputy Director, Program Acquisition and Strategic Sourcing.
		Deputy Director, Assessments and Support.
		Deputy Director, Land Warfare and Munitions.
		Deputy Director, Contract Policy and International Contracting.
		Deputy Director, Naval Warfare.
		Assistant Deputy Under Secretary of Defense, Acquisition Process and Policies.
	Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs.	Deputy Assistant Secretary of Defense, Nuclear Matters.
	Office of the Director of Defense Research and Engineering.	Deputy Director, Information Systems and Cyber Security.
		Principal Deputy Assistant Secretary of Defense, Research and Engineering and Director, Plans and Programs.
		Director, Human Performance, Training and Bio systems.
		Director, Weapons Systems.
		Director, Space and Sensor Technology.
	Defense Advanced Research Projects Agency.	Special Assistant, Procurement Policy Strategy.
		Director, Contracts Management Office.
		Director, Support Services Office.
		Deputy Director, Strategic Technology Office.
		Director, Tactical Technology Office.
		Deputy Director, Special Programs.
		Deputy Director, Defense Advanced Research Projects Agency.
	Office of the Joint Chiefs of Staff	Vice Assistant Deputy Director, Joint Development.
		Executive Director, Force Generation.
		Assistant Deputy Director, Synchronization and Integration.
		Vice Deputy Director, Joint and Coalition Warfighting.
		Assistant Deputy Director, Command and Control.
		Vice Director, C4/Cyber.
	Missile Defense Agency	Deputy Director, Joint National Integration Center.
		Director, Contracting.
		Director, Systems Engineering and Integration.
		Program Director, Targets and Countermeasures.
		Chief Engineer, Ground-Based Midcourse Defense.
		Program Director, Ground Missile Defense.

Agency	Organization	Title
		Director, Advanced Technology.
		Deputy, Engineering.
		Director, Operations.
		Program Director, Battle Management, Command and Control.
		Program Director, Ground-Based Midcourse Defense.
		Deputy Program Director, Baseline Concepts.
		Director, Acquisition.
		Deputy Program Manager, Assessment and Integration, Ballistic Missile Defense System.
	Defense Contract Audit Agency	Deputy Director, Defense Contract Audit Agency.
		Special Assistant.
		Deputy Regional Director, Western Region.
		Director, Defense Contract Audit Agency.
		Assistant Director, Policy and Plans.
		Director, Field Detachment.
		Assistant Director, Operations.
	Regional Managers	Regional Director, Northeastern.
		Regional Director, Eastern.
		Regional Director, Central.
		Regional Director, Western.
		Regional Director, Mid-Atlantic.
		Deputy Regional Director, Eastern Region.
		Deputy Regional Director, Northeastern Region.
		Deputy Regional Director, Central Region.
		Deputy Regional Director, Mid-Atlantic Region.
		Assistant Director, Integrity and Quality Assurance.
	Defense Logistics Agency	Acquisition Executive, Defense Logistics Agency Acquisition.
		Executive Director, Operations and Sustainment.
		Executive Director, Joint Contingency Acquisition Support Office.
		Chief of Staff.
		Program Executive Officer, Defense Logistics Agency Information Operations.
		Vice Director, Defense Logistics Agency.
		Deputy Director, Defense Logistics Agency Acquisition.
		Executive Director, Enterprise Solutions.
		Director, Defense Logistics Agency Acquisition (J–7).
		Deputy Commander, Defense Logistics Agency Energy.
		Executive Director, Contracting and Acquisition Management.
		Executive Director, Troop Support Contracting and Acquisition Management.
		Deputy Director, Customer Operations and Readiness.
		Director, Defense Logistics Agency Disposition Services.
		Director, Enterprise Planning and Transformation.
		General Counsel.
		Director, Defense Logistics Agency Human Resources.
		Director, Defense Logistics Agency Information Operation.
		Executive Director, Aviation Contracting and Acquisition Management.
		Principal Deputy Comptroller.
		Deputy Commander, Defense Logistics Agency Distribution.
		Deputy General Counsel, Defense Logistics Agency.
		Deputy Commander, Defense Logistics Agency Troop Support.
		Deputy Commander, Defense Logistics Agency Aviation.
		Deputy Commander, Defense Logistics Agency, Land and Maritime.
		Executive Director, Support—Policy and Strategic Programs.
		Program Executive Officer.
		Chief Financial Officer and Director, Defense Logistics Agency.
		Deputy Director, Information Operations and Chief Technical Officer.
	Defense Human Resources Activity	Deputy Director, Advisory Services, Defense Human Resources Activity.
		Director, Human Resources Operational Programs and Advisory Services.
		Deputy Director, Defense Manpower Data Center.
		Director, Defense Manpower Data Center.
		Chief Actuary, Defense Human Resources Activity.

Agency	Organization	Title
	Defense Contract Management Agency	Chief Operations Officer.
		Deputy Director, Defense Contract Management Agency.
		Executive Director, Financial and Business Operations and Comptroller.
		General Counsel.
		Deputy Executive Director, Contract Management Operations.
		Executive Director, Ground Systems and Munitions Division.
		Executive Director, Naval Sea Systems Division, Boston Division.
		Executive Director, Contracts.
		Director, Defense Contract Management Agency.
		Deputy Executive Director, Portfolio Management and Integration.
		Deputy Chief Operations Officer.
		Executive Director, Quality Assurance.
		Executive Director, Portfolio Management and Integration.
	Defense Information Systems Agency ..	Vice Director, Procurement and Vice Chief, Defense Information Technology Contracting Office.
		Test and Evaluation Executive.
		Program Executive Officer, Communication.
		Vice Director, Network Services.
		Director, Network Services.
		Principal Director, Operations Director.
		Component Acquisition Executive.
		Base Realignment and Closure Transition Executive.
		Director, Procurement and Chief, Defense Information Technology Contracting Organization.
		Director, Enterprise Engineering.
		Director, Enterprise Information Services.
		Vice Principal Director, Operations.
		Congressional Liaison Officer.
		Inspector General.
		Director, Strategic Planning and Information.
		Chief Financial Executive and Comptroller.
		Principal Director, Computing Services.
		Chief Technology Officer.
		Deputy Chief Financial Executive and Comptroller.
		Chief, Corporate Planning and Mission Integrations.
		Chief Information Assurance Executive and Program Executive Officer, Mission Assurance and Network Operations.
		Deputy Chief Technology Officer, Mission Assurance.
		Director, Department of Defense Information Network Readiness and Security Inspections.
		Director, Joint Information Environmental Technical Synchronization Office.
		Director, Manpower, Personnel and Security.
		Cyber Security, Risk Management and Authorizing Official Executive.
		Deputy Chief Technology Officer, Enterprise Services.
	Defense Threat Reduction Agency	Director, Basic and Applied Sciences Department.
		Deputy Director, Operations Directorate.
		Director, On-Site Inspection Department.
		Executive Director.
		Director, Research and Development Directorate.
		Chief Scientist.
		Director, Acquisition, Finance and Logistics Directorate.
		Director, Nuclear Technologies Department.
		Director, Cooperative Threat Reduction Department.
		Associate Director, Strategy and Plans Enterprise.
		Director, Operations, Readiness and Exercises Directorate.
		Director, Counter Weapons of Mass Destruction Technologies Department.
	Defense Security Cooperation Agency	Foreign Relations Defense Policy Manager and Principal Director, Strategy.
	Defense Commissary Agency	Director.
DEPARTMENT OF THE AIR FORCE	Department of the Air Force	Executive Director, Africa.
		Director, Civilian Force Management.
		Deputy Director, Logistics.
		Director, 448 Combat Sustainment Wing.
		Deputy Director, Operations.
		Deputy Director, Military Force Management.

Agency	Organization	Title
		Director of Policy, Programs and Strategy, International Affairs.
		Associate Deputy Assistant Secretary, Programs.
		Executive Director.
		Deputy Assistant Secretary, Logistics.
		Chief Information Officer and Deputy Director, Plans and Integration.
		Director, Diversity and Inclusion (2).
		Director, Programs and Resources.
		Director, Cyber Capabilities and Compliance.
		Deputy Director, Requirements.
		Director, Space Security and Defense Program.
		Deputy Director, Security, Special Program Oversight, and Information Protection.
		Deputy Director, Strategic Planning.
		Deputy Director, Manpower, Organization and Resources.
		Director, Contracting.
		Deputy Director, Security Forces.
		Deputy Director, Force Development and Air Force Senior Language Authority.
		Director, Engineering and Technical Management.
		Director, Joint Staff and Assistant to Chief and Vice Chief National Guard Bureau.
		Director, Installations, Logistics and Mission Support.
		Director, Communications and Information.
		Director, Financial Management and Comptroller.
		Deputy Director, Policy, Programs and Strategy, International Affairs.
		Executive Director, Air National Guard.
	Office of the Secretary	Deputy Director, Legislative Liaison.
		Deputy and Technical Director, Rapid Capabilities Office.
		Deputy Director, Warfighter Systems Integration and Deployment.
		Director, Air Force Rapid Capabilities Office.
	Office of the Under Secretary	Deputy Under Secretary, Air Force, Space Programs.
	Office of Deputy Under Secretary (International Affairs).	Deputy Under Secretary, International Affairs.
		Director, Strategy, Operations, and Resources.
		Director, Policy, International Affairs.
	Office of Administrative Assistant to the Secretary.	Director Security, Special Program Oversight and Information Protection.
		Director, Headquarters Air Force Information Management.
		Administrative Assistant.
		Deputy Administrator Assistant.
		Executive Director, Office of Special Investigations.
	Office of Small and Disadvantaged Business Utilization.	Director, Office of Small and Disadvantaged Business Utilization.
	Office of Public Affairs	Deputy Director, Public Affairs.
	Office of Auditor General	Auditor General, Air Force.
		Assistant Auditor General, Field Offices Directorate.
	Air Force Audit Agency (Field Operating Agency).	Assistant Auditor General, Support and Personnel Audits.
		Assistant Auditor General, Acquisition and Logistics Audits.
	Air Force Office of Special Investigations (Field Operating Agency).	Executive Director, Defense Cyber Crime Center.
		Deputy Director, Security, Special Program Oversight and Information Protection.
	Office of the General Counsel	Principal Deputy General Counsel.
		Deputy General Counsel, International Affairs.
		Deputy General Counsel, Acquisition.
		Deputy General Counsel, Installations and Environmental Law.
		Director, Global Combat Support.
	Office of Assistant Secretary Air Force for Financial Management and Comptroller.	Chief Information Officer.
	Office of Deputy Assistant Secretary Budget.	Associate Deputy Assistant Secretary, Budget.
		Director, Budget Investment.
		Director, Budget Management and Execution.
	Office of Deputy Assistant Secretary Cost and Economics.	Deputy Assistant, Cost and Economics.
		Associate Deputy Assistant Secretary, Cost and Economics.

Agency	Organization	Title
		Deputy Assistant Secretary, Cost and Economics.
	Office of Deputy Assistant Secretary Financial Operations.	Associate Deputy Assistant Secretary, Financial Operations.
		Deputy Assistant Secretary, Plans, Systems and Analysis.
	Office of Assistant Secretary Air Force for Acquisition.	Deputy Assistant Secretary, Science, Technology and Engineering.
		Deputy Assistant Secretary, Acquisition Integration.
		Associate Deputy Assistant Secretary, Science, Technology and Engineering.
		Director, Information Dominance Programs.
		Deputy Air Force Program Executive Officer, Combat and Mission Support.
		Director of Contracting, Special Access Programs.
		Associate Deputy Assistant Secretary, Acquisition Integration.
		Associate Deputy Assistant Secretary, Acquisition Integration.
	Chief Information Office	Deputy Chief Information Officer.
	Office of Deputy Assistant Secretary Contracting.	Associate Deputy Assistant Secretary, Contracting.
	Office of Directorate of Space and Nuclear Deterrence.	Deputy Assistant Chief of Staff, Strategic Deterrence and Nuclear Integration.
		Associate Director, Nuclear Weapons and Counter proliferation.
	Air Force Review Boards Agency (Air Force Review Boards Agency)—Field Operating Agency.	Deputy, Air Force Review Boards.
	Office of Assistant Secretary Air Force, Installations, Environment, and Logistics.	Deputy Assistant Secretary, Energy.
		Deputy Assistant Secretary, Logistics.
	Office Deputy Assistant Secretary, Installations.	Deputy Assistant Secretary, Installations.
	Office of the Chief of Staff	Director, Air Force History and Museums Policy and Programs.
		Deputy Director of Staff.
		Air Force Historian.
	Air Force Office of Safety and Air Force Safety Center (Field Operating Agency).	Deputy Chief, Safety.
	Office of Judge Advocate General	Director, Administrative Law.
	Office of Test and Evaluation	Director, Test and Evaluation.
		Deputy Director, Test and Evaluation.
	Air Force Studies and Analyses Agency (Direct Reporting Unit (DRU)).	Principle Deputy Director, Studies and Analyses, Assessments and Lessons Learned.
		Director, Air Force Studies and Analyses, Assessments and Lessons Learned.
	Office of Deputy Chief of Staff, Warfighting Integration.	Director, Architecture and Operational Support Modernization.
		Deputy Director, Information Services and Integration.
	Office of Deputy Chief of Staff, Installations and Logistics.	Director, CE Center.
		Assistant Deputy Chief of Staff, Installation and Logistics.
		Deputy Director, Security Forces.
	Office of Civil Engineer	Deputy Civil Engineer.
	Office of Logistics Readiness	Associate Deputy Director, Logistics.
	Office of Resources	Associate Deputy, Logistics.
		Director, Resource Integration.
	Air Force Center for Environmental Excellence (Field Operating Agency).	Director, Air Force Civil Engineer Center.
	Office of Deputy Chief of Staff, Plans and Programs.	Associate Director, Programs.
		Assistant Deputy Chief of Staff, Strategic Plans and Programs.
		Deputy Director, Strategic Planning.
	Office of Deputy Chief of Staff, Personnel.	Deputy Director, Airman Development and Sustainment.
		Deputy Director, Airman Development and Sustainment.
		Deputy Director, Air Force Manpower, Organization and Resources.
		Deputy Director, Services.
		Director, Plans and Integration.
		Deputy Director, Force Management Policy.
		Assistant Deputy Chief of Staff, Personnel.

Agency	Organization	Title
		Director, Airman Development and Sustainment.
	Air Force Personnel Center (Field Operating Agency).	Executive Director, Air Force Personnel Center.
	Office of Deputy Chief of Staff, Air and Space Operations.	Deputy Director, Operational Planning, Policy and Strategy.
		Deputy, Operations.
		Deputy Director of Operational Planning, Policy, and Strategy.
		Director, Weather.
		Associate Deputy Chief of Staff Operations, Plans and Requirements.
		Director, Irregular Warfare.
	Office of Deputy Chief of Staff for Intelligence, Surveillance and Reconnaissance.	Director of Intelligence, Surveillance, and Reconnaissance (ISR) Innovations and Unmanned Aerial Systems (UAS) Task Force.
	Air Force Operational Test and Evaluation Center (Direct Reporting Unit).	Executive Director, Air Force Operational Test and Evaluation Center.
	Air Force Materiel Command	Director, Financial Management.
		Director, Communications, Installations, and Mission Support.
		Executive Director, Air Force Nuclear Weapons Center (AFNWC).
		Director, Enterprise Sourcing Group.
		Program Executive Officer, Business Enterprise Systems.
		Principal Deputy to the Staff Judge Advocate.
		Director, Manpower, Personnel and Services.
		Director, National Museum of the United States Air Force.
		Executive Director, Air Force Material Command.
	Office of Contracting	Director, Contracting, Air Force Material Command.
	Office of Logistics	Deputy Director, Logistics.
	Office of Engineering and Technical Management.	Director, Engineering and Technical Management, Air Force Material Command.
	Office of Financial Management and Comptroller.	Deputy Director, Financial Management and Comptroller.
		Deputy Director, Financial Management and Comptroller, Air Force Material Command.
	Office of Plans and Programs	Director, Acquisition, Intelligence, and Requirements.
	Office of Requirements	Deputy Director, Intelligence, Surveillance, Reconnaissance and Requirements.
	Office of Operations Directorate	Deputy Director, Air, Space and Information Operations.
	Air Force Materiel Command Law Office.	Director, Air Force Materiel Command Law Office.
	Air Force Office of Scientific Research	Director, Physics and Electronics Sciences.
		Director, Air Force Office of Scientific Research.
	Electronic Systems Center	Director, Engineering and Technical Management, Electronic Systems Center.
		Director, Contracting, Electronic Systems Center.
		Program Executive Officer, Battle Management.
	Aeronautical Systems Center	Program Executive Officer, Mobility Aircraft.
		Director of Engineering, Joint Strike Fighter.
		Program Executive Officer, Agile Combat Support.
		Director, Contracting, Aeronautical Systems Center.
		Executive Director, Air Force Life Cycle Management Center (AFLCMC).
	Engineering Directorate	Director, Engineering, Air Force Life Cycle Management Center (AFLCMC).
	Air Force Research Laboratory	Executive Director, Air Force Research Laboratory.
		Director, Plans and Programs, Air Force Research Laboratory.
		Director, Materials and Manufacturing, Air Force Material Command.
	Office of Air Force Research Laboratory, Munitions Directorate.	Director, Munitions, Air Armament Center.
	Office of Information Directorate	Director, Information.
	Office of Directed Energy Directorate ...	Director, Directed Energy.
	Office of Materials and Manufacturing Directorate.	Director, Materials and Manufacturing.
	Office of Sensors Directorate	Director, Sensors.
	Office of Human Effectiveness Directorate.	Director, Human Effectiveness Directorate.
	Air Force Flight Test Center	Executive Director, Air Force Flight Test Center.
	Air Logistics Center, Oklahoma City	Director of Logistics, Air Force Specialty Codes.
		Executive Director, Air Force Specialty Codes.

Agency	Organization	Title
		Director, Engineering and Technical Management, Air Force Specialty Codes.
		Director, Contracting, Air Logistics Center, Oklahoma City.
		Director, 448th Combat Sustainment Wing.
	Air Logistics Center, Warner Robins	Director, Contracting, Air Logistics Center, Warner Robins.
	Air Logistics Center, Ogden	Director, Engineering and Technical Management, Air Logistics Center, Ogden.
		Director, Contracting, Air Logistics Center, Ogden.
		Director, Engineering and Technical Management, Air Force Material Command.
	Air Armament Center.	
	Air Combat Command	Director, Air Force Global Cyberspace Integration Center.
		Director, Acquisition Management and Integration Center.
		Deputy Director, Logistics, Air Combat Command.
	Air Mobility Command	Deputy Director, Installations and Mission Support, Air Mobility Command.
		Deputy Director, Logistics, Air Mobility Command.
	Air Education and Training Command ..	Director, International Training and Education.
		Director, Logistics, Installations and Mission Support, Air Education and Training Command.
	Air Force Reserve Command	Director of Staff.
	United States Central Command	Director, Resources, Requirements, Budget and Assessment.
		Deputy Director, Operations Interagency Action Group (IAG).
		Deputy Director, Logistics and Engineering.
		Deputy Director, Logistics and Engineering, United States Central Command.
	Air Force Space Command	Director, Space Protection Program Office.
		Director, Installations and Logistics, Air Force Space Command.
		Executive Director, Air Force Space Command.
	United States Special Operations Command.	Deputy Director, Center for Special Operations Acquisition and Logistics.
		Director of Acquisition, United States Special Operations Command.
		Director, Plans, Policy and Strategy, United States Special Operations Command.
		President, Joint Special Operations University.
		Director and Chief Information Officer, Special Operations Networks and Communications Center.
		Director, Financial Management and Comptroller, United States Special Operations Command.
		Director, Interagency Task Force, United States Special Operations Command.
	Air Force Special Operations Command	Director, Financial Management and Comptroller, Air Force Special Operations Command.
	Space and Missile Systems Center	Deputy Director and Chief Technical Advisor.
		Director, Launch Enterprise.
		Director, Milsatcom Systems Wing.
	United States Strategic Command	Director, Capability and Resource Integration.
		Director, Global Innovation Strategy Center.
		Associate Director, Capability and Resource Integration.
		Deputy Director, Plans and Policy, U.S. Strategic Command.
		Director, Global Innovation Strategy Center.
		Deputy Director, Capability and Resource Integration.
		Executive Director, Joint Warfare Analysis Center.
		Special Command Advisor, Information Assurance and Cyber Security.
		Director, Command, Control, Command Computer Systems.
		Director, Joint Exercises and Training, United States Strategic Command.
	United States Transportation Command	Director, Program Analysis and Financial Management.
		Deputy Director, Strategies and Policy, United States Transportation Command.
		Deputy Director of Command, Control Communications, and Computer Systems.
		Director, Acquisition.
		Executive Director, Joint Enabling Capabilities Command.
		Executive Director.
	Joint Staff	Director, Joint Information Operations Warfare Center.

Agency	Organization	Title
	United States Northern Command	Director, Programs and Resources, United States Northern Command.
		Director, Joint Exercises and Training, United States Northern Command.
		Director, Interagency Coordination, United States Northern Command.
		Deputy Commander, Joint Forces Headquarters, National Capital Region.
		Domestic Policy Advisor.
DEPARTMENT OF THE ARMY	Department of the Army	Deputy to the Commanding General of the Army, North.
	Office of the Secretary	Director, Test and Evaluation Office.
		Executive Director, Army National Cemeteries Program.
		Deputy Chief Management Officer.
		Superintendent, Arlington National Cemetery.
	Office of the Under Secretary	Director, Business Transformation Directorate.
		Deputy Director, Office of Business Transformation, Office of the Under Secretary of the Army.
		Deputy to the Deputy Under Secretary of the Army.
	Office of the Administrative Assistant to the Secretary of the Army.	Deputy Administrative Assistant to the Secretary of the Army, Director for Shared Services.
		Administrative Assistant to the Secretary of the Army.
		Executive Director, United States Army Headquarters Services.
		Executive Director, United States Army Information Technology Agency.
		Director, United States Army Center of Military History and Chief, Military History.
	Office of the Assistant Secretary of the Army (Civil Works).	Deputy Assistant Secretary of the Army, Management and Budget.
	Office of the Assistant Secretary of the Army (Financial Management and Comptroller).	Deputy Director and Senior Advisor, Army Budget, Budget.
		Director, Programs and Strategy.
		Deputy Assistant Secretary of the Army, Financial Operations.
		Director, Investment.
		Deputy Assistant Secretary of the Army, Cost and Economics.
		Director, Management and Control.
		Director, Accountability and Audit Readiness.
		Director, Financial Information Management.
		Director, Military Personnel and Facilities.
	Office of the Assistant Secretary of the Army (Installations and Environment).	Deputy Assistant Secretary of the Army, Environment, Safety and Occupational Health.
		Deputy Assistant Secretary of the Army, Infrastructure Analysis and Evaluation.
	Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs).	Deputy Assistant Secretary of the Army, Diversity and Leadership.
		Director, Strategic Initiatives Group.
		Deputy Assistant Secretary of the Army, Marketing and Director, Army Marketing Research Group.
		Deputy Assistant Secretary of the Army, Force Management and Director, Civilian Senior Leader Management Office.
		Executive Advisor to the Assistant Secretary of the Army, Manpower and Reserve Affairs.
		Deputy Assistant Secretary of the Army, Military Personnel and Quality of Life.
		Deputy Assistant Secretary of the Army, Civilian Personnel and Director, Civilian Senior Leader Management Office.
		Deputy Assistant Secretary of the Army, Plans and Resources.
		Deputy Assistant Secretary of the Army, Military Personnel.
		Deputy Assistant Secretary of the Army, Civilian Personnel and Quality of Life.
		Deputy Assistant Secretary of the Army, Army Review Boards Agency.
	Office of the Assistant Secretary of the Army (Acquisition, Logistics and Technology).	Executive Director, Agile Acquisition.
		Director, United States Army Acquisition Support Center and Deputy Director, Acquisition Career Management.
		Executive Director, Acquisition Services and Assistant Secretary of the Army, Acquisition, Logistics and Technology.
		Deputy Assistant Secretary of the Army, Acquisition Policy and Logistics and Assistant Secretary of the Army, Acquisition, Logistics and Technology.

Agency	Organization	Title
		Director, Systems of Systems Engineering.
		Deputy Assistant Secretary, Research and Technology and Chief Scientist.
		Director, Technology.
		Director, Research and Laboratory Management.
		Deputy Assistant Secretary of the Army, Plans, Programs and Resources.
		Deputy Assistant Secretary of the Army, Policy and Procurement.
		Deputy Assistant Secretary of the Army, Defense Exports and Cooperation.
	Army Acquisition Executive	Deputy Program Executive Officer, Ground Combat Systems.
		Deputy Program Executive Officer, Missiles and Space, Fires.
		Deputy Joint Program Executive Officer, Chemical and Biological Defense.
		Deputy Program Executive Officer, Simulation, Training and Instrumentation.
		Deputy Program Executive Officer, Enterprise Information Systems.
		Program Executive Officer, Combat Support and Combat Service Support.
		Deputy Program Executive Officer, Combat Support and Combat Service Support.
		Program Executive Officer, Simulation, Training and Instrumentation.
		Deputy Program Executive Officer, Soldier.
		Deputy Program Executive Officer, Ammunition.
		Deputy Program Executive Officer, Aviation.
		Program Executive Officer, Enterprise Information Systems.
		Deputy Program Executive Officer, Command Control and Communications Tactical.
		Program Executive Officer, Ammunition.
		Chief Science and Technology Advisor.
		Program Executive Officer, Intelligence, Electronic Warfare and Sensors.
		Program Executive Officer, Assembled Chemical Weapons Alternative.
		Joint Program Executive Officer, Chemical and Biological Defense.
		Program Executive Office, Ground Combat Systems.
	Army Contracting Agency	Deputy to the Commanding General, Army Contracting Command.
	Office of the Inspector General	Principal Director to the Inspector General, Inspections.
	Chief Information Officer/G–6	Director, Cybersecurity.
		Principal Deputy, Chief Information Officer and G–6, Enterprise Integration.
		Deputy Chief Information Officer and G–6.
		Director for Army Architecture Integration Cell.
		Director, Governance, Acquisition, and Chief Knowledge Officer.
	Office of the Chief of Public Affairs	Principal Deputy Chief of Public Affairs.
	Army Audit Agency	The Auditor General, U.S. Army.
		Deputy Auditor General, Manpower and Training Audits.
		Principal Deputy Auditor General.
		Deputy Auditor General, Acquisition and Logistics Audits.
		Deputy Auditor General, Financial Management Audits.
		Deputy Auditor General, Installation, Energy and Environment Audits.
	United States Army Test and Evaluation Command.	Director, Ballistic Missile Evaluation Directorate, Army Evaluation Center.
		Executive Director, Operational Test Command.
		Executive Director, White Sands.
		Director, Army Evaluation Center.
	Office of the Chief of the Army Reserve	Director, Human Capital, Office of the Chief of the Army Reserve.
		Assistant Chief of the Army Reserve.
		Director, Resource Management and Material.
		Chief Executive Officer.
	Office of the Assistant Chief of Staff for Installation Management.	Regional Director, Central.
		Deputy Assistant Chief of Staff, Installation Management.
		Regional Director, Pacific.
		Regional Director, Europe.

Agency	Organization	Title
		Director, Logistics.
		Director, Installation Services.
		Executive Director and Director, Services.
		Regional Director, Atlantic.
		Director, Human Resources.
		Director, Resource Integration.
		Director, Family, Morale, Welfare and Recreation Programs, G–9.
		Chief Information Technology Officer, Office of the Assistant Chief of Staff for Installation Management.
		Director, Facilities and Logistics.
	Office of the Deputy Chief of Staff, G–4	Director, Force Projection and Distribution.
		Director for Maintenance Policy, Programs and Processes.
		Director, Resource Management.
		Director, Logistics Information Management.
		Assistant Deputy Chief of Staff, G–4.
		Director, Logistics Innovation Agency.
		Director, Supply Policy, Programs and Processes.
	Office of the Deputy Chief of Staff, G–8	Director, Resources and Deputy Director, Force Development.
		Assistant Deputy Chief of Staff, G–8.
		Director, Quadrennial Defense Review.
	Office of the Deputy Chief of Staff, G–3	Deputy Director, Training and Leader Development.
		Deputy Director, Plans and Policy.
		Director, Capabilities Integration Directorate.
		Deputy Director, Force Management.
		Assistant Deputy Chief of Staff, Operations, G–3/5/7.
	Office of the Deputy Chief of Staff, G–1	Director, Army Resiliency Directorate for Office Deputy Chief of Staff, G–1.
		Director, Military Human Resources Integration.
		Assistant G–1, Civilian Personnel Policy.
		Assistant Deputy Chief of Staff, G–1.
		Director, Plans and Resources.
		Director, Manprint Directorate.
	Army Research Institute (Deputy Chief of Staff for Personnel, Field Operating Agency).	Director, United States Army Research Institute and Chief Psychologist.
	Office of the Surgeon General	Chief of Staff.
		Deputy Chief of Staff and Assistant Surgeon General, Force Management.
		Chief of Staff, Health System Administration.
	United States Army Medical Research and Materiel Command.	Principal Assistant, Research and Technology.
		Principal Assistant, Acquisition.
	United States Army Medical Department Center and School.	Deputy to the Commanding General.
	United States Army Space and Missile Defense Command.	Director, Space and Cyberspace Technology Director.
		Deputy to the Commander and Senior Department of the Army Civilian for United States Army Space and Missile Defense Command/Army Forces Strategic Command.
		Director, Space and Missile Defense Technical Center.
		Director, Space and Missile Defense Battle Laboratory.
		Director, Emerging Technology.
		Chief Technology Officer.
	U.S. Army Training and Doctrine Command (TRADOC).	Deputy to the Commanding General, Army Aviation Center of Excellence and Director, Capabilities Development and Integration.
		Deputy Chief of Staff, G6, United States Training and Doctrine Command (TRADOC).
		Director, Concepts to Capabilities and Deputy Force 2025 Integration, Army Capabilities Integration Center.
		President, Army Logistics University.
		Assistant Deputy Chief of Staff, Combat Development.
		Assistant Deputy Chief of Staff, G–3/5/7, U.S. Army Training and Doctrine Command and Deputy G–3 for Training.
		Deputy to the Commanding General, Combined Arms Support Command.
		Deputy Chief of Staff, G8, United States Army Training and Doctrine Command.
		Deputy Chief of Staff, G–1/4, Personnel and Logistics).
		Deputy to the Commanding General, Fires/Director, Capabilities, Development and Integration.
		Deputy to the Commanding General, Signal Center of Excellence.

Agency	Organization	Title
		Deputy to the Commanding General/Director, Capabilities Development and Integration.
		Deputy to the Commanding General Maneuver Support/Director, Capabilities Development and Integration.
		Deputy to the Commanding General, Combined Arms Center.
		Director, Capability Development Integration Directorate (CDID).
		Deputy G–3/5 for Operations and Plans, United States Army and Doctrine Command.
	Training and Doctrine Command Analysis Center.	Director of Operations.
		Director of Operations.
		Director.
	Military Surface Deployment Distribution Command.	Director, Transportation Engineering Agency/Director Joint Distribution Process Analysis Center.
		Deputy to the Commander, Surface Deployment and Distribution Command.
	United States Army Forces Command	Assistant Deputy Chief of Staff for Logistics and Readiness.
		Assistant Deputy Chief of Staff, G–3/5/7.
		Assistant Deputy Chief of Staff, G1.
		Deputy Chief of Staff for Resource Management.
		Assistant Deputy Chief of Staff, G–6.
	United States Army Network Enterprise Technology Command/9th Army Signal Command.	Deputy for Cyber Operations/Director of Operations.
		Deputy to Commander/Senior Technical Director/Chief Engineer.
		Deputy to Commander, Army Cyber Command/2nd Army.
	United States Army Corps of Engineers	Director, Real Estate.
		Director of Human Resources.
		Director Contingency Operations/Chief, Homeland Security Office.
		Director of Contracting.
		Director, Research and Development and Director, Engineering Research and Development Center.
		Chief Military Programs Integration Division.
		Director, Information Technology Laboratory.
		Director of Resource Management.
		Director for Corporate Information.
	Directorate of Research and Development.	Deputy Director of Research and Development.
	Directorate of Civil Works	Chief, Programs Management Division.
		Director of Civil Works.
		Chief, Engineering and Construction Division.
		Chief, Operations Division and Regulatory Community of Practice.
		Chief, Planning and Policy Division/Community of Practice.
	Directorate of Military Programs	Director of Military Programs.
		Chief, Environmental Community of Practice.
		Chief, Interagency and International Services Division.
		Chief, Installation Support Division.
	Directors of Programs Management	Division Programs Director (Southwestern Division).
		Division Programs Director (Pacific Ocean Division).
		Division Programs Director (Great Lake and Ohio River Division).
		Division Programs Director (Northwestern Division).
		Division Programs Director (South Pacific Division).
		Division Programs Director (Trans-Atlantic Division).
		Division Programs Director.
		Division Programs Director (North Atlantic Division).
		Division Programs Director (South Atlantic Division).
	Directors of Engineering and Technical Services.	Regional Business Director, (Mississippi Valley Division).
		Regional Business Director (Northwestern Division).
		Regional Business Director (South Atlantic Division).
		Regional Business Director (South Pacific Division).
		Regional Business Director (Southwestern Division).
		Regional Business Director (North Atlantic Division).
		Regional Business Director (Pacific Ocean Division).
		Regional Business Director (Great Lakes, Ohio River Division).
	Engineer Research and Development Center.	Director, Environmental Laboratory.
		Director Geotechnical and Structures Laboratory.
		Director, Coastal and Hydraulics Laboratory.
		Deputy Director Engineer Research and Development Center.

Agency	Organization	Title
	Engineer Topographic Laboratories, Center of Engineers.	Director, Army Geospatial Center.
	Construction Engineering Research Laboratory Champaign, Illinois.	Director, Construction Engineering Research Laboratories.
	Cold Regions Research and Engineering Laboratory Hanover, New Hampshire.	Director, Cold Regions Research and Engineering Laboratory.
	United States Army Materiel Command	Deputy G–3/4 for Current Operations.
		Assistant Deputy Chief of Staff, G–3/4 for Logistics Integration.
		Deputy Chief of Staff for Logistics, G–4.
		Deputy Chief of Staff for Corporate Information/Chief Information Officer.
		Deputy to the Commanding General/Director Logistics and Readiness Center.
		Chief Technology Officer.
		Deputy to the Commander, Mission Installation Contracting Command.
		Deputy to the Commander, United States Army Expeditionary Contracting Command.
		Executive Director, Munitions, Army Engineering Technology Center.
		Director, Communications-Electronics Life Cycle Management Command Logistics and Readiness Center.
		Executive Director, Weapons and Software Engineer Center.
	Office of Deputy Chief of Staff for Logistics and Operations.	Principal Deputy G–3 for Operations/Executive Deputy, Supply Chain and Industrial Operations.
		Deputy G–3/4 for Strategy and Integration.
	Office Deputy Commanding General	Executive Deputy to the Commanding General.
	Office of Deputy Chief of Staff for Personnel.	Deputy Chief of Staff for Personnel.
	Office of the Deputy Chief of Staff for Resource Management.	Deputy Chief of Staff for Resource Management.
		Assistant Deputy Chief of Staff for Resource Management, G–8/Executive Director for Business.
	United States Army Contracting Command.	Executive Director, Army Contracting Command-Warren.
		Executive Director, Army Contracting Command-National Capital Region.
		Executive Director Army Contracting Command at Redstone, Alabama.
	United States Army Security Assistance Command.	Deputy to the Commanding General.
	United States Army Sustainment Command.	Executive Director for Logistics Civil Augmentation Program.
		Executive Director for Ammunition.
		Executive Director Army Contracting Command—Rock Island.
		Deputy to the Commander.
		Executive Director for Field Support.
	Natick Soldier Center	Director, Natick Soldier Research and Development Engineering Center.
	United States Army Soldier and Biological Command (Soldier and Biological Command).	Director, Edgewood Chemical Biological Center.
		Director, Engineering Directorate.
		Director for Programs Integration.
		Executive Director, Army Contracting Command—Aberdeen.
		Director, Research and Technology Directorate.
	Communications Electronics Command Research, Development and Engineering Center.	Director-Night Vision/Electromagnetics Sensors Directorate.
		Director, Command Power and Integration Directorate.
		Director, Space and Terrestrial Committee Directorate.
		Director, Intelligence and Information Warfare Directorate.
		Director, Software Engineering Directorate.
	United States Army Research Laboratory.	Director, United States Army Research Laboratory.
		Director, Human Dimension Simulations and Training Directorate.
		Director, Computational and Information Sciences Directorate.
	Survivability/Lethality Analysis Directorate.	Director, Survivability/Lethality Analysis Directorate.
	Army Research Office	Director, Army Research Office.

Agency	Organization	Title
	Sensors and Electron Devices Directorate.	Director, Sensors and Electron Devices Directorate.
	Weapons and Material Research Directorate.	Director, Weapons and Materials Research Directorate.
	United States Army Aviation and Missile Command (Army Materiel Command).	Director for Weapons Development and Integration.
		Executive Director Integrated Materiel Management Center.
		Director for Engineering.
		Director for Test Measurement Diagnostic Equipment Activity.
		Director for Weapons Development and Integration.
		Deputy to the Commander.
	Missile Research Development and Engineering Center (Research Development and Engineering Center).	Director for Aviation and Missile Research, Development and Engineering Center.
		Director for Aviation Development.
		Director for Systems Simulation, Software, and Integration.
	Aviation Research, Development and Engineering Center.	Army Aviation and Missile Command Director, Special Programs (Aviation).
		Director of Aviation Engineering.
	Research, Development and Engineering Command.	Director, Research Development and Engineering Command.
		Director, Communications-Electronics Research, Development and Engineering Center.
		Deputy Director, Research, Development and Engineering Command.
	Tank-Automotive and Armaments Command (Tank-Automotive and Armaments Command).	Director of Acquisition Center.
		Deputy to the Commander.
		Director, Integrated Logistics Support Center.
	Tank-Automotive Research, Development and Engineering Center (Tank-Automotive Research, Development and Engineering Center).	Executive Director for Product Development.
		Executive Director for Engineering.
		Director, Tank-Automotive Research, Development and Engineering Center.
		Director, Research, Technology Development and Integration.
	United States Army Armament Research, Development and Engineering Center.	Director for Armament Research, Development and Engineering.
		Executive Director, Enterprise and Systems Integration Center.
	United States Army Joint Munitions Command.	Deputy to the Commander, Joint Munitions Command.
	United States Army Materiel Systems Analysis Activity.	Technical Director.
		Director, Army Materiel Systems Analysis Activity.
	Headquarters, United States Army, Europe.	Director, European Security and Defense Policy Defense Advisor to United States Mission, Europe.
		Deputy Chief of Staff, G1.
		Deputy Chief of Staff, G–8.
	United States Army Special Operations Command.	Deputy to the Commanding General.
	United States Southern Command	Deputy Director of Operations, J3.
		Director, J8 (Resources and Assessments Directorate).
		Deputy Director, Strategy and Policy.
		Director for Partnering.
	United States European Command	Director, Interagency Partnering (J9).
		Deputy Director, Security Cooperation (Dj5).
	United States Africa Command	Deputy Director of Resources (J1/J8).
		Director of Resources (J1/J8), United States Africa Command.
		Foreign Policy Advisor for United States Africa Command.
		Deputy Director of Program (J5), United States Africa Command.
	Joint Special Operations Command	Executive Director for Resources, Support, and Integration.
	Headquarters, United States Army, Pacific.	Assistant Chief of Staff, G8.
		Strategic Effects Director to Commander, United States Army, Pacific.
	United States Forces Korea	Deputy Director for Transformation and Restationing.
		Director for Forces, Resources and Assessments (J8).
	Joint Improvised Explosive Device Defeat Organization.	Chief Information Officer.
		Vice Director, Joint Improvised Explosive Device Defeat Organization.
		Director, Counter Improvised Explosive Device Operational Integration Center.

Agency	Organization	Title
DEPARTMENT OF THE NAVY	Office of the Secretary	Deputy Director, Rapid Acquisition and Technology.
		Chief Information Officer.
		Director, Operations Directorate.
		Director, Sexual Assault Prevention and Response.
		Assistant for Administration (2).
	Office of the Under Secretary of the Navy.	Principal Director, Office of the Deputy Chief Management Officer.
		Director, Small Business Programs.
		Senior Director for Security.
		Principal Director to the Under Secretary of the Navy for Plans, Policy, Oversight and Integration.
		Principal Deputy Under Secretary of the Navy (Business Operations and Transformation).
		Senior Director for Policy.
		Director, Operations Integration Group.
		Deputy of Business Operations/Office of Business Transformation.
		Principal Director Deputy Under Secretary of the Navy (Policy).
		Senior Director (Policy and Strategy).
		Chief Information Officer.
		Senior Director (Capabilities and Concepts).
	Office of the Naval Inspector General	Deputy Naval Inspector General.
	Office of the Auditor General	Assistant Auditor General for Research, Development, Acquisition and Logistics Audits.
		Assistant Auditor General for Financial Management and Comptroller Audits.
		Auditor General of the Navy.
		Assistant Auditor General for Installation and Environment Audits.
		Assistant Auditor General for Manpower and Reserve Affairs Audits.
		Deputy Auditor General of the Navy.
		Assistant Auditor General for Financial Management and Comptroller Audits
		Auditor General of the Navy.
	Office of the Assistant Secretary of the Navy (Manpower and Reserve Affairs).	Principal Deputy Manpower and Reserve Affairs.
		Director, Human Resources Policy and Programs Department.
		Principal Deputy Assistant Secretary of the Navy (Manpower and Reserve Affairs).
		Deputy Assistant Secretary of the Navy (Reserve Affairs and Total Force Integration).
		Assistant General Counsel (Manpower and Reserve Affairs).
		Deputy Assistant Secretary of the Navy (Civilian Human Resources).
	Office of Civilian Human Resources	Director, Office of Civilian Human Resources.
		Director, Human Resources Policy and Program Department.
		Director, Human Resources Operations.
		Director, Human Resources Systems and Analytics.
	Office Assistant Secretary of the Navy (Energy, Installations and Environment).	Deputy Assistant Secretary of the Navy for Infrastructure, Strategy and Analysis.
		Deputy Assistant Secretary of the Navy (Energy).
		Director, Joint Guam Program Office.
		Assistant General Counsel (Energy, Installations and Environment).
	Office Assistant Secretary of the Navy (Research, Development and Acquisition).	Program Executive Officer for Defense Healthcare Management Systems.
		Deputy for Test and Evaluation.
		Deputy Assistant Secretary of the Navy (Management and Budget).
		Deputy Assistant Secretary of the Navy (Command, Control, Communications, Computers and Intelligence) Space).
		Executive Director, F–35, Joint Program Office.
		Deputy Assistant Secretary of the Navy (Ships).
		Chief of Staff/Policy.
		Principal Civilian Deputy Assistant Secretary of the Navy (Acquisition Workforce).
		Executive Director, Navy International Programs Office.
		Director, Program Analysis and Business Transformation.

Agency	Organization	Title
		Assistant General Counsel (Research, Development and Acquisition).
		Special Assistant to Assistant Secretary of the Navy (Research, Development and Acquisition).
		Director, Ohio Replacement Program Office.
	Office of Program Executive Officers	Executive Director, Amphibious, Auxiliary and Sealift Ships, Program Executive Officers Ships.
		Executive Director, Program Executive Office, Littoral Combat Ships.
		Executive Director, Program Executive Officers for Integrated Warfare Systems.
		Director for Integrated Combat Systems for Integrated Warfare Systems.
		Deputy Program Executive Officer for Unmanned Aviation Programs.
		Executive Director, Program Executive Office Submarines.
		Deputy Program Executive Officers Air Assault and Special Mission.
		Program Executive Officer, Land Systems.
		Executive Director for Command, Control, Communications, Computers and Intelligence (C4i).
		Executive Director, Program Executive Office for Space Systems.
		Executive Director, Combatants, Program Executive Officers Ships.
		Executive Director, Program Executive Officers for Aircraft Carriers.
		Deputy Program Executive Officers for Strike Weapons.
		Deputy Program Executive Officers for Tactical Air Programs.
		Program Executive Officer (Enterprise Information Systems).
		Director for Above Water Sensors Directorate.
	Office of Strategic Systems Programs ..	Assistant for Systems Integration and Compatibility.
		Technical Plans and Payloads Integration Officer.
		Head, Resources Branch (Comptroller) and Deputy Director, Plans and Program Division.
		Assistant for Missile Engineering Systems.
		Assistant for Shipboard Systems.
		Director, Plans and Programs Division.
		Chief Engineer.
		Assistant for Missile Production, Assembly and Operations.
		Counsel, Strategic Systems Programs.
		Branch Head, Reentry Systems Branch.
		Director Integrated Nuclear Weapons Safety and Security, Director Strategic Systems Programs.
	Office of the Assistant Secretary of the Navy (Financial Management and Comptroller).	Director, Civilian Resources and Business Affairs Division.
		Associate Director, Office of Budget/Fiscal Management Division.
		Assistant General Counsel (Financial Management and Comptroller).
		Director, Investment and Development Division.
		Director, Budget and Policy and Procedures Division.
		Director, Program/Budget Coordination Division.
		Principal Deputy Assistant Secretary of the Navy (Financial Management and Comptroller).
		Special Assistant.
		Deputy Director, Financial Operations.
		Deputy Assistant Secretary of the Navy for Cost and Economics.
		Deputy Assistant Secretary of the Navy for Financial Operations.
	Office of the General Counsel	Assistant General Counsel (Intelligence Law).
		Special Counsel for Litigation.
		Assistant General Counsel (Acquisition Integrity).
	Naval Criminal Investigative Service	Criminal Investigator, Director, Naval Criminal Investigative Service.
		Criminal Investigator, Executive Assistant Director for Criminal Operations.
		Criminal Investigator, Executive Assistant Director for Pacific Operations.
		Criminal Investigator, Executive Assistant Director for Atlantic Operations.

Agency	Organization	Title
		Criminal Investigator, Deputy Director, Naval Criminal Investigative Service.
		Criminal Investigator, Executive Assistant Director for Management and Administration.
		Criminal Investigator, Executive Assistant Director for Global Operations.
	Chief of Naval Operations	Head, Campaign Analysis Branch.
		Deputy Director, Energy and Environmental Readiness (N45b).
		Assistant Deputy Chief of Naval Operations, Fleet Readiness and Logistics.
		Director, Naval History and Heritage Command.
		Deputy Director, Fleet Readiness Division.
		Deputy Director, Undersea Warfare Division.
		Deputy Director, Surface Warfare Division.
		Deputy Director, Expeditionary Warfare Division.
		Deputy Director, Undersea Warfare Division.
		Deputy Director, Surface Warfare Division.
		Deputy Director, Expeditionary Warfare Division.
		Deputy Director, Air Warfare.
		Deputy Director, Program Division (N80b).
		Assistant Deputy Chief of Naval Operations, Warfare Systems.
		Director, Strategic Mobility and Combat Logistics Division.
		Director, Special Programs.
		Deputy Director, Afloat Readiness and Maintenance Division (N43).
		Deputy Director for Strategy and Policy.
		Director, Assessment and Compliance (N2/N6bc).
		Assistant Deputy Chief of Naval Operations for Information Dominance (N2/N6).
		Financial Manager and Chief Resources Officer for Manpower, Personnel, Training and Education.
		Assistant Deputy Chief of Naval Operations (Resources, Warfare Requirements and Assessments) N8b.
		Assistant Deputy Chief of Naval Operations (Logistics).
		Assistant Deputy Chief of Naval Operations (Manpower, Personnel, Training and Education).
	Office of the Commander, Navy Installations Command.	Director, Strategy and Future Requirements.
		Deputy Regional Commander (Southeast).
		Director, Total Force Manpower.
		Comptroller.
		Deputy Regional Commander (Mid-Atlantic).
		Counsel, Commander Navy Installations Command.
		Deputy Commander.
		Director of Operations.
	Bureau of Medicine and Surgery	Deputy Chief, Total Force.
		Executive Director, Bureau of Medicine and Surgery.
		Deputy Chief, Resource Management/Comptroller.
		Director, Total Force.
		Comptroller/Deputy Chief of Staff for Resource Management.
	Military Sealift Command	Comptroller.
		Executive Director.
		Counsel, Military Sealift Command.
		Director, Government Operations and Special Mission Ships.
		Director, Contractor Operated Ships.
		Director, Military Sealift Command Manpower and Personnel.
	Naval Meteorology and Oceanography Communications, Stennis Space Center, Mississippi.	Technical/Deputy Director.
	Office of Commander, United States Fleet Forces Command/Joint Forces Command.	Deputy for Naval Air and Missile Defense Command.
		Deputy Chief of Staff, Fleet Installation and Environment.
		Deputy Director, Force Certification.
		Executive Director, Fleet Resources and Readiness Integration.
		Assistant Deputy Chief of Staff, Fleet Policy and Capabilities Requirements.
		Deputy Chief of Staff, Personnel Development and Allocation.

Agency	Organization	Title
	Office of Commander, Submarine Forces.	Executive Director, Submarine Forces.
	Office of Commander, Naval Expeditionary Combat Command.	Executive Director, Navy Expeditionary Combat Command.
	Office of Navy Cyber Forces	Deputy Commander.
	Office of the Commander, United States Pacific Command.	Director, Pacific Outreach Directorate.
		Director for Forces Resources and Management.
		Chief Information Officer.
	Office of the Commander, United States Pacific Fleet.	Executive Director, Total Force Management.
		Executive Director, Pacific Fleet Plans and Policy.
		Executive Director, Naval Air Forces.
		Deputy Chief of Staff for C4/Chief Information Officer.
		Executive Director, Naval Surface Forces.
		Executive Director, Naval Air Forces.
		Deputy for Naval Mine and Anti-Submarine Warfare Command.
		Chief of Staff.
	Naval Air Systems Command Headquarters.	Director Industrial Operations.
		F–35 Joint Strike Fighter, Director of Logistics and Sustainment.
		Director, Design Interface and Maintenance Planning.
		Director, Propulsion and Power.
		Deputy Counsel, Office of Counsel.
		Director, Strike Weapons, Unmanned Aviation, Naval Air Programs Contracts Department.
		Director, Air Anti-Submarine Warfare, Assault and Special Mission Programs Contracts Department.
		Director, Aviation Readiness and Resource Analysis.
		F–35 Product Support Manager.
		Counsel, Naval Air Systems Command.
		Director of Contracts, F–35 Joint Strike Fighter.
		Director, Cost Estimating and Analysis.
		Assistant Commander, Corporate Operations and Total Force.
		Deputy Assistant Commander for Logistics and Industrial Operations.
		Deputy Commander, Naval Air Systems Command.
		Deputy Assistant Commander for Research and Engineering.
		Assistant Commander for Acquisition Processes and Execution.
		Director, Tactical Aircraft and Missiles Contracts Department.
		Director, Logistics Management Integration.
		Director, Air Vehicles and Unmanned Air Vehicles.
		Director, Avionics Department.
		Director, Systems Engineering Department.
		Comptroller.
		Assistant Commander for Contracts.
		Director, Aviation Readiness and Resource Analysis.
		Director, Air Platform Systems.
	Naval Air Warfare Center Aircraft Division.	Director, Flight Test Engineering.
		Director, Battlespace Simulation.
		Deputy Assistant Commander for Test and Evaluation/Executive Director Naval Air Warfare Center Aircraft Division/Director, Test and Evaluation, Naval Air Warfare Center Aircraft Division.
		Director, Aircraft Launch and Recovery Equipment/Support Equipment.
		Director, Integrated Systems Evaluation Experimentation and Test Department.
	Naval Air Warfare Center Weapons Division, China Lake, California.	Director, Software Engineering.
		Director, Range Department.
		Director, Electronic Warfare/Combat Systems.
		Director, Weapons and Energetics Department.
		Executive Director, Naval Air Warfare Center Weapons Division/Director, Research Engineering.
	Naval Air Warfare Center Training Systems Division.	Director, Human Systems Department.
	Space and Naval Warfare Systems Command.	Executive Director.
		Executive Director, Fleet Readiness Directorate.
		Director Corporate Operations/Command Information Officer.
		Counsel, Space and Naval Warfare Systems Command.

Agency	Organization	Title
		Director, Contracts.
		Assistant Chief Engineer for Mission Architecture and Systems Engineering.
		Director, Readiness/Logistics Directorate.
		Deputy Chief Engineer.
		Assistant Chief Engineer for Mission Engineering.
		Assistant Chief Engineer for Certification and Mission Assurance.
		Comptroller, Business Resources Manager.
	Space and Naval Warfare Systems Center.	Comptroller/Business Resource Manager.
		Executive Director.
		Director, Science and Technology.
		Counsel, Space and Naval Warfare Systems Command.
	Space and Naval Warfare Systems Center, Charleston.	Executive Director.
	Naval Facilities Engineering Command	Comptroller.
		Director, Navy Crane Center.
		Counsel, Naval Facilities Engineering Command.
		Director of Contracts Support.
		Chief Engineer.
		Director of Environment.
		Executive Director.
		Director of Asset Management.
		Assistant Commander/Chief Management Officer.
		Director, Public Works.
		Counsel, Naval Facilities Engineering Command.
		Director of Public Works.
		Deputy Commander, Acquisition.
		Executive Director.
		Comptroller.
	Naval Sea Systems Command	Director, Integrated Warfare Systems Engineering Group.
		Executive Director Naval Surface and Undersea Warfare Centers.
		Division Technical Director, Naval Surface Warfare Center Indian Head Explosive Ordinance Disposal Technology Division.
		Director for Ship Integrity and Performance Engineering.
		Director for Marine Engineering.
		Director of Radiological Controls.
		Assistant Deputy Commander, Maintenance, Modernization, Environment and Safety.
		Director for Advanced Undersea Integration.
		Executive Director, Surface Warfare Directorate.
		Executive Director.
		Director, Nuclear Components Division.
		Director, Undersea Systems Contracts Division.
		Head, Advanced Reactor Branch.
		Deputy Director for Advanced Submarine Reactor Servicing and Spent Fuel Management.
		Director for Aircraft Carrier Design and Systems Engineering.
		Deputy Counsel, Naval Sea Systems Command.
		Director, Surface Systems Contracts Division.
		Executive Director, Ship Design, and Engineering Directorate.
		Director, Fleet Readiness Division.
		Deputy Director, Advanced Aircraft Carrier System Division.
		Executive Director, Acquisition and Commonality.
		Division Technical Director, Naval Surface Warfare Center Port Hueneme Division.
		Director, Integrated Warfare Systems Engineering Group.
		Nuclear Engineering and Planning Manager.
		Deputy Commander/Comptroller.
		Director, Reactor Refueling Division.
		Deputy Commander, Human Systems Integration Directorate.
		Director, Office of Resource Management.
		Program Manager for Commissioned Submarines.
		Director for Submarine/Submersible Design and Systems Engineering.
		Director, Reactor Safety and Analysis Division.
		Director, Surface Ship Systems Division.

Agency	Organization	Title
		Director, Reactor Plant Components and Auxiliary Equipment Division.
		Executive Director, Undersea Warfare Directorate.
		Executive Director for Logistics Maintenance and Industrial Operations Directorate.
		Deputy Commander, Corporate Operations Directorate.
		Deputy for Weapons Safety.
		Assistant Deputy Commander for Industrial Operations.
		Director, Shipbuilding Contracts Division.
		Director, Cost Engineering and Industrial Analysis.
		Director for Surface Ship Design and Systems Engineering.
		Director, Reactor Materials Division.
		Director for Contracts.
		Counsel, Naval Sea Systems Command.
	Naval Shipyards	Nuclear Engineering and Planning Manager; Portsmouth Naval Shipyard.
		Nuclear Engineering and Planning Manager; Pearl Harbor Naval Shipyard.
		Naval Shipyard Nuclear Engineering and Planning Manager, Norfolk Naval Shipyard.
		Nuclear Engineering and Planning Manager, Puget Sound Naval Shipyard.
	Naval Surface Warfare Center	Division Technical Director, Naval Surface Warfare Center Dahlgren Division.
	Naval Undersea Warfare Center	Technical Director.
	Naval Surface Warfare Center, Crane Division.	Division Technical Director, Naval Surface Warfare Center, Crane Indiana.
	Naval Undersea Warfare Center Division, Keyport, Washington.	Division Technical Director, Naval Undersea Warfare Center Division Keyport.
		Division Technical Director, Naval Undersea Warfare Center, Keyport Division.
	Naval Surface Warfare Center, Port Hueneme Division.	Division Technical Director Naval Surface Warfare Center Port Hueneme Division.
	Naval Surface Warfare Center, Corona Division.	Division Technical Director, Naval Surface Warfare Center, Corona Division.
	Naval Surface Warfare Center, Indian Head Division.	Division Technical Director, Naval Surface Warfare Center, Indian Head Division.
	Naval Surface Warfare Center, Carderock Division.	Division Technical Director, Naval Surface Warfare Center, Carderock Division.
	Naval Surface Warfare Center, Dahlgren Division.	Division Technical Director Naval Surface Warfare Center Panama City Division.
	Naval Undersea Warfare Center Division, Newport, Rhode Island.	Division Technical Director, Naval Undersea Warfare Center Division, Newport.
	Naval Supply Systems Command Headquarters.	Deputy Commander, Corporate Operations.
		Counsel, Naval Supply Systems Command.
		Assistant Commander for Financial Management/Comptroller.
		Deputy Commander, Acquisition, Naval Supply Systems Command.
		Vice Commander.
		Senior Acquisition Logistician/Enterprise Resource Planning Program Manager.
		Executive Director, Office of Special Projects.
	Fleet and Industrial Supply Centers	Vice Commander, Global Logistics Support.
	Weapon Systems Support	Vice Commander, Navy Supply Weapon Systems Support.
	United States Marine Corps Headquarters Office.	Director, Office of Marine Corps Communication
		Assistant Deputy Commandant for Plans Policies and Operations (Security).
		Deputy Counsel for the Commandant of the Marine Corps.
		Assistant Deputy Commandant for Programs and Resources.
		Assistant Deputy Commandant, Installations and Logistics.
		Assistant Deputy Commandant, Resources and Fiscal Director, Marine Corps.
		Assistant Deputy Commandant for Plans, Policies and Operations (Security).
		Deputy Counsel for the Commandant.
		Counsel for the Commandant.
		Assistant Deputy Commandant, Installations and Logistics (E-Business and Contracts).
		Director, Manpower Plans and Policy Division.
		Deputy Assistant Deputy Commandant Installations and Logistics (Facilities).
		Director, Program Assessment and Evaluation Division.

Agency	Organization	Title
		Assistant Deputy Commandant for Aviation (Sustainment).
		Assistant Deputy Commandant for Manpower and Reserve Affairs.
	Marine Corps Systems Command	Deputy Commander for Resource Management.
		Executive Director.
		Deputy Commander, Command, Control, Communications, Computer, Intelligence, Surveillance and Reconnaissance.
	Marine Corps Combat Development Command; Quantico, Virginia.	Executive Deputy Training and Education Command.
	Marine Corps Logistics Command Albany, Georgia.	Executive Deputy, Marine Corps Logistics Command.
	Office of Naval Research	Head, Command, Control, Communications, Intelligence, Surveillance, and Reconnaissance (C4isr) Science and Technology Department.
		Director, Life Sciences Research Division.
		Director, Electronics, Sensors, and Networks Research Division.
		Director for Aerospace Science Research Division.
		Director, Mathematical, Computer, and Information Sciences Division.
		Director, Ocean, Atmosphere and Space Science and Technology Processes and Prediction Division.
		Director, Undersea Weapons and Naval Materials Science and Technology Division.
		Director of Innovation.
		Head, Expeditionary Warfare and Combating Terrorism Science and Technology Department.
		Patent Counsel of the Navy.
		Counsel, Office of Naval Research.
		Executive Director.
		Head, Warfighter Performance Science and Technology Department.
		Head, Command, Control, Communications, Intelligence, Surveillance, and Reconnaissance (C4isr) Science and Technology Department.
		Head, Ocean, Battlespace Sensing Science and Technology Department.
		Director of Transition.
		Head, Sea Warfare and Weapons Science and Technology Department.
		Executive Director for Acquisition Management.
		Comptroller.
		Director, Hybrid Complex Warfare Science and Technology Division.
		Head, Air Warfare and Weapons Science and Technology Department.
		Director, Ship Systems and Engineering Division.
	Naval Research Laboratory	Superintendent, Marine Geosciences Division.
		Superintendent, Information Technology Division.
		Superintendent, Material Science and Technology Division.
		Superintendent, Optical Sciences Division.
		Superintendent, Spacecraft Engineering Department.
		Superintendent, Space Sciences Division.
		Superintendent, Radar Division.
		Superintendent, Plasma Physics Division.
		Superintendent, Electronics Science and Technology Division.
		Superintendent, Remote Sensing Division.
		Superintendent, Marine Meteorology Division.
		Superintendent, Center for Bio-Molecular Science and Engineering.
		Director of Research.
		Associate Director of Research for Material Science and Component Technology.
		Superintendent, Chemistry Division.
		Superintendent, Optical Sciences Division.
		Superintendent, Tactical Electronic Warfare Division.
		Associate Director of Research for Business Operations.
		Associate Director of Research for Ocean and Atmospheric Science and Technology.
		Associate Director of Research for Systems.
		Superintendent, Space Systems Development Department.
		Director, Naval Center for Space Technology.

Agency	Organization	Title
		Superintendent, Acoustics Division.
		Superintendent, Oceanography Division.
OFFICE OF THE SECRETARY OF DEFENSE OFFICE OF THE INSPECTOR GENERAL.	Office of the General Counsel	General Counsel.
	Office of Communications and Congressional Liaison.	Assistant Inspector General, Office of Communications and Congressional Liaison.
	Office of the Inspector General	Deputy Inspector General for Overseas Contingency Operations.
		Principal Deputy Inspector General.
	Office of the Deputy Inspector General for Auditing.	Deputy Inspector General for Auditing.
	Office of the Principal Deputy Inspector General for Auditing.	Principal Assistant Inspector General for Auditing.
	Office of Acquisition and Contract Management.	Assistant Inspector General for Acquisition and Contract Management.
	Department of Defense Payments and Accounting Operations.	Assistant Inspector General for Contract Management and Payments.
	Financial Management and Reporting	Assistant Inspector General for Financial Management and Reporting (2).
	Readiness, Operations and Support	Assistant Inspector General for Readiness and Cyber Operations.
	Deputy Inspector General for Investigations.	Deputy Inspector General for Investigations.
		Deputy Director Defense Criminal Investigative Service.
	Defense Criminal Investigative Service	Assistant Inspector General for Investigations.
		Assistant Inspector General for Investigative Operations.
		Assistant Inspector General for International Operations.
	Office of the Deputy Inspector General for Policy and Oversight.	Deputy Inspector General for Policy and Oversight.
	Office of Audit Policy and Oversight	Assistant Inspector General for Audit Policy and Oversight.
	Office of Investigative Policy and Oversight.	Assistant Inspector General for Investigative Policy and Oversight.
	Office of the Deputy Inspector General for Intelligence and Special Program Assessments.	Deputy Inspector General for Intelligence and Special Program Assessments (2).
	Office of Administration and Management.	Assistant Inspector General for Administration and Management.
	Office of the Deputy Inspector General for Special Plans and Operations.	Deputy Inspector General for Special Plans and Operations.
	Office of the Deputy Inspector General for Administrative Investigations.	Deputy Inspector General Administrative Investigations.
DEFENSE NUCLEAR FACILITIES SAFETY BOARD.	Defense Nuclear Facilities Safety Board	Group Lead for Performance Assurance.
		Deputy General Manager.
		Deputy General Counsel.
		Deputy Technical Director.
		Group Lead for Nuclear Facility Design and Infrastructure.
		Group Lead for Nuclear Weapon Programs.
		Group Lead for Nuclear Programs and Analysis.
		Group Lead for Nuclear Materials Processing and Stabilization.
		Technical Director.
DEPARTMENT OF EDUCATION	Department of Education	Director, Elementary, Secondary, and Vocational Analysis Division.
	Office of the Chief Financial Officer	Director, Contracts and Acquisitions Management.
		Executive Assistant to the Chief Financial Officer.
		Deputy Chief Financial Officer, Management and Operations.
		Deputy Chief Financial Officer.
		Director, Financial Improvement and Post Audit Operations.
	Office of the Chief Information Officer	Chief Information Officer.
		Director, Information Assurance and Chief Information Security Officer.
	Office of Management	Director, Security Services.
		Deputy Human Resources Director.
		Chairperson, Education Appeal Board.
		Director, Human Capital and Client Services.
	Office of the General Counsel	Assistant General Counsel for Educational Equity.
		Assistant General Counsel for Business and Administration Law.
		Assistant General Counsel for Postsecondary Education and Education Research Division.
	Office for Civil Rights	Enforcement Director (2).
		Deputy Assistant Secretary for Enforcement (2).

Agency	Organization	Title
	Institute of Education Sciences	Associate Commissioner, Assessments Division.
	Office of Federal Student Aid	Chief Financial Officer.
DEPARTMENT OF EDUCATION OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Deputy Inspector General.
		Deputy Assistant Inspector General for Investigation Services.
		Deputy Assistant Inspector General for Audit Services.
		Counsel to the Inspector General.
		Assistant Inspector General for Information Technology Audits and Computer Crime Investigations.
		Assistant Inspector General for Investigative Services.
		Assistant Inspector General for Audit Services.
		Assistant Inspector General for Management Services.
DEPARTMENT OF ENERGY	Loan Programs Office	Director, Portfolio Management Division.
	National Nuclear Security Administration.	Director, Office of Cost Estimating and Program Evaluation.
	Office of Associate Administrator for Acquisition and Project Management.	Director, Acquisition Management.
	Office of Management and Budget	Director, Office of Field Financial Management.
	Office of the Deputy Administrator for Defense Programs.	Manager, Los Alamos Site.
		Manager, Sandia Site Office.
		Manager, Savannah River Site Office.
		Principal Assistant Deputy Administrator for Defense Program.
		Manager, Livermore Field Office.
		Director, Office of Inertial Confinement Fusion.
		Manager, Nevada Site Office.
	Office of the Deputy Administrator for Naval Reactors.	Director, Advanced Submarine Systems Division.
		Director, Regulatory Affairs.
		Director, Instrumentation and Control Division.
		Senior Naval Reactors Representative (Puget Sound Naval Ship).
		Senior Naval Reactors Representative.
		Manager, Naval Reactors Laboratory Field Office.
		Program Manager for Surface Ship Nuclear Propulsion.
		Deputy Director, Nuclear Technology Division.
		Senior Naval Reactors Representative (Yokosuka, Japan).
		Deputy Director for Naval Reactors.
	Office of Defense Nuclear Security	Director, Office of Security Operations and Programmatic Planning.
		Director, Office of Nuclear Materials Integration.
	National Nuclear Security Administration Field Site Offices.	Deputy Manager, Sandia Field Office.
		Deputy Manager, National Nuclear Security Administration Production Office.
		Deputy Manager, Nevada Field Office.
	Office of Health, Safety and Security	Deputy Director, Office of Nuclear Safety.
		Deputy Director, Office of Headquarters Security Operations.
	Office of the Chief Information Officer	Assistant Deputy Chief Financial Officer, Financial System Integration.
		Associate Chief Information Officer for Energy Information Technology Services.
		Associate Chief Information Officer for Cyber Security.
		Deputy Chief Information Officer.
	Office of the Chief Human Capital Officer.	Director, Office of Learning and Workforce Development (Chief Learning Officer).
		Director, Office of Human Capital Strategy, Budget and Performance Metrics.
		Director, Office of Human Capital Policy Accountability and Technology.
		Director, Office of Executive Resources.
	Office of Management	Director, Project Management.
		Director, Office of Contract Management.
	Office of the Chief Financial Officer	Deputy Chief Financial Officer.
	Office of Assistant Secretary for Energy Efficiency and Renewable Energy.	Director, Geothermal Technologies Office.
		Deputy Director, Building Technologies Office.
		Director, Wind and Water Power Technologies Office.
		Director, Business Services Center.
	United States Energy Information Administration.	Director, Office of Energy Consumption and Efficiency Analysis.
		Director, Office of Petroleum Gas and Biofuels Analysis.
		Assistant Administrator for Resources and Technology Management.
		Assistant Administrator for Communications.

Agency	Organization	Title
		Director, Office of Integrated and International Energy Analysis.
		Director, Office of Survey Development and Statistical Integration.
		Director, Office of Petroleum and Biofuels Statistics.
		Director, Office of Oil, Gas and Coal Supply Statistics.
		Director, Office of Electricity, Coal Nuclear and Renewables.
		Assistant Administrator for Energy Analysis.
	Office of Assistant Secretary for Environmental Management.	Chief Nuclear Safety.
		Director, Office of Project Assessment.
	Office of Science	Site Office Manager, Fermi.
	Chicago Operations Office	Assistant Manager, Acquisition and Assistance.
		Deputy Manager, Chicago Office.
	Oak Ridge Office	Chief Financial Officer.
		Assistant Manager for Administration.
	Office of General Counsel	Assistant General Counsel for General Law.
	Office of Hearings and Appeals	Director, Hearings and Appeals (Chief Administrative Judge).
		Director, Hearings and Appeals (Chief Administrative Judge).
	Office of Assistant Secretary for International Affairs.	Director Office of Russian and Eurasian Affairs.
	Western Area Power Administration	Chief Operating Officer.
		Chief Financial Officer.
		Transmission Infrastructure Program Manager.
DEPARTMENT OF ENERGY OFFICE OF THE INSPECTOR GENERAL.	Department of Energy Office of the Inspector General.	Assistant Inspector General for Investigations.
		Director, Eastern Audits Division.
		Director, Central Audits Division.
		Assistant Inspector General for Audits.
		Assistant Inspector General for Audits and Administration.
		Deputy Inspector General for Investigations.
		Director, Western Audits Division.
		Deputy Inspector General for Audits and Inspections.
		Assistant Inspector General for Inspections.
		Assistant Inspector General, Management and Administration.
		Counsel to the Inspector General.
		Deputy Inspector General for Investigations and Inspections.
ENVIRONMENTAL PROTECTION AGENCY.	Office of Executive Services	Director, Office of Executive Services.
	Office of the Chief Financial Officer	Associate Chief Financial Officer.
		Deputy Chief Financial Officer.
	Office of Planning, Analysis and Accountability.	Director, Office of Planning, Analysis and Accountability.
	Office of Budget	Director, Office of Budget.
	Office of Financial Management	Director, Office of Financial Management.
	Office of Financial Services	Director, Office of Financial Services.
	Office of Technology Solutions	Director, Office of Technology Solutions.
	Office of Environmental Information	Director, Enterprise Information Technology Systems.
	Office of the Assistant Administrator for Administration and Resources Management.	Deputy Assistant Administrator for Administration and Resources Management.
	Office of Policy and Resource Management.	Director, Office of Policy and Resource Management.
	Office of Administration	Director, Office of Administration.
		Deputy Director, Office of Administration.
		Director, Facilities Management and Services Division.
		Director, Safety, Health and Environmental Management Division.
	Office of Human Resources	Deputy Director, Office of Human Resources.
		Director, Executive Resources Division.
		Director, Office of Human Resources.
	Office of Acquisition Management	Director, Office of Acquisition Management.
		Deputy Director, Office of Acquisition Management.
	Office of Grants and Debarment	Director, Office of Grants and Debarment.
		Deputy Director, Office of Grants and Debarment.
	Office of Administration and Resources Management—Cincinnati, Ohio.	Director, Office of Administration and Resources Management.

Agency	Organization	Title
	Office of Administration and Resources Management—Research Triangle Park, North Carolina.	Director, Office of Administration and Resources Management.
	Office of Diversity, Advisory Committee Management and Outreach.	Director, Office of Diversity, Advisory Committee Management and Outreach.
	Environmental Appeals Board	Environmental Appeals Judge (4).
	Office of the Assistant Administrator for Enforcement and Compliance Assurance.	Senior Policy Director for Innovation and Next Generation Compliance.
	Federal Facilities Enforcement Office	Director, Federal Facilities Enforcement Office.
	Office of Environmental Justice	Director, Office of Environmental Justice.
	Office of Compliance	Director, National Enforcement Training Institute.
		Deputy Director, Office of Compliance.
		Director, Monitoring Assistance and Media Programs Division.
		Director, Enforcement Targeting and Data Division.
		Director, Office of Compliance.
	Office of Criminal Enforcement, Forensics and Training.	Assistant Director, Office of Criminal Enforcement, Forensics and Training.
		Director, National Enforcement Investigations Center.
		Director, Office of Criminal Enforcement, Forensics and Training.
		Deputy Director, Office of Criminal Enforcement, Forensics and Training.
		Director, Criminal Investigation Division.
	Office of Federal Activities	Director, International Compliance Assurance Division.
	Office of Civil Enforcement	Deputy Director, Office of Civil Enforcement.
		Director, Air Enforcement Division.
		Director, Office of Civil Enforcement.
	Office of Site Remediation Enforcement	Director, Office of Site Remediation Enforcement.
		Deputy Director, Office of Site Remediation Enforcement.
	Office of Deputy General Counsel	Director, Resources Management Office.
	Office of Ground Water and Drinking Water.	Director, Drinking Water Protection Division.
		Director, Standards and Risk Management Division.
	Office of Science and Technology	Director, Engineering and Analysis Division.
		Director, Standards and Health Protection Division.
		Director, Health and Ecological Criteria Division.
	Office of Waste Water Management	Director, Municipal Support Division.
		Director, Water Permits Division.
	Office of Wetlands, Oceans and Watersheds.	Director, Wetlands Division.
		Director, Oceans and Coastal Protection Division.
		Director, Assessment and Watershed Protection Division.
	Office of Superfund Remediation and Technology Innovation.	Director, Resources Management Division.
		Director, Assessment and Remediation Division.
		Director, Technology Innovation and Field Services Division.
	Office of Resource Conservation and Recovery.	Director, Resource Conservation and Sustainability Division.
		Director, Materials Recovery and Waste Management Division.
		Director, Program Implementation and Information Division.
	Office of the Assistant Administrator for Air and Radiation.	Director, Office of Policy Analysis and Review.
	Office of Air Quality Planning and Standards.	Director, Air Quality Policy Division.
		Director, Outreach and Information Division.
		Director, Sector Policies and Programs Division.
		Director, Health and Environmental Impacts Division.
		Associate Office Director for Program Integration and International Air Quality Issues.
		Director, Air Quality Assessment Division.
	Office of Transportation and Air Quality	Director, Transportation and Climate Division.
		Director, Testing and Advanced Technology Division.
		Director, Assessment and Standards Division.
		Director, National Center for Advanced Technology.
		Director, Compliance Division.
	Office of Radiation and Indoor Air	Deputy Director, Office of Radiation and Indoor Air.
		Director, Radiation Protection Division.
		Director, Indoor Environments Division.
	Office of Atmospheric Programs	Director, Clean Air Markets Division.
		Director, Climate Protection Partnership Division.

Agency	Organization	Title
		Director, Climate Change Division.
	Office of Program Management Operations.	Associate Assistant Administrator (Management).
	Office of Pesticide Programs	Director, Field and External Affairs Division.
		Director, Information Technology and Resources Management Division.
		Director, Special Review and Reregistration Division.
		Director, Registration Division.
		Director, Biological and Economic Analysis Division.
		Director, Health Effects Division.
		Director, Biopesticides and Pollution Prevention Division.
		Director, Antimicrobials Division.
		Director, Environmental Fate and Effects Division.
	Office of Pollution Prevention and Toxics.	Director, Chemical Control Division.
		Director, Risk Assessment Division.
		Director, Environmental Assistance Division.
		Director, Chemistry, Economics and Sustainable Strategies Division.
		Director, National Program Chemicals Division.
		Director, Pollution Prevention Division.
		Director, Information Management Division.
	Office of the Assistant Administrator for Research and Development.	Deputy Director for Management, Office of Science Information Management.
		Director, Office of Science Information Management.
		Director, Environmental Technology Innovation Cluster Program.
		Chief Innovation Officer.
		Director for Ecology.
	Office of the Science Advisor	Director, Office of the Science Advisor.
	National Homeland Security Research Center.	Director, National Homeland Security Research Center.
		Deputy Director for Management, National Homeland Security Research Center.
	Office of Program Accountability and Resource Management.	Director, Office of Program Accountability and Resource Management.
	National Health and Environmental Effects Research Laboratory.	Deputy Director for Management.
		Associate Director for Ecology.
		Director, National Health and Environmental Effects Research Laboratory.
		Associate Director for Health.
	Atlantic Ecology Division	Director, Atlantic Ecology Division.
	Western Ecology Division	Director, Western Ecology Division.
	Gulf Ecology Division	Director, Gulf Ecology Division.
	Mid-Continent Ecology Division	Director, Mid-Continent Ecology Division.
	Human Studies Division	Director, Human Studies Division.
	National Exposure Research Laboratory (NERL).	Deputy Director for Management.
		Director, National Exposure Research Laboratory.
	National Risk Management Research Laboratory (NRMRL).	Deputy Director for Management.
		Director, National Risk Management Research Laboratory.
	Air Pollution Prevention and Control Division.	Director, Air Pollution Prevention and Control Division.
	Office of National Center for Environmental Assessment.	Deputy Director for Management.
		Associate Director for Ecology.
		Director, National Center for Environmental Assessment.
	Office of National Center for Environmental Assessment—Washington, District of Columbia.	Director, National Center for Environmental Assessment.
	National Center for Environmental Assessment- Research Triangle Park, North Carolina.	Director, National Center for Environmental Assessment.
	National Center for Environmental Assessment—Cincinnati, Ohio.	Director, National Center for Environmental Assessment.
	National Center for Environmental Research.	Deputy Director for Management.
		Director, National Center for Environmental Research.
	Office of Administrative and Research Support.	Director, Office of Administrative and Research Support.
		Deputy Director, Office of Administrative and Research Support.

Agency	Organization	Title
	Region 1—Boston, Massachusetts	Director, Coastal and Ocean Policy and Programs.
		Assistant Regional Administrator for Administration and Resources Management.
		Director, Office of Site Remediation Restoration.
		Director, Office of Environmental Stewardship.
		Director, Office of Ecosystem Protection.
	Office of Regional Counsel	Regional Counsel.
	Region 2—New York, New York	Director, Clean Air and Sustainability Division.
		Director, Enforcement and Compliance Assistance Division.
		Director, Office of Emergency and Remedial Response.
		Director, Caribbean Environmental Protection Division.
		Director, Division of Environmental Science and Assessment.
		Assistant Regional Administrator for Policy and Management.
	Office of Regional Counsel	Regional Counsel.
	Region 3—Philadelphia, Pennsylvania	Director, Environmental Assessment and Innovation Division.
		Director, Water Protection Division.
		Director, Chesapeake Bay Program Office.
		Assistant Regional Administrator for Policy and Management.
		Director, Air Protection Division.
		Director, Hazardous Site Cleanup Division.
		Director, Land and Chemicals Division.
	Office of Regional Counsel	Regional Counsel.
	Region 4—Atlanta, Georgia	Assistant Regional Administrator for Policy and Management.
		Director, Gulf of Mexico Program.
		Director, Superfund Division.
		Director, Science and Ecosystem Support Division.
		Director, Air, Pesticides and Toxics Management Division.
		Director, Resource Conservation and Recovery Act Division.
		Director, Water Management Division.
	Office of Regional Counsel	Regional Counsel.
	Region 5—Chicago, Illinois	Director, Water Division.
		Director, Air and Radiation Division.
		Director, Land and Chemicals Division.
		Assistant Regional Administrator for Resources Management.
		Director, Great Lakes National Program Office.
		Director, Superfund Division.
	Office of Regional Counsel	Regional Counsel.
	Region 6—Dallas, Texas	Director, Compliance Assurance and Enforcement Division.
		Director, Water Quality Protection Division.
		Assistant Regional Administrator for Management.
		Director, Multimedia Planning and Permitting Division.
		Director, Superfund Division.
	Office of Regional Counsel	Regional Counsel.
	Region 7—Kansas City, Kansas	Director, Environmental Services Division.
		Director, Superfund Division.
		Director, Air and Waste Management Division.
		Assistant Regional Administrator for Policy and Management.
		Director, Water, Wetlands and Pesticides Division.
	Office of Regional Counsel	Regional Counsel.
	Region 8—Denver, Colorado	Assistant Regional Administrator for Ecosystems Protection and Remediation.
		Assistant Regional Administrator for Partnerships and Regulatory Assistance.
		Assistant Regional Administrator for Technical and Management Services.
	Office of Regional Counsel	Regional Counsel.
	Region 9—San Francisco, California	Director, Superfund Division.
		Director, Communities and Ecosystem Division.
		Assistant Regional Administrator for Management and Technical Services.
		Director, Water Division.
		Director, Air Division.
		Director, Land Division.
		Director, Enforcement Division.
		Director, Waste Management Division.
	Office of Regional Counsel	Regional Counsel.

Agency	Organization	Title
	Region 10—Seattle, Washington	Director, Office of Ecosystems, Tribal and Public Affairs.
		Director, Office of Environmental Cleanup.
		Assistant Regional Administrator for Management Programs.
		Director, Office of Compliance and Enforcement.
		Director, Office of Air, Waste and Toxics.
		Director, Office of Water and Watersheds.
	Office of Regional Counsel	Regional Counsel.
ENVIRONMENTAL PROTECTION AGENCY OFFICE OF THE INSPECTOR GENERAL.	Environmental Protection Agency Office of the Inspector General.	Assistant Inspector General for Program Evaluation.
		Assistant Inspector General for Investigations.
		Assistant Inspector General for Audit.
		Counsel to the Inspector General.
		Assistant Inspector General for Mission Systems.
		Deputy Inspector General.
		Chief of Staff.
		Assistant Inspector General for Homeland Security and Customer Liaison.
	Office of Cyber Investigation and Homeland Security.	Assistant Inspector General for Cyber Investigation and Homeland Security.
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.	Office of the Inspector General	Inspector General.
	Office of Field Programs	District Director (Denver).
		District Director (Indianapolis).
		National Systemic Investigations Executive Advisor.
		National Legal/Enforcement Executive Advisor.
		Program Manager.
		District Director (Milwaukee).
		District Director (Philadelphia).
		District Director (Cleveland).
		National Mediation Executive Advisor.
		District Director (Charlotte).
		District Director (San Antonio).
		District Director (Phoenix).
		District Director (New Orleans).
		District Director (Birmingham).
		District Director (Los Angeles).
		District Director (Memphis).
		District Director (Miami).
		District Director (St Louis).
		District Director (Chicago).
		District Director (Dallas).
		District Director (San Francisco).
		District Director (Detroit).
		District Director (Houston).
		District Director (Atlanta).
		District Director (New York).
		District Director (Baltimore).
	Field Management Programs	Director, Field Management Programs.
	Field Coordination Programs	Director, Field Coordination Programs.
FEDERAL COMMUNICATIONS COMMISSION.	Office of Inspector General	Inspector General.
FEDERAL ENERGY REGULATORY COMMISSION.	Office of Energy Projects	Director of Dam Safety and Inspection.
	Office of Administrative Litigation	Director, Technical Division.
		Director, Legal Division.
	Office of Enforcement	Chief Accountant and Director, Division of Financial Regulations.
FEDERAL LABOR RELATIONS AUTHORITY.	Office of the Chairman	Senior Advisor.
		Solicitor.
		Director, Policy and Performance Management.
		Chief Counsel.
	Office of Member	Chief Counsel (2).
	Federal Service Impasses Panel	Executive Director, Federal Service Impasses Panel.
	Office of the Executive Director	Executive Director.
	Office of the General Counsel	Deputy General Counsel (2).
	Office of the General Counsel Regional Offices.	Regional Director, Dallas.
	Office of the General Counsel Regional Offices.	
	Office of the Secretary	Regional Director, Atlanta.
		Regional Director, Boston.

Agency	Organization	Title
		Regional Director, Washington, District of Columbia.
		Regional Director, San Francisco.
		Regional Director, Chicago.
		Regional Director, Denver.
		Secretary.
FEDERAL MARITIME COMMISSION	Office of Consumer Affairs and Dispute Resolution Services.	Director, Office of Consumer Affairs and Dispute Resolution Services.
	Office of the General Counsel	Deputy General Counsel for Reports Opinions and Decisions.
	Office of the Inspector General	Inspector General.
	Office of the Managing Director	Deputy Managing Director.
	Office of the Managing Director.	
	Bureau of Certification and Licensing ...	Director, Strategic Planning and Regulatory Review.
		Director, Bureau of Certification and Licensing.
	Bureau of Trade Analysis	Director, Bureau of Trade Analysis.
	Bureau of Enforcement	Director, Bureau of Enforcement.
	Office of the Director	National Representative.
FEDERAL MEDIATION AND CONCILIATION SERVICE.	Office of the Director	Chief of Staff.
	Office of the Deputy Director	Director of Field Operations.
	Federal Retirement Thrift Investment Board.	Chief Operating Officer.
FEDERAL RETIREMENT THRIFT INVESTMENT BOARD.	Federal Retirement Thrift Investment Board Office of International Affairs.	Director of Resource Management.
		Chief Investment Officer.
		Director of Benefits.
		Director of Communications and Education.
		Chief Technology Officer.
		Director of Enterprise Risk Management.
		Director, Office of Enterprise Planning.
		Chief Financial Officer.
		Deputy Director for International Consumer Protection.
FEDERAL TRADE COMMISSION	Office of Executive Director	Deputy Executive Director
		Chief Information Officer.
	Bureau of Competition	Deputy Director, Bureau of Competition
FEDERAL TRADE COMMISSION OFFICE OF THE INSPECTOR GENERAL.	Federal Trade Commission Office of the Inspector General.	Inspector General.
GENERAL SERVICES ADMINISTRATION	Office of the Administrator	Senior Advisor for National Security.
	Office of Mission Assurance	Associate Administrator for Mission Assurance.
		Associate Administrator for Emergency Response and Recovery.
	Office of Administrative Services	Deputy Chief Administrative Services Officer.
	Office of Citizen Services and Innovative Technologies.	Director Federal Citizen Information Center.
	Office of Human Resources Management.	Deputy Chief Information Officer.
		Director of Human Resources Services.
		Chief Information Officer.
		Chief Human Capital Officer.
		Senior Advisor.
		Director of Human Capital Management.
	Office of Government-wide Policy	Deputy Associate Administrator for Information, Integrity and Access.
		Deputy Associate Administrator for Real Property Management.
		Deputy Chief Acquisition Officer and Senior Procurement Executive.
		Director of Government-wide Acquisition Policy.
		Director of General Services Acquisition Policy, Integrity and Workforce.
		Director of Federal High-Performance Green Buildings.
		Director of the Federal Acquisition Institute.
		Principal Deputy for Asset and Transportation Management.
		Deputy Associate Administrator for Travel, Transportation and Asset Management.
	Office of the Chief Acquisition Officer ...	Director of Acquisition Systems.
	Office of Inspector General	Assistant Inspector General for Administration.
		Deputy Assistant Inspector General for Investigations.
		Assistant Inspector General for Investigations.
		Counsel to the Inspector General.
		Principal Deputy Assistant Inspector General for Auditing.

Agency	Organization	Title
		Deputy Inspector General.
		Assistant Inspector General for Auditing.
	Office of the Chief Financial Officer	Director of Budget.
		Director of Financial Policy and Operations.
		Chief Financial Officer.
		Director of Financial Management Systems.
		Director of Federal Acquisition Service Financial Services.
		Director of Public Buildings Service Financial Services.
	Public Buildings Service	Assistant Commissioner for Client Solutions.
		Assistant Commissioner for Leasing.
		Deputy Assistant Commissioner for Portfolio Management.
		Assistant Commissioner for Real Property Asset Management.
		Program Executive.
		Assistant Commissioner for Facilities Management and Services Programs.
		Assistant Commissioner for Project Delivery.
		Assistant Commissioner for Organizational Resources.
	Office of the Chief Information Officer ..	Associate Chief Information Officer for Government-wide and Enterprise Solutions.
		Associate Chief Information Officer for Acquisition Information Technology Services.
		Associate Chief Information Officer for Enterprise Planning and Governance.
		Associate Chief Information Officer for Enterprise Infrastructure.
		Senior Agency Information Security Officer.
	Federal Acquisition Service	Deputy Chief Information Officer.
		Assistant Commissioner for Integrated Technology Services.
		Assistant Commissioner for Assisted Acquisition Services.
		Assistant Commissioner for Customer Accounts and Research.
		Assistant Commissioner for Travel, Motor Vehicle and Card Services.
		Assistant Commissioner for General Supplies and Services.
		Deputy Assistant Commissioner for Integrated Technology Services.
		Director of Network Services Programs.
		Director of Travel and Transportation Services.
		Deputy Assistant Commissioner for General Supplies and Services.
		Director of Supply Operations.
		Director of Motor Vehicle Management.
		Assistant Commissioner for Strategy Management.
		Director of Technology Schedule Programs.
		Director of Acquisition Operations.
		Assistant Commissioner for Integrated Award Environment.
		Director of Strategic Programs.
		Assistant Commissioner for Acquisition Management.
	New England Region	Regional Commissioner for Federal Acquisition Service, Region 1.
		Regional Commissioner for Public Buildings Service.
	Northeast and Caribbean Region	Regional Commissioner for Federal Acquisition Service.
		Regional Commissioner for Public Buildings Service.
	Mid-Atlantic Region	Regional Counsel.
		Regional Commissioner for Public Buildings Service.
		Regional Commissioner for Federal Acquisition Service.
	National Capital Region	Director of Leasing.
		Principal Deputy Regional Commissioner for Public Buildings Service.
		Principal Deputy Regional Commissioner for Projects and Real Property Asset Management.
		Regional Commissioner for Federal Acquisition Service.
		Regional Commissioner for Public Buildings Service.
		Project Executive for Real Estate Development.
		Director of Portfolio Management.
		Director of Facilities Management and Services Programs.
		Director of Project Delivery.
	Southeast Sunbelt Region	Regional Commissioner for Federal Acquisition Service.
		Regional Commissioner for Public Buildings Service.
		Deputy Regional Commissioner for Real Estate Design, Construction and Development.
	Great Lakes Region	Regional Commissioner for Public Buildings Service.

Agency	Organization	Title
		Regional Commissioner for Federal Acquisition Service.
	The Heartland Region	Regional Commissioner for Federal Acquisition Service.
		Regional Commissioner for Public Buildings Service.
	Greater Southwest Region	Regional Commissioner for Federal Acquisition Service.
		Regional Commissioner for Public Buildings Service.
	Rocky Mountain Region	Regional Commissioner for Public Buildings Service.
		Regional Commissioner for the Federal Acquisition Service, Region 8.
	Pacific Rim Region	Assistant Regional Administrator for Federal Supply Service.
		Regional Commissioner for Public Buildings Service.
		Regional Commissioner, Federal Acquisition Service.
		Principal Deputy Regional Commissioner for Public Buildings Service.
	Northwest/Arctic Region	Regional Commissioner for Federal Acquisition Service, Region 10.
		Regional Commissioner for Public Buildings Service.
GENERAL SERVICES ADMINISTRATION OFFICE OF THE INSPECTOR GENERAL.	General Services Administration Office of the Inspector General.	Associate Inspector General.
		Assistant Inspector General for Administration.
		Deputy Assistant Inspector General for Investigations.
		Assistant Inspector General for Investigations.
		Deputy Inspector General.
		Deputy Assistant Inspector General for Acquisition Programs Audits.
		Deputy Assistant Inspector General for Real Property Audits.
		Principal Deputy Assistant Inspector General for Auditing.
		Assistant Inspector General for Auditing.
		Counsel to the Inspector General.
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Office of Security and Strategic Information.	Associate Director for Personnel and Classified Information Security.
		Director, Intelligence and Counterintelligence.
		Associate Director for Strategic Information.
	Office of the Assistant Secretary for Administration.	Director, Atlanta Human Resources Center.
	Office of the Assistant Secretary for Financial Resources.	Director, Office of Small and Disadvantaged Business Utilization.
	Office of the Deputy Assistant Secretary for Finance.	Associate Deputy Assistant Secretary, Finance.
		Deputy Assistant Secretary, Finance.
	Office of the Deputy Assistant Secretary for Information Resources Management.	Deputy Chief Information Officer.
	Office of the Assistant Secretary for Planning and Evaluation.	Associate Deputy Assistant Secretary for Planning and Evaluation (Health Services Policy).
	Office of the Assistant Secretary for Health.	Director, Office of Research Integrity.
		Director, Office of Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome Policy.
	Associate General Counsel Divisions	Deputy Associate General Counsel for Claims and Employment Law.
		Deputy Associate General Counsel, Business and Administrative Law Division.
		Associate General Counsel, General Law Division.
	Office of the Inspector General	Deputy Inspector General for Legal Affairs.
		Principal Deputy Inspector General.
		Deputy Inspector General for Management and Policy.
	Office of the Deputy Inspector General for Investigations.	Assistant Inspector General for Investigations.
		Deputy Inspector General for Investigations.
		Assistant Inspector General for Investigative Operations.
		Assistant Inspector General for Investigations.
	Office of the Deputy Inspector General for Audit Services.	Assistant Inspector General for Financial Management and Regional Operations.
		Assistant Inspector General for Medicare and Medicaid Service Audits.
		Assistant Inspector General for Audit Management and Policy.
		Assistant Inspector General for Grants and Internal Activities.
		Deputy Inspector General for Audit Services.
	Office of the Deputy Inspector General for Evaluation and Inspections.	Deputy Inspector General for Evaluation and Inspections.

Agency	Organization	Title
	Program Support Center	Director, Information Systems Management Service.
		Deputy Assistant Secretary for Program Support.
	Office of Financial Management Service.	Director, Financial Management Service.
	Office of Program Support	Director, Office of Financial Management.
	Office of the Actuary	Director, National Health Statistics Group.
		Director, Office of the Actuary (Chief Actuary).
		Director, Medicare and Medicaid Cost Estimates Group.
		Director, Parts C and D Actuarial Group.
	Center for Medicare	Director, Medicare Contractor Management Group.
	Center for Program Integrity	Director, Medicare Program Integrity Group.
		Director, Medicaid Integrity Group.
	Office of Acquisitions and Grants Management.	Deputy Director, Office of Acquisition and Grants Management.
		Director, Office of Acquisitions and Grants Management.
	Office of Technology Solutions	Deputy Director, Office of Technology Solutions.
		Deputy Director, Office of Technology Solutions.
		Director, Office of Technology Solutions.
	Office of Financial Management	Deputy Director, Office of Financial Management.
		Director, Office of Financial Management.
		Director, Financial Services Group.
		Director, Accounting Management Group.
	Office of Policy, Planning, and Budget	Associate Administrator for Policy and Programs Coordinator.
	Center for Mental Health Services	Director, Division of State and Community Systems Development.
		Director, Center for Mental Health Services.
	Centers for Disease Control and Prevention.	Chief Learning Officer.
		Director, Centers for Disease Control and Prevention, Washington Office.
		Issues Analysis and Coordination Officer.
		Director, Procurement and Grants Office.
		Chief Management Officer, Office of the Director.
		Director, Information Technology Services Office.
		Director, Buildings and Facilities Office.
		Chief Financial Officer.
	National Institute for Occupational Safety and Health.	Deputy Director for Management.
	Office of the Commissioner	Assistant Commissioner for Global Regulatory Operations.
	Office of Chief Counsel	Associate Deputy Chief Counsel for Devices, Foods and Veterinary Medicine.
		Associate Deputy Chief Counsel for Drugs and Biologics.
		Deputy Chief Counsel for Program Review.
	Office of Management	Director, Office of Acquisitions and Grants Services.
	Office of Regulatory Affairs	District Food and Drug Director, New York District.
		Associate Director Investigations.
		Deputy Director for Investigations.
		District Food and Drug Director, Los Angeles District.
		Director, Office of Criminal Investigations.
		Regional Food and Drug Director, Southwest Region.
		Regional Food and Drug Director, Southeast Region.
		Regional Food and Drug Director, Northeast Region.
		Deputy Associate Commissioner for Regulatory Affairs.
		Associate Commissioner for Regulatory Affairs.
		Regional Food and Drug Director, Central Region.
	Center for Biologics Evaluation and Research.	Director, Office of Compliance and Biologics Quality.
		Associate Director for Compliance and Biologic Quality.
	Center for Drug Evaluation and Research.	Director, Office of Generic Drugs.
		Director, Office of Epidemiology and Biostatistics.
		Director, Office of Compliance.
		Senior Advisor for Policy.
		Associate Director for Management.
		Director, Division of Medical Imaging Surgical and Dental Products.
		Director, Office of New Drug Quality Assessment.
	Center for Devices and Radiological Health.	Director, Office of Science and Technology.
		Director, Office of Device Evaluation.
		Director, Office of Compliance.
		Director, Office of System and Management.

Agency	Organization	Title
	Center for Food Safety and Applied Nutrition.	Director, Office of Seafood.
		Director, Office of Premarket Approval.
		Director, Office of Plant and Dairy Foods and Beverages.
		Director, Office of Field Programs.
		Director, Office of Regulations and Policy.
	Center for Veterinary Medicine	Director, Office of Surveillance and Compliance.
		Director, Office of Science.
	Office of Operations	Director, Office of Budget.
		Director, Office of Business and Customer Assurance.
		Chief Financial Officer.
		Director, Office of Human Resources.
		Director, Office of Technology and Delivery.
	Special Programs Bureau	Associate Administrator, Special Programs Bureau.
	Human Immunodefiency Virus Infection/Acquired Immune Deficiency Syndrome (HIV/AIDS) Bureau.	Director, Office of Science and Epidemiology.
	Indian Health Service	Director, Office of Environmental Health and Engineering.
	National Institutes of Health	Director, Office of Research Information Systems.
		Associate Director for Administrative Management.
		Director, Office of Acquisition and Logistics Management.
		Associate Director for Management.
	Office of the Director	Deputy Director for Science, Outreach, and Policy.
		Director, Office of Strategic Planning for Administration.
		Senior Policy Officer (Ethics).
		Special Advisor to the Director.
		Associate Director for Security and Emergency Response.
		Director, Office of Research Facilities Development and Operations.
		Director, Office of Financial Management.
		Director, Office of Medical Applications of Research.
		Associate Director for Disease Prevention.
		Associate Director for Extramural Affairs.
		Associate Director for Administration.
		Director, Office of Contracts Management.
		Director, Office of Policy for Extramural Research Administration.
		Senior Advisor for Policy.
		Director, Office of Reports and Analysis.
		Scientific Advisor for Capacity Development.
	National Heart, Lung and Blood Institute.	Director, Office of Health Education, Communications, and Science Policy.
		Director, Division of Heart and Vascular Diseases.
		Director, Office of Biostatics Research.
		Associate Director for International Programs.
		Director, Division of Extramural Affairs.
		Director, Epidemiology and Biometry Program.
		Director, Division of Lung Diseases.
		Deputy Director Division of Epidemiology and Clinical Application.
		Deputy Director Division of Heart Vascular Diseases.
		Director, National Center for Sleep Disorders.
		Director, Division of Blood Diseases and Resources.
	Intramural Research	Chief, Macromolecules Section.
		Chief, Laboratory of Biophysical Chemistry.
		Chief, Laboratory of Biochemistry.
		Chief, Metabolic Regulation Section.
		Chief, Laboratory of Cardiac Energetics.
		Chief, Laboratory of Kidney and Electrolyte Metabolism.
		Chief, Intermediary Metabolism and Bioenergetics Section.
		Chief, Laboratory of Biochemical Genetics.
	National Cancer Institute	Associate Director for Extramural Management.
		Associate Director for Intramural Management.
		Deputy Director for Administrative Operations.
		Deputy Director for Management.
		Associate Director for Budget and Financial Management.
		Associate Director, Cancer Diagnosis Program.
		Associate Director, Referral Review and Program Coordination.
	Division of Cancer Biology, Diagnosis and Centers.	Associate Director, Centers Training and Resources Program.
		Director, Division of Cancer Biology Diagnosis and Centers.
		Chief, Laboratory of Tumor and Biological Immunology, Intramural Research Programs.

Agency	Organization	Title
		Chief, Cell Mediated Immunity Section.
		Chief, Microbial Genetics and Biochemistry Section, Laboratory of Biochemistry.
		Deputy Director, Division of Cancer Biology Diagnosis and Centers.
		Associate Director, Extramural Research Program.
		Chief, Laboratory of Biochemistry Intramural Research Program.
		Chief, Dermatology Branch, Intramural Research Program.
	Division of Cancer Etiology	Chief, Laboratory of Experimental Pathology.
		Director, Division of Cancer Etiology.
		Chief, Laboratory of Biology.
		Chief, Laboratory of Molecular Carcinogenesis.
	Division of Cancer Prevention and Control.	Associate Director, Early Development and Conchology Program.
		Deputy Director, Division of Cancer Prevention and Control.
		Associate Director, Surveillance Research Program.
	Division of Extramural Activities	Director, Division of Extramural Activities.
		Deputy Director, Division of Extramural Activities.
	Division of Cancer Treatment	Associate Director, Cancer Therapy Evaluation Program.
		Chief, Radiation Conchology Branch.
	National Institute of Diabetes and Digestive and Kidney Diseases.	Associate Director for Management.
		Director, Division of Extramural Activities.
		Chief, Laboratory of Molecular and Cellular Biology.
		Associate Director for Management.
		Deputy Director for Management and Operations.
		Director, Division of Kidney Urologic and Hematologic Diseases.
	Intramural Research	Chief, Section on Molecular Biophysics.
		Clinical Director and Chief, Kidney Disease Section.
		Chief, Laboratory of Biochemistry and Metabolism.
		Chief, Oxidation Mechanisms Section Laboratory of Bioorganic Biochemistry.
		Chief, Laboratory of Bio-Organic Chemistry.
		Chief, Theoretical Biophysics Section.
		Chief, Section Carbohydrates Laboratory of Chemistry/National Institute of Diabetes and Digestive and Kidney Diseases.
		Chief, Section on Physical Chemistry.
		Chief, Section on Metabolic Enzymes.
		Chief, Section on Biochemical Mechanisms.
		Chief, Morphogenesis Section.
		Chief, Laboratory of Medicinal Chemistry.
		Chief, Laboratory of Neuroscience, National Institute of Diabetes and Digestive and Kidney Diseases.
		Chief, Section on Molecular Structure.
	National Institute of Arthritis and Musculoskeletal and Skin Diseases.	Director, Extramural Program.
		Deputy Director.
		Associate Director for Management and Operations.
	National Library of Medicine	Associate Director for Extramural Programs.
		Associate Director for Administrative Management.
		Deputy Director, Lister Hill National Center for Biomedical Commissioners.
		Director, Lister Hill National Center for Biomedical Community.
		Associate Director for Extramural Programs.
		Director, Information Systems.
		Deputy Director for Research and Education.
		Deputy Director, National Library of Medicine.
		Associate Director for Health and Information Programs Development.
		Director, National Center for Biotechnology Information.
		Associate Director for Library Operations.
	National Institutes of Allergy and Infectious Diseases.	Director, Office of Communications and Government Relations.
		Director, Division of Intramural Research.
		Director, Division of Allergy/Immunology/Transplantation.
		Chief, Laboratory of Malaria Research.
		Head, Epidemiology Section.
		Deputy Director, Division of Acquired Immunodeficiency.
		Chief, Laboratory of Infectious Diseases.
		Head, Lymphocyte Biology Section.

Agency	Organization	Title
		Chief, Biological Resources Branch.
		Chief, Laboratory of Molecular Microbiology.
		Chief, Laboratory of Microbial Structure and Function.
		Director, Division of Extramural Activities.
		Chief, Laboratory of Immunogenetics.
		Director, Division of Microbiology/Infectious Diseases.
		Deputy Chief, Laboratory of Immunology and Head Lymphocyte Biology Section.
		Chief, Laboratory of Parasitic Diseases.
	National Institute on Aging	Associate Director, Biology of Aging Program.
		Director of Behavioral and Social Research Program.
		Director of Management.
		Clinical Director and Chief Clinical Physiology Branch.
		Scientific Director, Gerontology Research Center.
		Director of Neuroscience and Neuropsychology of Aging Program.
		Associate Director, Office of Planning, Analysis and International Activities.
		Associate Director, Epidemiology, Demography, and Biometry Program.
		Director of Office of Extramural Affairs.
	National Institutes of Child Health and Human Development.	Chief, Section on Microbial Genetics.
		Chief, Laboratory of Mammalian Genes and Development.
		Associate Director for Administration.
		Director, National Center for Medical Rehabilitation Research.
		Chief, Laboratory of Molecular Genetics.
		Chief, Section Neuroendocrinology.
		Chief, Section on Molecular Endocrinology.
		Chief, Laboratory of Comparative Ethology.
		Associate Director for Prevention Research.
		Chief, Section on Growth Factors.
		Director, Center for Population Research.
		Director, Center for Research for Mothers and Children.
		Chief, Endocrinology and Reproduction Research Branch.
	National Institute of Dental and Craniofacial Research.	Associate Director for Management.
		Chief, Laboratory of Immunology.
		Director, Extramural Program.
		Associate Director for Management.
		Associate Director for International Health.
		Associate Director for Program Development.
	National Institutes of Environmental Health Sciences.	Director, Environmental Toxicology Program.
		Chief, Laboratory of Pulmonary Pathobiology.
		Head, Mutagenesis Section.
		Head, Mammalian Mutagenesis Section.
		Senior Scientific Advisor.
		Associate Director for Management.
		Director, National Institute of Environmental Health Science.
		Chief, Laboratory of Molecular Carcinogenesis.
	National Institutes of General Medical Sciences.	Associate Director for Extramural Activities.
		Associate Director for Administration and Operations.
		Director, Minority Opportunities In Research Program Branch.
		Deputy Director, National Institute of General Medical Sciences.
		Director, Biophysics Physiological Sciences Program Branch.
		Director, Genetics Program.
		Director, Division of Pharmacology, Physiology, and Biological Chemistry.
	National Institutes of Neurological Disorders and Stroke.	Chief, Laboratory of Molecular and Cellular Neurobiology.
		Director, Basic Neuroscientist Program/Chief/Laboratory of Neurochemistry.
		Associate Director for Administration.
		Director, Division of Fundamental Neurosciences.
	Intramural Research	Chief, Neuroimaging Branch.
		Chief, Stroke Branch.
		Chief, Laboratory of Neurobiology.

Agency	Organization	Title
		Chief, Laboratory of Neural Control.
		Chief, Brain Structural Plasticity Section.
		Deputy Chief, Laboratory of Central Nervous System Studies.
		Chief, Laboratory of Central Nervous System Studies.
		Chief, Development and Metabolic Neurology Branch.
	National Eye Institute	Chief, Laboratory of Molecular and Development Biology.
		Chief, Laboratory of Retinal Cell and Molecular Biology.
		Chief, Laboratory of Sensorimotor Research.
	National Institutes on Deafness and Other Communication Disorders.	Associate Director for Administration.
		Director, Division of Extramural Research.
		Director, Division of Human Communication.
		Chief, Laboratory of Cellular Biology.
	National Institutes of Health Clinical Center.	Associate Chief, Positron Emission Tomography and Radiochemistry.
		Associate Director for Planning.
		Deputy Director for Management and Operations.
		Chief Operating Officer.
		Chief Financial Officer.
	Center for Information Technology	Director, Center for Information Technology and Chief Information Officer.
		Director, Division of Computer System Services.
		Chief, Computer Center Branch.
		Deputy Director.
		Associate Director, Office of Computing Resources Services.
		Senior Advisor to Director, Center for Information Technology.
	John E. Fogarty International Center	Special Advisor to the Fogarty International Center Director.
		Deputy Director, Fogarty International Center.
		Associate Director for International Advanced Studies.
	National Center for Research Resources.	Associate Director for Biomedical Technology.
		Associate Director for Research Infrastructure.
		Deputy Director, National Center for Research Resources.
		Associate Director for Comparative Medicine.
		Director, General Clinical Research Center for Research Resources.
		Director, National Center for Research Resources.
	Center for Scientific Review	Director, Division of Biologic Basis of Disease.
		Director, Division of Molecular and Cellular Mechanisms.
		Director, Division of Physiological Systems.
		Director, Division of Clinical and Population-Based Studies.
		Associate Director for Statistics and Analysis.
		Senior Scientific Advisor.
		Associate Director for Referral and Review.
	National Institute of Nursing Research	Director, National Center for Nursing Research.
		Deputy Director/Director, Division of Extramural Activities.
	National Human Genome Research Institute.	Associate Director for Management.
		Deputy Director.
		Director, Division of Intramural Research National Center Human Genome Research.
		Chief, Laboratory of Genetic Disease Research National Center for Human Genome Research Institute.
		Director, Office of Population Genomics.
		Chief, Diagnosis Development Branch National Center Human Genome Research Institute.
	National Institute on Drug Abuse	Associate Director for Management and Operations.
		Director, Office of Extramural Program Review.
		Director, Division of Clinical Research.
		Senior Advisor and Counselor for Special Initiatives.
		Chief, Neuroscience Research Branch.
		Director, Medications Development Division.
		Associate Director for Clinical Neuroscience and Medical Affairs, Division of Treatment Research and Development.
	National Institute of Mental Health	Chief, Section on Histopharmacology.
		Chief, Laboratory of Clinical Science.
		Chief, Biological Psychiatry Branch.
		Chief, Child Psychiatry Branch.
		Chief, Neuropsychiatry Branch.
		Director, Division of Neuroscience and Behavioral Scientist.

Agency	Organization	Title
		Director, Office of Legislative Analysis and Coordinator.
		Executive Officer, National Institute of Mental Health.
		Associate Director for Prevention.
		Associate Director for Special Populations.
		Deputy Director, National Institute of Mental Health.
		Director, Division of Mental Disorders, Behavioral Research and Acquired Immunodeficiency Syndrome.
		Director, Office on Acquired Immunodeficiency Syndrome.
		Director, Division of Services and Intervention Research.
		Chief, Section on Clinical and Experimental Neuropsychology.
		Chief, Section on Cognitive Neuroscience.
	National Center for Advancing Translational Sciences.	Associate Director for Administration.
	National Institute on Alcohol Abuse and Alcoholism.	Director, Division of Basic Research.
		Associate Director for Administration.
	Agency for Healthcare Research and Quality.	Executive Officer.
DEPARTMENT OF HEALTH AND HUMAN SERVICES OFFICE OF THE INSPECTOR GENERAL.	Department of Health and Human Services Office of the Inspector General.	Principal Deputy Inspector General.
	Office of Counsel to the Inspector General.	Assistant Inspector General for Legal Affairs.
		Chief Counsel to the Inspector General.
	Office of Audit Services	Assistant Inspector General for Audit Services.
		Assistant Inspector General for Financial Management and Regional Operations.
		Assistant Inspector General for Medicare and Medicaid Service Audits.
		Deputy Inspector General for Audit Services.
	Office of Evaluation and Inspections	Assistant Inspector General for Evaluation and Inspections.
		Deputy Inspector General for Evaluation and Inspections.
		Assistant Inspector General for Evaluation and Inspections.
	Office of Investigations	Assistant Inspector General for Investigations (3).
		Deputy Inspector General for Investigations.
	Office of Management and Policy	Assistant Inspector General for Information Technology (Chief Information Officer).
		Assistant Inspector General for Management and Policy (Chief Operating Officer).
		Deputy Inspector General for Management and Policy.
DEPARTMENT OF HOMELAND SECURITY.	Office of the Executive Secretariat	Deputy Executive Secretary, Operations and Administration.
	Office of Operations Coordination and Planning Directorate.	Senior Department of Homeland Security Advisor to the Commander, United States Northern Command/North American Aerospace Defense Command.
	Office of the General Counsel	Assistant General Counsel for Acquisition and Procurement.
		Associate General Counsel for Ethics.
		Deputy Associate General Counsel for General Law.
	Office for Civil Rights and Civil Liberties	Director Civil Rights and Civil Liberties Programs Division.
		Deputy Civil Rights and Civil Liberties Officer, Equal Employment Opportunity and Diversity Director.
		Deputy Civil Rights and Civil Liberties Officer, Programs and Compliance.
	Domestic Nuclear Detection Office	Assistant Director, Product Acquisition and Deployment Directorate.
		Assistant Director, Architecture and Plans Directorate.
		Chief of Staff.
		Assistant Director, Operations Support Directorate.
		Assistant Director, National Technical Nuclear Forensics Center.
		Assistant Director, Transformational and Applied Research Directorate.
		Deputy Director.
	Office of the Assistant Secretary for Policy.	Associate Director, Identity Management.
	United States Citizenship and Immigration Services.	Deputy Director, Service Center, Dallas, Texas.
		Chief, International Operations.
		Director, National Records Center.
		Deputy Director, National Benefits Center.
		Associate Director, Service Center Operations.

Agency	Organization	Title
		Deputy Associate Director, Refugee, Asylum, and International Operations.
		Associate Director, Enterprise Services Division.
		Chief, Office of Security and Integrity.
		District Director, Field Services, Atlanta, Georgia.
		District Director, Field Services, Newark, New Jersey.
		District Director, Field Services, Tampa, Florida.
		Regional Director, Southeast Region.
		District Director, Field Services, San Francisco California.
		District Director, Field Services, Los Angeles California.
		Director, National Benefits Center.
		Chief, Office of Administration.
		District Director, Field Services, Miami, Florida.
		Chief Financial Officer.
		Northeast Regional Director (Burlington, Vermont).
		Western Regional Director (Laguna Niguel, California).
		Central Regional Director (Dallas, Texas).
		Director, Vermont Service Center, Saint Albans, Vermont.
		Director, Service Center, Dallas, Texas.
		Director, Service Center, Laguna Niguel, California.
		Director, Service Center, Lincoln, Nebraska.
		Associate Director, Office of Management.
		Chief Information Officer.
		Chief, Performance and Quality.
		Director, Office of Refugee Affairs.
		Deputy Associate Director, Customer Service and Public Engagement.
		Associate Director, Fraud Detection and National Security.
		Chief, Intake and Document Production.
		Deputy Associate Director, Fraud Detection and National Security.
		Associate Director, Refugee, Asylum and International Operations.
		Deputy General Counsel.
		Deputy Associate Director, Office of Field Operations.
		Deputy Chief Information Officer.
		Deputy Associate Director, Enterprise Services Division.
		District Director, Field Services, New York, New York.
		Chief, Asylum Division.
		Chief, Human Capital and Training.
		Chief, Immigrant Investor Program.
		Deputy Associate Director, Service Center Operations.
		Associate Director, Customer Service and Public Engagement.
		Deputy Chief Counsel for Field Management.
		Deputy Director, Office of Security and Integrity.
		Chief, Office of Transformation Coordination.
		Deputy Associate Director, Office of Management.
		Deputy Chief, Office of Transformation Coordination.
		District Director, Field Services, Chicago, Illinois.
		District Director, Field Services, Boston, Massachusetts.
		Chief, Verification Division.
		Chief, Administrative Appeals.
		Associate Director, Field Operations.
		Deputy Director, Service Center, Saint Albans, Vermont.
		Deputy Director, Service Center, Lincoln, Nebraska.
		Deputy Director, Service Center, Laguna Niguel, California.
	United States Secret Service	Special Agent In Charge, Dallas Field Office.
		Special Agent In Charge, San Francisco Field Office.
		Chief Counsel.
		Special Agent In Charge, Philadelphia Field Office.
		Special Agent In Charge, Technical Security Division.
		Special Agent In Charge, Vice Presidential Protective Division.
		Assistant Director, Human Resources and Training.
		Special Agent In Charge, New York Field Office.
		Special Agent In Charge, Presidential Protective Division.
		Deputy Assistant Director, Protective Operations.
		Assistant Director, Office of Professional Responsibility.
		Assistant Director, Office of Administration.
		Assistant Director, Office of Technical Development and Mission Support.
		Assistant Director, Protective Operations.
		Assistant Director, Investigations.

Agency	Organization	Title
		Special Agent In Charge—Information Resources Management Division.
		Deputy Director, United States Secret Service.
		Deputy Special Agent In Charge for Cyber Security.
		Director, United States Secret Service.
		Deputy Assistant Director, Technical Development and Support Mission.
		Deputy Chief Counsel/Principal Ethics Official.
		Special Agent In Charge, Miami Field Office.
		Special Agent In Charge, Paris Field Office.
		Deputy Assistant Director, Office of Human Resources and Training.
		Deputy Assistant Director, Strategic Intelligence and Information.
		Assistant Director, Office of Strategic Intelligence and Information.
		Assistant Director, Office of Government and Public Affairs.
		Special Agent In Charge, Protective Intelligence and Assessment Division.
		Special Agent In Charge, Rome Field Office.
		Special Agent In Charge, Rowley Training Center.
		Special Agent In Charge, Criminal Investigative Division.
		Chief of Staff.
		Deputy Assistant Director, Office of Government and Public Affairs.
		Chief Financial Officer.
		Deputy Assistant Director, Office of Protective Operations.
		Deputy Assistant Director, Office of Investigations.
		Special Agent In Charge, Chicago Field Office.
		Chief Technology Officer.
		Deputy Assistant Director, Office of Investigations.
		Special Agent In Charge, Los Angeles Field Office.
		Component Acquisition Executive.
		Special Agent In Charge, Washington Field Office.
		Deputy Director, National Cyber Investigative Joint Task Force.
		Deputy Assistant Director, Special Operations Division.
		Special Agent In Charge, Special Services Division.
		Special Agent In Charge, Newark.
		Deputy Special Agent In Charge, New York Field Office.
		Special Agent In Charge, Honolulu Field Office.
		Special Agent In Charge, Atlanta Field Office.
		Deputy Special Agent In Charge, Vice Presidential Protective Division.
		Chief Information Officer.
		Deputy Special Agent In Charge (White House Complex).
		Deputy Assistant Director, Technical Development and Mission Support.
		Deputy Assistant Director, Rowley Training Center.
		Special Agent In Charge, Houston Field Office.
		Deputy Assistant Director, Investigations.
		Deputy Assistant Director, Human Resources and Training.
		Deputy Special Agent In Charge, Presidential Protective Division.
		Deputy Assistant Director, Administration.
		Special Agent In Charge (Dignitary Protective Division).
		Secret Service Cyber Security Advisor to the National Protection and Programs Directorate.
	United States Coast Guard	Senior Procurement Executive/Head of Contracting Activity.
		Director, Coast Guard Investigative Service.
		Director, Marine Transportation System Management.
		Chief Procurement Law Counsel and Chief Trial Attorney.
		Deputy Assistant Commandant for Resources and Deputy Chief Financial Officer.
		Assistant Deputy Commandant for Mission Support.
		Deputy Assistant Commandant for Acquisition/Director of Acquisition Services.
		Director, Incident Management and Preparedness Policy.
		Director of Financial Operations/Comptroller.
		Director of Financial Management and Procurement Services Modernization.
		Deputy Assistant Commandant for Intelligence and Criminal Investigations.
		Director, National Pollution Funds Center.

Agency	Organization	Title
		Deputy Assistant Commandant for Command, Control, Communications, Computers, and Information Technology/Deputy Chief Information Officer.
	Office of the Under Secretary for National Protection and Programs Directorate.	Assistant Director, Office of Resource Management, Federal Protective Service.
		Director, Enterprise Performance Management.
		Deputy Assistant Secretary for Infrastructure Protection.
		Chief Technology Officer, Cyber Security and Communications.
		Director, Human Resources Management.
		Deputy Director, Federal Network Resilience.
		Director, Protective Security Coordination.
		Director, Office of Cyber and Infrastructure Analysis.
		Deputy Director, National Cybersecurity Center.
		National Protection and Programs Directorate (NPPD) Chief Information Officer.
		Deputy Director, Infrastructure Security Compliance.
		Director, Infrastructure Security Compliance.
		Director, Sector Outreach and Programs Division.
		Assistant Director for Field Operations (East), Federal Protective Service.
		Director of Management.
		Director, Office of Emergency Communications.
		Deputy Director, Office of Biometric Identity Management.
		Director, Federal Network Resilience.
		Director, Federal Protective Service.
		Senior Advisor, Office of Infrastructure Protection.
		Assistant Director, Identity Capabilities Management Division, Office of Biometric Identity Management.
		Director, Budget and Financial Administration.
		Senior Advisor for Regulatory Policies.
		Assistant Director of Risk Management, Federal Protective Service.
		Assistant Director of Risk Management.
		Director, Strategy and Policy/Cybersecurity Coordination.
		Assistant Director, Office of Training and Career Development, Federal Protective Service.
		Director, Office of Compliance and Security.
		Chief Technology Officer, Office of Biometric Identity Management.
		Director, National Cybersecurity and Communications Integration Center.
		Director, Network Security Deployment.
		Deputy Director, National Cybersecurity and Communications Integration Center.
		Assistant Director of Field Operations (Central), Federal Protective Services.
		Assistant Director of Field Operations (West), Federal Protective Services.
		Assistant Director of Operations, Federal Protective Services.
		Senior Counselor to the Under Secretary for National Protection and Programs Directorate.
		Deputy Director, Office of Emergency Communications.
		Deputy Assistant Secretary for Cybersecurity Strategy and Emergency Communications.
		Director, Stakeholder Engagement and Cyber Infrastructure Resilience Division.
	Office of the Under Secretary for Intelligence and Analysis.	Senior Advisor for Strategic Cyber Security Management.
		Director, Border Security Division.
		Director, Information Sharing and Intelligence Enterprise Management Division.
		Director, Border Intelligence Fusion Section.
		Director, Cyber, Infrastructure and Science Division.
		Deputy Director, Office of Enterprise and Mission Support.
		Director, Operations, State and Local Program Office.
		Principal Deputy Director, Terrorist Screening Center.
		Director, Collection Requirements Division.
		Chief of Staff.
		Director, Mission Support Division.
		Deputy Director, Office of Analysis.
		Director for Strategy, Plans, and Policy.

Agency	Organization	Title
	Office of Assistant Secretary for Health Affairs and Chief Medical Officer.	Deputy Director, Workforce Health and Medical Support.
		Deputy Director, Health Threats Resilience.
		Associate Chief Medical Officer.
		Principal Deputy Assistant Secretary for Health Affairs/Deputy Chief Medical Officer.
	United States Immigration and Customs Enforcement.	Special Agent In Charge, Dallas, Texas.
		Director, Office of Professional Responsibility.
		Special Agent In Charge, San Diego, California.
		Special Agent In Charge, San Antonio, Texas.
		Special Agent In Charge, New Orleans, Louisiana.
		Special Agent In Charge, Los Angeles, California.
		Special Agent In Charge, Houston, Texas.
		Special Agent In Charge, Chicago, Illinois.
		Director, Intelligence, Homeland Security Investigations.
		Director, International Affairs.
		Deputy Assistant Director (Financial, Narcotics and Public Safety).
		Special Agent In Charge (Seattle).
		Director, Office of Enforcement and Removal Operations.
		Director of Enforcement and Litigation.
		Deputy Assistant Director, Mission Support.
		Senior Policy Administrator (Brussels).
		Field Office Director, Office of Enforcement and Removal Operations, Philadelphia, Pennsylvania.
		Field Office Director, Office of Enforcement and Removal, San Francisco, California.
		Deputy Director, Joint Task Force West—Operations.
		Special Agent In Charge, El Paso.
		Special Agent In Charge, Phoenix.
		Director, Labor Relations/Employee Relations.
		Deputy Director, El Paso Intelligence Center (EPIC).
		Component Acquisition Executive.
		Director, Facilities and Asset Administration.
		Director, Federal Export Enforcement Coordination Center.
		Special Agent In Charge, San Juan, Puerto Rico.
		Special Agent In Charge, Buffalo, New York.
		Special Agent In Charge, Philadelphia, Pennsylvania.
		Special Agent In Charge, Boston, Massachusetts.
		Special Agent In Charge, Newark, New Jersey.
		Special Agent In Charge, Tampa, Florida.
		Special Agent In Charge, Saint Paul, Minnesota.
		Field Office Director, Office of Enforcement and Removal Operations, New York City, New York.
		Field Office Director, Office of Enforcement and Removal Operations, Los Angeles, California.
		Field Office Director, Office of Enforcement and Removal Operations, Phoenix, Arizona.
		Deputy Assistant Director, Domestic Operations.
		Assistant Director for Detention Oversight and Inspections.
		Director, Joint Task Force—Investigations.
		Chief Counsel for Los Angeles, California.
		Chief Counsel for Miami, Florida.
		Field Office Director, Office of Enforcement and Removal, New Orleans, Louisiana.
		Field Office Director, Office of Enforcement and Removal Operations, Miami, Florida.
		Assistant Director, Homeland Security Investigative Programs.
		Special Agent In Charge, Denver, Colorado.
		Assistant Director, Homeland Security Investigations (Intellectual Property Rights Center).
		Field Office Director, Office of Enforcement and Removal, Houston, Texas.
		Field Office Director, Office of Enforcement and Removal, Chicago, Illinois.
		Field Office Director, Office of Enforcement and Removal, Atlanta, Georgia.
		Field Office Director, Office of Enforcement and Removal, El Paso, Texas.
		Assistant Director, Enforcement and Removal Operations, Law Enforcement Systems and Analysis Division.
		Deputy Chief Information Officer.

Agency	Organization	Title
		Special Agent In Charge, Detroit, Michigan.
		Executive Director, Law Enforcement Information Sharing Initiative.
		Deputy Assistant Director, Office of Enforcement and Removal Operations, Field Operations.
		Assistant Director, Operations Support, Office of Enforcement and Removal Operations.
		Executive Director, Management and Administration.
		Assistant Director, Office of Investigations (Domestic Operations).
		Deputy Assistant Director, Homeland Security Investigative Services.
		Deputy Director, Enforcement and Removal Operations.
		Deputy Principal Legal Advisor for Headquarters.
		Deputy Principal Legal Advisor for Field Operations.
		Chief Counsel, New York, New York.
		Deputy Director, Medical Affairs, Office of Enforcement and Removal Operations.
		Assistant Director, Enforcement and Removal Operations, Custody Operations Division.
		Field Office Director, Office of Enforcement and Removal Operations, San Antonio, Texas.
		Field Office Director, Office of Enforcement and Removal Operations, San Diego, California.
		Director, Office of Training and Development.
		Division Director for Investigations, Office of Professional Responsibility.
		Deputy Director, Office of Professional Responsibility.
		Executive Director, State and Local Coordination.
		Assistant Director, Enforcement and Removal Operations, Field Operations.
		Deputy Chief Financial Officer.
		Deputy Director, International Affairs.
		Special Agent In Charge, Washington, District of Columbia.
		Special Agent In Charge, Atlanta, Georgia.
		Director, Financial Management.
		Assistant Director, Enforcement and Removal Operations, Repatriation Division.
		Chief Financial Officer.
		Director, Office of Procurement.
		Assistant Director for Secure Communities and Enforcement, Office of Enforcement and Removal Operations.
		Chief Information Officer.
		Director, Budget and Program Performance.
		Deputy Assistant Director, Critical Infrastructure, Protection, and Fraud.
		Assistant Director, Diversity and Civil Rights.
		Deputy Director, Joint Task Force East—Operations.
		Deputy Assistant Secretary for Immigration and Customs Enforcement.
		Assistant Director, Human Resources Management.
		Deputy Principal Legal Advisor.
		Director, Office of Homeland Security Investigations.
		Deputy Director, Office of Homeland Security Investigations.
		Special Agent In Charge, New York.
		Deputy Assistant Director (National Security Investigations).
		Special Agent In Charge, Miami, Florida.
		Special Agent In Charge, San Francisco, California.
	United States Customs and Border Protection.	Senior Advisor.
		Executive Director, National Programs.
		Executive Director, Privacy and Diversity.
		Assistant Commissioner, International Affairs.
		Director, National Targeting Center (Passenger).
		Executive Director, Programming.
		Deputy Joint Field Commander, Arizona, Joint Operations Directorate.
		Joint Field Commander, Arizona, Joint Operations Directorate.
		Assistant Commissioner, Intelligence and Investigative Liaison.
		Executive Director, Automated Commercial Environment (ACE) Business Office.

Agency	Organization	Title
		Executive Director, Acquisition Management. Executive Director, Joint Operations Directorate. Executive Director, Preclearance. Deputy Assistant Commissioner, International Affairs. Executive Director, Diversity and Civil Rights. Port Director, San Ysidro, California. Deputy Chief Patrol Agent, Tucson, Arizona. Chief Patrol Agent, El Centro, California. Deputy Chief Patrol Agent, San Diego, California. Executive Director, Program Management Office. Deputy Commissioner. Director of Operations, Northern Region, Detroit, Office of Customs and Border Protection (CBP) Air and Marine. Director of Operations, Southeastern Region, Miami, Florida, Office of Customs and Border Protection (CBP) Air and Marine. Director, Air and Marine Operations Center, Riverside, Office of Customs and Border Protection (CBP) Air and Marine. Executive Director, Intelligence and Targeting. Director of Operations, Southwest Border, Office of Customs and Border Protection (CBP) Air and Marine. Executive Director, Passenger Systems Program Office. Executive Director, National Air Security Operations, Office of Customs and Border Protection (CBP) Air and Marine. Executive Director, Training, Safety and Standards. Executive Director, Human Resources Operations, Programs and Policy. Executive Director, Commercial Targeting and Enforcement. Executive Director, Financial Operations. Port Director, Laredo, Texas. Deputy Assistant Commissioner, Intelligence and Investigative Liaison. Chief, Operations Planning and Analyses Division. Director of Operations, Air and Marine. Executive Director, Trade Policy and Programs. Deputy Assistant Commissioner, Technology Innovation and Acquisition. Executive Director, Mission Support, Office of Customs and Border Protection (CBP) Air and Marine. Deputy Chief for Operations, Office of Border Patrol. Deputy Assistant Commissioner, Internal Affairs. Executive Director, Enterprise Data Management and Engineering. Executive Director, Targeting and Analysis Systems. Executive Director, Field Support. Executive Director, Cargo Systems. Deputy Chief, Operational Programs, Office of Border Patrol. Chief Patrol Agent, Yuma, Arizona. Executive Director, Admissibility and Passenger Programs. Chief Patrol Agent (Del Rio). Assistant Commissioner, Air and Marine. Deputy Director, Policy and Planning. Executive Director, Cargo and Conveyance Security. Director, Field Operations (Atlanta, Georgia). Chief of Operations, Office of Border Patrol. Executive Director, Enterprise Networks and Technology Support. Executive Director, Mission Support. Chief Patrol Agent, Rio Grande Valley. Deputy Assistant Commissioner, Information and Technology. Port Director, El Paso, Texas. Port Director, Los Angeles/Long Beach Seaport. Chief Patrol Agent, Tucson, Arizona. Executive Director, Customs and Border Protection (CBP) Basic Training. Executive Director, Procurement. Assistant Commissioner, Administration. Executive Director, Mission Support. Executive Director, Agriculture Programs and Trade Liaison.

Agency	Organization	Title
		Port Director, Los Angeles Airport.
		Director, Field Operations, Boston.
		Director, Field Operations, Tucson.
		Port Director, San Francisco.
		Executive Director, National Targeting Center.
		Deputy Assistant Commissioner, International Trade.
		Assistant Commissioner, Internal Affairs.
		Director, Field Operations, San Juan.
		Associate Chief Counsel, Los Angeles.
		Associate Chief Counsel, Houston.
		Associate Chief Counsel, Chicago.
		Associate Chief Counsel, New York.
		Associate Chief Counsel, Southeast.
		Associate Chief Counsel for Ethics, Labor, and Employment.
		Associate Chief Counsel—Trade and Finance.
		Associate Chief Counsel—Enforcement.
		Director, Field Operations, El Paso.
		Chief Patrol Agent, San Diego.
		Chief Patrol Agent, El Paso.
		Director, Field Operations, San Francisco.
		Chief Patrol Agent, Laredo Sector.
		Chief, Border Patrol.
		Deputy Assistant Commissioner, Air and Marine.
		Director, Field Operations, San Diego.
		Director, Field Operations, Laredo.
		Director, Field Operations, Houston.
		Director, Field Operations, Los Angeles.
		Director, Field Operations, Chicago.
		Director, Field Operations, Miami.
		Port Director, Miami International Airport.
		Port Director, Newark.
		Principal Executive for Program Development.
		Director, Field Operations, New York.
		Deputy Assistant Commissioner, Office of Training and Development.
		Director, Field Operations, Buffalo.
		Director, Field Operations, Detroit.
		Director, Field Operations, Seattle.
		Executive Director, Operations.
		Deputy Chief, Border Patrol.
		Deputy Assistant Commissioner, Field Operations.
		Assistant Commissioner, Field Operations.
		Executive Director, Laboratories and Scientific Services.
		Assistant Commissioner, Information and Technology.
		Deputy Director, Procurement.
		Executive Director, Budget.
		Chief Financial Officer.
		Executive Director, Regulations and Rulings.
		Executive Director, Regulatory Audit.
		Assistant Commissioner, Office of International Trade.
		Assistant Commissioner, Training and Development.
		Executive Director, Facilities Management and Engineering.
		Executive Director, Labor and Employee Relations.
		Deputy Assistant Commissioner, Human Resources Management.
		Assistant Commissioner, Human Resources Management.
		Deputy Chief Counsel.
		Executive Director, Planning, Program Analysis and Evaluation.
		Port Director, John F. Kennedy Airport.
		Deputy Chief Patrol Agent, El Paso.
		Assistant Commissioner, Technology Innovation and Acquisition.
		Deputy Chief Patrol Agent, Rio Grande Valley.
	Federal Law Enforcement Training Center.	Assistant Director (Mission and Readiness Support Directorate).
		Assistant Director, Chief Financial Officer.
		Assistant Director (Washington Operations).
		Assistant Director (Regional and International Training Directorate).
		Assistant Director (Information Technology Directorate).
		Chief Counsel.
		Assistant Director (Glynco Training Directorate).

Agency	Organization	Title
		Assistant Director (Centralized Training Management Directorate).
		Assistant Director, Administration.
		Deputy Director, Federal Law Enforcement Training Center.
		Director, Federal Law Enforcement Training Center.
	Federal Emergency Management Agency.	Deputy Regional Administrator, Region VI, Denton.
		Deputy Assistant Administrator, National Preparedness Directorate.
		Deputy Regional Administrator, Region IV, Atlanta.
		Deputy Associate Administrator, Management and Performance Improvement.
		Deputy Principal Legal Advisor for Management.
		Director, National Disaster Recovery Planning Division.
		Chief, Enterprise Business Unit.
		Chief Security Officer.
		Chief Technology Officer.
		Senior Counselor to the Administrator and International Relations Officer.
		Director, Emergency Communication Division.
		Chief Administrative Officer.
		Deputy Associate Administrator, Policy and Strategy.
		Director, Technology Hazards Division.
		Director, Financial Management Division.
		Deputy Assistant Administrator, Grants Program.
		Deputy Chief Counsel.
		Superintendent, Center for Domestic Preparedness.
		Deputy Director, External Affairs.
		Executive Director for Readiness.
		Deputy Executive Administrator, Mount Weathers Emergency Operations Center.
		Deputy Assistant Administrator for Response.
		Director, Office of Federal Disaster Coordination.
		Director, Acquisition Operations Division.
		Director, Acquisition Programs and Planning Division.
		Deputy Associate Administrator, Mission Support Bureau.
		Chief Procurement Officer.
		Director, National Exercise Division.
		Chief Financial Officer.
		Planning Division Director, Office of Response and Recovery.
		Deputy Chief Component Human Capital Officer.
		Deputy Associate Administrator for Insurance, Federal Insurance and Mitigation.
		Chief, Risk Reduction Branch (Mitigation).
		Director, Grants Management Division.
		Director, National Processing Service Center.
		Deputy Associate Administrator for Mitigation, Federal Insurance and Mitigation.
		Deputy Chief Financial Officer.
	Office of the Chief Security Officer	Deputy Chief Security Officer.
		Chief Personnel Security Officer.
		Chief Security Officer.
		Chief Counterintelligence and Investigations.
	Office of the Chief Financial Officer	Director, Financial Management.
		Director, Resource Management Transformation Office.
		Director, Departmental General Accounting Office/Inspector General (GAO/IG) Liaison Office.
		Director, Financial Risk Management and Assurance.
		Director, Office of Budget.
		Deputy Budget Director, Office of Budget.
	Office of the Chief Procurement Officer.	Executive Director, Program Accountability and Risk Management Office.
		Director, Oversight and Strategic Support.
		Chief Procurement Officer.
		Deputy Chief Procurement Officer.
		Director, Enterprise Acquisition and Information Technology.
		Executive Director, Office of Procurement Operations.
		Director, Policy and Acquisition Workforce.
		Director, Procurement Policy and Oversight.
	Office of the Chief Human Capital Officer.	Executive Director Cyber skills Management Task Force.
		Executive Director, Human Capital Policy and Programs.

Agency	Organization	Title
		Deputy Chief Human Capital Officer.
		Executive Director, Human Capital Business Systems.
		Executive Director, Diversity and Inclusion.
		Deputy Chief Learning Officer.
		Executive Director, Human Resources Management and Services.
	Office of the Chief Information Officer ..	Senior Advisor, Chief Information Officer.
		Executive Director, Enterprise System Development Office.
		Executive Director, Customer Relationship Management Division.
		Deputy Chief Information Officer.
		Deputy Executive Director, Information Technology Services Office.
		Executive Director, Chief Information Security Officer.
		Director, Enterprise Business Management Office.
		Executive Director, Information Technology Services Office.
		Executive Director, Office of Applied Technology (Chief Technology Officer).
		Executive Director, Information Sharing.
	Office of the Chief Readiness Support Officer.	Director of Asset and Logistics Management.
		Deputy Chief Readiness Support Officer, Operations Support.
		Deputy Chief Readiness Support Officer.
		Director, Headquarters Management and Development.
		Director, Safety and Environmental Programs.
	Office of the Under Secretary for Science and Technology.	Director, Cyber Security Division.
		Deputy Director, Office of National Laboratories.
		Director, Interagency Office.
		Director, Test and Evaluation.
		Director, Borders and Maritime Security Division.
		Director, Chemical Biological Defense Division.
		Director, Finance and Budget Division.
		Director, Infrastructure Protection and Disaster Management Division.
		Director, Explosives Division.
		Director, Office of National Laboratories.
		Director, Acquisition Support and Operations Analysis Division.
		Director, Homeland Security Advanced Research Projects Agency.
		Director, Office for Interoperability and Compatibility.
		Deputy Director, Homeland Security Advanced Research Projects Agency.
		Director, Research and Development Partnerships.
DEPARTMENT OF HOMELAND SECURITY OFFICE OF THE INSPECTOR GENERAL.	Department of Homeland Security Office of the Inspector General.	Assistant Inspector General, Integrity and Quality Oversight.
		Assistant Inspector General for Management.
		International Senior Advisor.
		Deputy Assistant Inspector General for Investigations.
		Deputy Assistant Inspector General for Investigations.
		Deputy Assistant Inspector General, Audits.
		Chief of Staff.
		Deputy Inspector General.
		Deputy Assistant Inspector General, Audits.
		Deputy Assistant Inspector General, Emergency Management Oversight.
		Assistant Inspector General for Emergency Management Oversight.
		Assistant Inspector General, Inspections.
		Assistant Inspector General, Information Technology Audits.
		Assistant Inspector General, Investigations.
		Counsel to the Inspector General.
		Assistant Inspector General, Audits.
		Deputy Assistant Inspector General for Management.
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	Office of the Administration	Chief Disaster and National Security Officer.
	Office of the Chief Human Capital Officer.	Director, Office of Human Capital Services.
		Deputy Chief Human Capital Officer.
		Chief Learning Officer.
	Office of the Chief Financial Officer	Assistant Chief Financial Officer for Systems.
		Assistant Chief Financial Officer for Financial Management.

Agency	Organization	Title
		Assistant Chief Financial Officer for Accounting.
		Deputy Chief Financial Officer.
		Assistant Chief Financial Officer for Budget.
		Deputy Assistant Chief Financial Officer for Budget.
	Office of the Chief Information Officer ..	Deputy Chief Information Officer—Office of Customer Relationship and Performance Management.
		Deputy Chief Information Officer for Infrastructure and Operations.
		Deputy Chief Information Officer for Business and Information Technology Resource Management Officer.
		Principal Deputy Chief Information Officer.
	Office of the Chief Procurement Officer	Deputy Chief Procurement Officer.
	Office of Community Planning and Development.	Deputy Assistant Secretary for Special Needs Programs.
	Office of Departmental Equal Employment Opportunity.	Director, Office of Departmental Equal Employment Opportunity.
	Office of the General Counsel	Associate General Counsel for Program Enforcement.
		Director, Departmental Enforcement Center.
	Government National Mortgage Association.	Senior Vice President, Office of Program Operations.
		Senior Vice President, Office of Capital Markets.
		Senior Vice President, Office of Finance.
		Senior Vice President and Chief Risk Officer.
		Senior Vice President, Office of Enterprise Data and Technology Solutions.
		Senior Vice President of Administration and Senior Advisor to the Office of the President.
		Senior Vice President and Chief Financial Officer.
		Senior Vice President for Mortgage-Backed Securities.
	Office of Housing	Deputy Assistant Secretary for Finance and Budget.
		Deputy Assistant Secretary for Healthcare Programs.
		Housing Federal Housing Administration-Comptroller.
		Associate Deputy Assistant Secretary for Healthcare Programs.
		Director, Program Systems Management Office.
		Housing Federal Housing Administration Deputy Comptroller.
	Office of Policy Development and Research.	Associate Deputy Assistant Secretary for Policy Development.
	Office of Public and Indian Housing	Deputy Assistant Secretary for Public Housing Investments.
		General Deputy Assistant Secretary for Public and Indian Housing.
		Director for Budget and Financial Management.
		Deputy Assistant Secretary for Budget and Administration.
		Deputy Assistant Secretary for the Real Estate Assessment Center.
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OFFICE OF THE INSPECTOR GENERAL.	Department of Housing and Urban Development Office of the Inspector General.	Assistant Inspector General for Office of Management and Technology.
		Deputy Assistant Inspector General for Audit—Special Operations.
		Deputy Assistant Inspector General for Audit (Field Operations).
		Deputy Assistant Inspector General for Investigation (Field Operations).
		Deputy Assistant Inspector General for Information Technology.
		Counsel to the Inspector General.
		Deputy Assistant Inspector General for Investigation (Headquarters Operations).
		Associate Counsel.
		Deputy Inspector General.
		Assistant Inspector General for Audit.
		Assistant Inspector General for Investigation.
		Assistant Inspector General for Office of Evaluation (OE).
DEPARTMENT OF THE INTERIOR	Office of the Solicitor	Designated Agency Ethics Official.
		Associate Solicitor for Administration.
	Office of the Assistant Secretary—Policy, Management and Budget.	Deputy Assistant Secretary—Human Capital and Diversity.
		Director, Office of Emergency Management.
		Deputy Assistant Secretary—Public Safety, Resource Protection and Emergency Services.
		Deputy Director, Office of Financial Management.
		Director, Office of Human Resources.

Agency	Organization	Title
		Chief Division of Budget and Program Review.
		Director, Office of Financial Management and Deputy Chief Financial Officer.
		Deputy Assistant Secretary—Budget, Finance, Performance and Acquisition.
		Chief, Budget Administration and Departmental Management.
		Chief Diversity Officer/Director, Office of Civil Rights.
		Director, Office of Law Enforcement and Security.
	Office of Natural Resources Revenue Management.	Program Director for Audit and Compliance Management.
		Program Director for Coordination, Enforcement, Valuation and Appeals.
		Deputy Director, Office of Natural Resources Revenue Management.
		Program Director for Financial and Program Management.
	Office of Hearings and Appeals	Director, Office of Hearings and Appeals.
	United States Fish and Wildlife Service	Chief, Office of Law Enforcement.
	National Park Service	Financial Advisor (Comptroller).
		Associate Director Interpretation and Education.
	Field Offices	Park Manager (Superintendent).
		Park Manager.
	Bureau of Reclamation	Director, Management Services Office.
		Director, Safety, Security, and Law Enforcement.
	United States Geological Survey	Associate Director for Budget, Planning, and Integration.
		Associate Director for Communications and Publishing.
		Associate Director for Human Capital.
		Deputy Director, United States Geological Survey.
		Associate Director for Administration.
		Chief Scientist for Hydrology.
		Principal Deputy Director.
		Chief, Geospatial Information, Integration and Analysis.
		Director, Earth Resources Observation and Science Center and Space Policy Advisor.
		Associate Director for Climate Variability and Land Use Change.
		Associate Director for Water.
		Associate Director for Core Science Systems.
		Director, Office of Science Quality and Integrity.
		Associate Director for Ecosystems.
		Associate Director for Energy, Minerals and Environmental Health.
		Associate Director for Natural Hazards.
	Field Offices	Regional Director—Midwest.
		Regional Director—Pacific.
		Regional Director—Alaska.
		Regional Director—Northeast.
		Regional Director—Southeast.
		Regional Director—Southwest.
		Regional Director—Northwest.
	Bureau of Land Management	Assistant Director, Human Capital Management.
	Field Offices	Director, National Operations Center.
		Regional Director Mid Continent Regional Coordinating Center.
		Regional Director.
	Bureau of Ocean Energy Management	Strategic Resources Chief.
	Office of Assistant Secretary—Indian Affairs.	Director of Human Capital Management.
DEPARTMENT OF THE INTERIOR OFFICE OF THE INSPECTOR GENERAL.	Office of the Inspector General	Chief of Staff.
		Associate Inspector General for Communication.
		Senior Advisor.
		Chief of Staff.
		Deputy Inspector General.
	Office of General Counsel	General Counsel.
	Office of Recovery and Accountability	Assistant Inspector General for Recovery Oversight.
	Office of Investigations	Assistant Inspector General for Investigations.
	Office of Management	Deputy Assistant Inspector General for Management.
		Assistant Inspector General for Management.
	Office of Information Technology	Assistant Inspector General for Information Technology.
	Office of Audits, Inspections, and Evaluations.	Deputy Assistant Inspector General for Compliance and Finance.
		Assistant Inspector General for Audits, Inspections, and Evaluations.

Agency	Organization	Title
DEPARTMENT OF JUSTICE	Office of the Deputy Attorney General	Chief, Professional Misconduct Review Unit.
	Office of the Legal Counsel	Special Counsel (2).
	Office of Professional Responsibility	Counsel on Professional Responsibility.
		Deputy Counsel on Professional Responsibility.
	Justice Management Division	Deputy Assistant Attorney General for Information Resources Management/Chief Information Officer.
		Director, Debt Collection Management Staff.
		Director, Budget Staff.
		Director, Finance Staff.
		Deputy Director, Budget Staff, Operations and Funds Control.
		Director, Departmental Ethics Office.
		Director, Enterprise Solutions Staff.
		Director, Information Technology Services Staff (ITSS).
		Chief Technology Officer.
		Deputy Chief Information Officer.
		Director, Asset Forfeiture Management Staff.
		Deputy Director, Human Resources.
		Deputy Director, Auditing, Finance Staff.
		Deputy Director, Budget Staff, Programs and Performance.
		Director, Operations Services Staff.
		Director, Information Technology Policy and Planning Staff.
		Deputy, Chief Information Officer for E-Government Services Staff.
		Director, Office of Attorney Recruitment and Management.
		Director, Facilities and Administrative Services Staff.
		Director Library Staff.
		Deputy Assistant Attorney General for Human Resources and Administration.
		Deputy Assistant Attorney General (Controller).
		Director, Security and Emergency Planning Staff.
		Director, Human Resources.
		Deputy Assistant Attorney General, Policy, Management, and Planning.
		Assistant Attorney General for Administration.
		Director, Equal Employment Opportunity Staff.
		General Counsel.
		Director Procurement Services Staff.
	Professional Responsibility Advisory Office.	Director, Professional Responsibility Advisory Office.
	Federal Bureau of Prisons	Warden, Federal Transfer Center, Oklahoma City, Oklahoma.
		Warden, Federal Correctional Complex, Allenwood, Pennsylvania.
		Warden, Federal Medical Center, Carswell, Texas.
		Warden, Federal Correctional Complex, Oakdale, Louisiana.
		Warden, United States Penitentiary—High, Florence, Colorado.
		Warden, Federal Correctional Complex, Florence, Colorado.
		Warden, Federal Correctional Institution, Fort Dix, New Jersey.
		Warden, Federal Correctional Institution, Talladega, Alabama.
		Deputy Director.
		Regional Director Middle Atlantic Region.
		Warden, Federal Medical Center, Rochester, Minnesota.
		Warden, Federal Correctional Institution, Phoenix, Arizona.
		Senior Deputy Assistant Director, Correctional Programs Division.
		Regional Director, Southeast Region.
		Warden, Federal Correctional Complex, Beaumont, Texas.
		Senior Deputy Assistant Director, Information, Policy, and Public Affairs Division.
		Warden, United States Penitentiary, Pollock, Louisiana.
		Warden, Metropolitan Detention Center, Brooklyn, New York.
		Senior Deputy Assistant Director Administration Division.
		Warden, Metropolitan Correctional Center, New York, New York.
		Warden, Federal Correctional Institution, Otisville, New York.
		Warden, Federal Correctional Institution, Jessup, Georgia.

Agency	Organization	Title
		Warden, Federal Correctional Institution, Beckley, West Virginia.
		Warden, Federal Correctional Complex, Coleman, Florida.
		Warden, United States Penitentiary, Atwater, California.
		Warden, United States Penitentiary, Lee, Virginia.
		Senior Counsel, Office of General Counsel.
		Warden, United States Penitentiary, Big Sandy, Kentucky.
		Complex Warden, Federal Correction Complex, Petersburg, Virginia.
		Regional Director, South Central Region.
		Regional Director, Western Region.
		Regional Director, North Central Region.
		Regional Director, Northeast Region.
		Assistant Director, Office of General Counsel.
		Assistant Director Correctional Programs Division.
		Senior Deputy General Counsel, Office of the General Counsel.
		Senior Deputy Assistant Director, Program Review Division.
		Warden, Federal Correction Institution, Thomson, IL.
		Warden, Federal Correction Institution, Fort Worth Texas.
		Senior Deputy Assistant Director, Administration Division.
		Assistant Director, Reentry Services Division.
		Senior Deputy Assistant Director, Information, Policy, and Public Affairs Division.
		Warden, Federal Correctional Institution, Berlin, New Hampshire.
		Senior Deputy General Counsel, Office of General Counsel.
		Assistant Director, Information, Policy and Public Affairs.
		Senior Deputy Assistant Director, Health Services Division.
		Senior Deputy Assistant Director, Industries, Education and Vocational Training Division.
		Warden, Federal Correction Institution, Mendota, California.
		Warden, Federal Correctional Institution, Herlong, California.
		Warden, Federal Correctional Complex, Forrest City, Arkansas.
		Warden, Federal Correctional Institution, Williamsburg, South Carolina.
		Warden, Federal Correctional Institution, Bennettsville, South Carolina.
		Warden, Federal Correctional Institution, Manchester, Kentucky.
		Warden, Federal Correctional Institution, Gilmer, West Virginia.
		Warden, Federal Correctional Institution, Sheridan, Oregon.
		Warden, Federal Correctional Institution, Memphis, Tennessee.
		Warden, Metropolitan Detention Center, Guaynabo, Puerto Rico.
		Warden, Federal Correctional Institution, Three Rivers, Texas.
		Warden, Federal Correctional Institution, Schuylkill, Pennsylvania.
		Warden, Federal Correctional Institution, Pekin, Illinois.
		Warden, Federal Correctional Institution, Oxford, Wisconsin.
		Warden, Federal Correctional Institution, Mckean, Pennsylvania.
		Warden, Federal Correctional Institution, Greenville, Illinois.
		Warden, Federal Correctional Institution, Cumberland, Maryland.
		Complex Warden, United States Penitentiary, Tucson, Arizona.
		Warden, United States Penitentiary Coleman-I, Coleman, Florida.
		Senior Deputy Assistant Director Re-Entry Services Division.
		Warden, United States Penitentiary, Canaan, Pennsylvania.
		Complex Warden, Federal Correctional Complex, Yazoo City, Mississippi.
		Warden, United States Penitentiary, Hazelton, West Virginia.
		Warden, United States Penitentiary, McCreary, Kentucky.

Agency	Organization	Title
		Complex Warden, Federal Correctional Complex, Victorville, California.
		Assistant Director Human Resources Management Division.
		Warden, Federal Correctional Institution, Marianna, Florida.
		Warden, Federal Correctional Complex, Butner, North Carolina.
		Warden, Federal Correctional Complex, Terre Haute, Indiana.
		Assistant Director, Industries, Education, and Vocational Training Division.
		Warden, United States Penitentiary, Marion, Illinois.
		Warden, Federal Medical Center, Lexington, Kentucky.
		Warden, United States Medical Center Federal Prisoners, Springfield, Missouri.
		Warden, Federal Correctional Complex, Lompoc, California.
		Warden, United States Penitentiary, Lewisburg, Pennsylvania.
		Warden, United States Penitentiary, Leavenworth, Kansas.
		Warden, United States Penitentiary, Atlanta, Georgia.
		Assistant Director for Administration.
		Warden, Metropolitan Detention Center, Los Angeles, California.
		Warden, Federal Medical Center, Devens, Massachusetts.
		Warden, Federal Correctional Institution, Edgefield, South Carolina.
		Assistant Director, Program Review Division.
		Warden, Federal Correctional Institution, Fairton, New Jersey.
		Warden, Federal Detention Center, Miami, Florida.
		Warden, Federal Correctional Institution, El Reno, Oklahoma.
		Senior Deputy Assistant Director, Human Resources Management Division.
	Executive Office for Immigration Review.	Deputy Chief Immigration Judge.
		Assistant Director for Administration.
		Vice Chairman, Board of Immigration Appeals.
		Associate Director.
		General Counsel.
		Chairman, Board of Immigration Appeals.
		Chief Immigration Judge.
		Chief Administrative Hearing Officer.
	Criminal Division	Counselor for Transnational Organized Crime and International Affairs.
		Chief, Human Rights and Special Prosecutions Section.
		Chief, Computer Crime and Intellectual Property Section.
		Chief, Child Exploitation and Obscenity Section.
		Deputy Chief for Organized Crime and Gang Section.
		Chief, Narcotic and Dangerous Drug Section.
		Deputy Chief, Asset Forfeiture and Money Laundering Section.
		Chief, Fraud Section.
		Chief, Appellate Section.
		Chief, Organized Crime and Gang Section.
		Director, International Criminal Investigative Training Assistance Program.
		Executive Officer.
		Deputy Chief, Appellate Section.
		Deputy Chief Public Integrity Section.
		Chief, Asset Forfeiture and Money Laundering Section.
		Deputy Chief for Litigation.
		Chief, Public Integrity Section.
		Senior Counsel for Cybercrime.
		Director, Office of Overseas Prosecutorial Development, Assistance, and Training.
		Deputy Chief, Narcotic and Dangerous Drug Section.
		Deputy Chief, Computer Crime and Intellectual Property Section.
	National Security Division	Director, Freedom of Information Act and Declassification Program.
		Chief, Appellate Unit.
		Special Counsel for National Security.
		Executive Officer.

Agency	Organization	Title
		Deputy Assistant Attorney General, Foreign Intelligence Surveillance Act Operations and Intelligence Oversight.
		Chief, Operations Section.
		Chief, Oversight Section.
		Deputy Chief, Counterespionage Section.
		Deputy Chief, Counterterrorism Section.
		Deputy Chief, Operations Section.
	Executive Office for United States Attorneys.	Chief Financial Officer.
		Chief Information Officer.
		General Counsel.
		Counsel, Legal Programs and Policy.
		Deputy Director.
		Chief Human Resources Officer.
		Associate Director, Office of Legal Education.
		Deputy Director for Administration and Management.
	United States Marshals Service	Assistant Director, Investigative Operations.
		Principal Deputy General Counsel.
		Deputy Assistant Director, Acquisition and Procurement.
		Assistant Director, Judicial Security.
		Assistant Director, Office of Inspection.
		Assistant Director, Justice Prisoner and Alien Transportation System (JPATS).
		Deputy Director.
		Assistant Director for Prisoner Operations.
		Assistant Director, Tactical Operations.
		Associate Director, Administration.
		Associate Director, Operations.
		Assistant Director, Financial Services.
		Assistant Director, Information Technology.
		Assistant Director, Training.
		Assistant Director, Asset Forfeiture.
		Assistant Director, Management Support.
		Assistant Director, Witness Security.
		Assistant Director, Human Resources.
	Bureau of Alcohol, Tobacco, Firearms and Explosives.	Executive Assistant to the Director.
		Deputy Director.
		Deputy Assistant Director, Industry Operations.
		Chief, Special Operations Division.
		Deputy Director, Terrorist Explosive Device Analytical Center.
		Deputy Assistant Director, Field Operations—East.
		Deputy Assistant Director, Human Resources and Professional Development.
		Deputy Assistant Director, Field Operations—West.
		Assistant Director, Management and Chief Financial Officer.
		Deputy Assistant Director, Management and Chief Financial Officer.
		Assistant Director, Human Resources and Professional Development.
		Special Agent In Charge, Denver.
		Special Agent In Charge, Newark.
		Special Agent In Charge, Baltimore.
		Special Agent In Charge, New Orleans.
		Special Agent In Charge, Columbus.
		Special Agent In Charge, Tampa.
		Special Agent In Charge, Seattle.
		Special Agent In Charge, Louisville.
		Special Agent In Charge, Detroit.
		Special Agent In Charge, Charlotte.
		Special Agent In Charge, Miami.
		Special Agent In Charge, San Francisco.
		Special Agent In Charge, Phoenix.
		Special Agent In Charge, Philadelphia.
		Special Agent In Charge, Kansas City.
		Special Agent In Charge, Chicago.
		Special Agent In Charge, Boston.
		Special Agent In Charge, Atlanta.
		Special Agent In Charge, Saint Paul.
		Deputy Assistant Director, Office of Public and Governmental Affairs.

Agency	Organization	Title
		Assistant Director, Office of Public and Governmental Affairs.
		Deputy Assistant Director, Office of Strategic Intelligence and Information.
		Assistant Director, Office of Strategic Intelligence and Information.
		Special Agent In Charge, Dallas.
		Special Agent In Charge, Nashville.
		Deputy Assistant Director, Industry Operations.
		Deputy Assistant Director, Office of Professional Responsibility and Security Operations.
		Special Agent In Charge, Houston.
		Special Agent In Charge, Washington DC.
		Special Agent In Charge, New York.
		Special Agent In Charge, Los Angeles.
		Deputy Assistant Director, Forensic Services.
		Assistant Director, Science and Technology.
		Deputy Assistant Director for Information Technology and Deputy Chief Information Officer.
		Assistant Director, Office of Professional Responsibility and Security Operations.
		Deputy Assistant Director, Enforcement Programs and Services.
		Assistant Director, Enforcement Programs and Services.
		Deputy Assistant Director, Field Operations—Central.
		Assistant Director, Field Operations.
		Deputy Assistant Director, Field Operations (Programs).
	Antitrust Division	Chief, Telecommunications and Media Section.
		Director, Economic Enforcement.
		Executive Officer.
	Civil Division	Special Immigration Counsel.
		Deputy Branch Director, Federal Programs.
		Deputy Branch Director.
		Deputy Director, Appellate Staff.
		Deputy Director, Appellate Branch.
		Deputy Director, Commercial Litigation Branch.
		Deputy Branch Director, Federal Programs.
		Director, Office of Management Programs.
		Deputy Director, Commercial Litigation Branch.
		Deputy Branch Director, Federal Programs.
		Director, Consumer Protection Branch.
		Appellate Litigation Counsel.
		Director, Consumer Litigation Branch, Foreign Litigation Section.
		Special Litigation Counsel, Aviation and Admiralty Section.
		Deputy Director, Office of Immigration Litigation, Appellate Section.
		Deputy Director, Commercial Litigation Branch.
	Environment and Natural Resources Division.	Deputy Chief, Environmental Enforcement Section.
		Chief, Natural Resources Section.
		Deputy Chief, Environmental Enforcement Section.
		Deputy Chief, Environmental Defense Section.
		Deputy Section Chief, Natural Resources Section.
		Deputy Chief, Natural Resources Section.
		Deputy Chief, Appellate Section.
		Senior Litigation Counsel.
		Deputy Chief, Environmental Enforcement Section.
		Chief, Environmental Enforcement Section.
		Chief, Environmental Crimes Section.
		Chief, Wildlife and Marine Resources Section.
		Chief, Environmental Defense Section.
		Chief, Indian Resources Section.
		Chief, Appellate Section.
		Chief, Land Acquisition Section.
		Executive Officer.
	Tax Division	Deputy Assistant Attorney General.
		Special Litigation Counsel.
		Senior Litigation Counsel.
		Chief, Civil Trial Section, Southwestern Region.
		Chief, Civil Trial Section, Central Region.
		Executive Officer.
		Chief, Civil Trial Section, Eastern Region.

Agency	Organization	Title
		Chief, Criminal Appeals and Tax Enforcement Policy Section.
		Chief, Criminal Enforcement Section, Western Region.
		Chief, Criminal Enforcement Section, South Region.
		Chief, Criminal Enforcement Section, North Region.
		Chief, Office of Review.
		Chief, Appellate Section.
		Chief, Court of Federal Claims Section.
		Chief, Civil Trial Section, Northern Region.
		Chief, Civil Trial Section, Southern Region.
		Chief, Civil Trial Section, Western Region.
	Civil Rights Division	Executive Officer.
		Chief, Policy Strategy Section.
	Executive Office for Organized Crime Drug Enforcement Task Forces.	Director, Organized Crime Drug Enforcement Task Forces.
		Deputy Director, Office for Victims of Crime.
	Office of Justice Programs	Deputy Chief Financial Officer.
		Director, Office of Administration.
		Chief Financial Officer.
		Director, Office of Audit, Assessment and Management.
	National Institute of Justice	Deputy Director, National Institute of Justice.
	Office of the Inspector General	Deputy Assistant Inspector General for Investigation.
		Deputy Assistant Inspector General for Audit.
		Director, Office of Oversight and Review.
		General Counsel.
		Deputy Inspector General.
		Assistant Inspector General for Management and Planning.
		Assistant Inspector General for Investigation.
		Assistant Inspector General for Audit.
		Assistant Inspector General, Evaluation and Inspections Division.
	Office of Tribal Justice	Director.
DEPARTMENT OF JUSTICE OFFICE OF THE INSPECTOR GENERAL.	Audit Division	Deputy Assistant Inspector General, Audit Division.
		Assistant Inspector General, Audit Division.
	Evaluation and Inspections Division	Assistant Inspector General, Evaluation and Inspections Division.
	Front Office	General Counsel.
		Deputy Inspector General.
	Investigations Division	Deputy Assistant Inspector General, Investigations Division.
		Assistant Inspector General, Investigations Division.
	Management and Planning Division	Assistant Inspector General, Management and Planning Division.
	Oversight and Review Division	Deputy Assistant Inspector General, Oversight and Review Division.
		Assistant Inspector General, Oversight and Review Division.
DEPARTMENT OF LABOR	Women's Bureau	Deputy Director, Women's Bureau.
	Office of Public Affairs	Senior Managing Director.
	Bureau of International Labor Affairs	Director, Office of Child Labor, Forced Labor Human Trafficking.
		Director, Office of Trade and Labor Affairs.
		Regional Commissioner.
	Office of the Assistant Secretary for Policy.	Director, Office of Regulatory and Programmatic Policy.
		Deputy Assistant Secretary for Policy.
	Office of the Solicitor	Regional Solicitor—Philadelphia.
		Associate Solicitor for Civil Rights and Labor Management.
		Regional Solicitor—San Francisco.
		Deputy Solicitor (Regional Operations).
		Associate Solicitor for Plan Benefits Security.
		Regional Solicitor—Chicago.
		Deputy Solicitor (National Operations).
		Associate Solicitor, Management and Administrative Legal Services Division.
		Regional Solicitor—Dallas.
		Associate Solicitor for Legal Counsel.
		Associate Solicitor for Occupational Safety and Health.
		Associate Solicitor for Mine Safety and Health.
		Associate Solicitor for Fair Labor Standards.
		Regional Solicitor—Atlanta.
		Associate Solicitor for Federal Employees' and Energy Workers' Compensation.
		Regional Solicitor—Boston.
		Regional Solicitor—New York.

Agency	Organization	Title
		Associate Solicitor for Black Lung and Longshore Legal Services.
	Office of Chief Financial Officer	Deputy Chief Financial Officer.
		Associate Deputy Chief Financial Officer for Financial Systems.
	Office of the Assistant Secretary for Administration and Management.	Director Business Operations Center.
		Director Office of Budget.
		Deputy Assistant Secretary for Operations.
		Director, Program Planning and Results Center.
		Chief Cyber Security Officer.
		Chief Procurement Officer.
		Director, Customer Service.
		Associate Deputy Chief Information Officer.
		Director of Enterprise Services.
		Deputy Director of Human Resources.
		Director, National Capital Service Center.
		Director of Civil Rights.
	Office of Federal Contract Compliance Programs.	Administrative Officer.
		Regional Director for Office of Federal Contract Compliance Programs (6).
	Wage and Hour Division	Deputy Administrator for Program Operations.
		Director of Administrative Operations.
		Regional Director—Dallas.
		Director, Office of Program Operations.
		Regional Administrator for Wage and Hour.
		Assistant Administrator, Office of Government Contracts.
		Regional Administrator for Wage and Hour.
	Office of Workers Compensation Programs.	Regional Director (Dallas).
		Director for Federal Employees' Compensation.
		Regional Director.
		Director, Office of Workers' Compensation Programs.
		Deputy Director for Office of Workers' Compensation Programs.
		Regional Director (Northeast Region).
		Director, Energy Employees' Occupational Illness Compensation.
		Administrative Officer.
		Comptroller.
		Regional Director (2).
	Office of Labor-Management Standards	Deputy Director, Office of Labor Management Standards.
		Senior Advisor and Director of Reports and Disclosures.
		Director, Office of Enforcement and International Union Audits.
	Employee Benefits Security Administration.	Director, Office of Outreach Education and Assistance.
		Director of Information Management.
		Regional Director.
		Regional Director—Chicago.
		Chief Economist and Director of Policy and Research.
		Regional Director—Philadelphia.
		Regional Director—New York.
		Chief Accountant.
		Director of Exemption Determinations.
		Deputy Assistant Secretary for Program Operations.
		Director of Regulations and Interpretations.
		Director of Enforcement.
		Regional Director—San Francisco.
		Regional Director—Kansas City.
		Regional Director—Atlanta.
		Regional Director—Boston.
		Director of Health Plan Standards Compliance and Assistance.
	Bureau of Labor Statistics	Associate Commissioner for Publications and Special Studies.
		Associate Commissioner for Prices and Living Conditions.
		Assistant Commissioner for Industry Employment Statistics.
		Deputy Commissioner for Labor Statistics.
		Associate Commissioner for Survey Methods Research.
		Associate Commissioner for Employment and Unemployment Statistics.
		Director of Survey Processing.

Agency	Organization	Title
		Director of Technology and Computing Services.
		Assistant Commissioner for Current Employment Analysis.
		Associate Commissioner for Technology and Survey Processing.
		Assistant Commissioner for Compensation Levels and Trends.
		Assistant Commissioner for Safety, Health and Working Conditions.
		Associate Commissioner for Compensation and Working Conditions.
		Assistant Commissioner for International Prices.
		Associate Commissioner for Field Operations.
		Associate Commissioner for Administration.
		Regional Commissioner (2).
		Assistant Commissioner for Occupational Statistics and Employment Projections.
		Assistant Commissioner for Consumer Prices and Prices Indexes.
		Associate Commissioner Productivity and Technology.
		Assistant Commissioner for Industrial Prices and Price Indexes.
	Employment and Training Administration.	Administrator, Office of Financial and Administrative Management.
		Associate Administrator.
		Comptroller.
		Deputy Administrator, Job Corp.
		Administrator, Office of Policy Development and Research.
		Administrator, Office of Foreign Labor Certification.
		Administrator, Office of Workforce Security.
		Regional Administrator (6).
		Administrator, Office of Job Corps.
		Administrator, Apprenticeship and Training, Employee and Labor Services.
		Deputy Assistant Secretary (Operations and Management).
		Administrator, Office of Contract Management.
	Occupational Safety and Health Administration.	Regional Administrator—Denver.
		Director, Directorate of Standards and Guidance.
		Regional Administrator—Seattle.
		Director of Construction.
		Regional Administrator—Atlanta.
		Regional Administrator—San Francisco.
		Regional Administrator—New York.
		Regional Administrator—Boston.
		Regional Administrator—Dallas.
		Director, Directorate of Enforcement Programs.
		Deputy Assistant Secretary.
		Director of Technical Support and Emergency Management.
		Regional Administrator—Philadelphia.
		Safety and Health Administrator—Chicago.
		Director, Administrative Programs.
		Director, Directorate of Cooperative and State Programs.
		Director, Office of Training and Education.
	Mine Safety and Health Administration	Program Manager.
		Administrator for Coal Mine Safety and Health.
		Deputy Administrator for Coal Mine Safety and Health.
		Deputy Assistant Secretary.
		Administrator for Metal and Nonmetal.
		Director, Educational Policy and Development.
		Director of Administration and Management.
		Director of Assessments.
		Director of Technical Support.
		Director of Program Evaluation and Information Resources.
	Veterans Employment and Training Service.	Director, Office of Field Operations.
		Deputy Assistant Secretary for Operations and Management.
		Director, Department of Labor Homeless Assistance Program.
	Office of Disability Employment Policy ..	Deputy Assistant Secretary for Office of Disability Employment Policy (ODEP).
DEPARTMENT OF LABOR OFFICE OF INSPECTOR GENERAL.	Department of Labor Office of Inspector General.	Deputy Inspector General for Operations.

Agency	Organization	Title
		Assistant Inspector General for Audit.
		Assistant Inspector General for Management and Policy.
		Deputy Assistant Inspector General for Labor Racketeering.
		Assistant Inspector General for Labor Racketeering.
		Assistant Inspector General for Inspections and Special Investigations.
		Deputy Inspector General.
		Counsel.
		Deputy Assistant Inspector General for Audit.
MERIT SYSTEMS PROTECTION BOARD.	Office of the Clerk of the Board	Clerk of the Board.
	Office of Financial and Administrative Management.	Director, Financial and Administrative Management.
	Office of Policy and Evaluation	Director, Office of Policy and Evaluation.
	Office of Information Resources Management.	Director, Information Resources Management.
	Office of Regional Operations	Director, Office of Regional Operations.
	Atlanta Regional Office	Regional Director, Atlanta.
	Central Region, Chicago Regional Office.	Regional Director, Chicago.
	Northeast Region, Philadelphia Regional Office.	Regional Director, Philadelphia.
	Western Region, San Francisco Regional Office.	Regional Director, San Francisco.
	Washington, DC Region, Washington Regional Office.	Regional Director, Washington, District of Columbia.
	Dallas Regional Office	Regional Director, Dallas.
Manager, Safety and Mission Assurance/Program Risk Office, International Space Station Program	National Aeronautics and Space Administration.	Director, National Aeronautics Space Administration and Research Institute.
		Associate Director for Mission Support.
		Director, National Aeronautics and Space Administration Lunar Science Institute.
		Director for Ames International Space Station Office.
		Deputy Director for Science.
		Senior Technical Advisor to the Director.
	Office of the Administrator	Deputy Associate Administrator.
	Office of the Deputy Administrator	Associate Administrator, Strategy and Policy.
	Office of the Chief of Staff	Director, Office of Evaluation.
		Senior Advisor to the Administrator for Policy and Strategy Implementation.
	Office of the Chief Scientist	Associate Chief Scientist for Planning and Evaluation.
		Associate Chief Scientist for Life and Microgravity Sciences.
	Exploration Systems Mission Directorate.	Manager, Advanced Space Technology Program.
		Director, Directorate Integration Office.
		Assistant Associate Administrator, Strategic Integration and Management.
		Director, Mission Integration Division.
		Director, Business Operations Division.
		Assistant Associate Administrator for Administration.
		Director, Resources Management Office.
		Manager, Strategic Planning.
		Director, Strategic Integration and Management Office.
	Human Exploration and Operations Mission Directorate.	Assistant Associate Administrator for International Space Station.
		Assistant Associate Administrator for Space Shuttle Program.
		Director, International Space Station and Space Shuttle Program Resource.
		Assistant Associate Administrator for Space Shuttle Program.
		Assistant Associate Administrator for Launch Services.
		Deputy Assistant Administrator for Program Integration.
		Director, Advanced Capabilities Division.
		Deputy Associate Administrator for Space Communications and Navigation.
		Assistant Associate Administrator for Resources Management and Analysis Office.
		Space Operations Mission Directorate Transition Manager.
		Assistant Associate Administrator for Human Exploration Capability.
		Director, Advanced Exploration Systems.

Agency	Organization	Title
		Deputy Associate Administrator for Policy and Plans.
		Director, Program and Strategic Integration Office.
		Director, Human Spaceflight Capabilities Division.
		Director, Strategic Integration and Management Division.
		Manager, Rocket Propulsion Test Program Office.
	Office of the Chief Technologist	Deputy Chief Technologist.
	Office of Evaluation	Director, Cost Analysis Division.
	Science Mission Directorate	Deputy Director, for Programs, Earth Science Division.
		Deputy Associate Administrator for Research.
		Director, Strategic Integration and Management Division.
		Director, Science Engagement and Partnerships.
		Director, Applications Division.
		Deputy Associate Administrator for Management.
		Deputy Associate Administrator for Programs.
	James Webb Space Telescope Program Office.	Director, James Webb Space Telescope Program.
	Planetary Science Division	Assistant Director for Strategy Communications and Integration.
		Mars Exploration Program Director.
		Director, Planetary Science Division.
		Deputy Director, Planetary Science Division.
	Astrophysics Division	Director, Astrophysics Division.
		Deputy Director, Astrophysics Division.
		Director, Astrophysics Division.
	Heliophysics Division	Director, Heliophysics Division.
		Deputy Director, Heliophysics Division.
		Program Director, Science Information and Telecommunications Systems.
	Earth Science Division	Program Director Science Division.
		Deputy Director, Earth Science.
		Program Director, Research and Analysis Program.
		Director, Earth Science Division.
	Joint Agency Satellite Division	Director, Joint Agency Satellite Division.
		Deputy Director, Joint Agency Satellite Division.
	Strategic Integration and Management Division.	Director, Strategic Integration and Management Division.
	Aeronautics Research Mission Directorate.	Director, Integration and Management Office.
		Director, Airspace Systems Program Office.
		Director, Aviation Safety Program Office.
		Director, Mission Support Office (2).
		Director, Fundamental Aeronautics.
		Director, Strategy, Architecture, and Analysis Office.
		Director, Strategy Communications and Program Integration.
		Director, Integrated Systems Research Program Office.
	Office of Program Analysis and Evaluation.	Director, Independent Program Assessment Office.
		Deputy Associate Administrator.
		Deputy Director, Strategic Investments Division.
		Deputy Director, Strategic Investment Division.
		Director, Studies and Analysis Division.
		Deputy Director, Technical, Independent Program, Assessment.
	Office of Safety and Mission Assurance	Director, Independent Verification and Validation Program.
	Office of the Chief Financial Officer/ Comptroller.	Associate Deputy Chief Financial Officer (Finance).
		Deputy Chief Financial Officer (Agency Budget, Strategy and Performance).
	Office of Education	Senior Advisor, Education and STEM Engagement.
		Deputy Associate Administrator for Education.
		Deputy Associate Administrator for Integration.
	Space Technology Mission Directorate	Deputy Associate Administrator for Programs.
	Office of the Chief Engineer	Senior Advisor for Innovation.
	Mission Support Directorate	Assistant Associate Administrator for Resources and Performance.
		Deputy Associate Administrator for Mission Support.
		Assistant Administrator for Agency Operations.
	Office of Headquarters Operations	Director, Human Resource Management Division.
		Director, Headquarters Information Technology and Communications Division.
	Office of Human Capital Management	Deputy Assistant Administrator for Human Capital Management.

Agency	Organization	Title
		Director, Workforce Management and Development Division.
		Director, Workforce Systems and Accountability Division.
		Director, Workforce Strategy Division.
		Assistant Administrator for Human Capital Management.
	Office of Strategic Infrastructure	Director, Integrated Asset Management Division.
		Director, Strategic Capability Asset Program.
		Director, Facilities Engineering and Real Property Division.
		Deputy Assistant Administrator for Strategic Infrastructure.
		Director, Facilities Engineering.
		Director, Environmental Management Division.
		Deputy Assistant Administrator for Policy.
	National Aeronautics and Space Administration Shared Services Center.	Director, Business and Administration.
		Deputy Director, National Aeronautics and Space Administration Shared Services Center.
		Executive Director of National Aeronautics and Space Administration Shared Services Center.
	Office of Protective Services	Assistant Administrator for Protective Services.
		Assistant Administrator for Security and Program Protection.
		Deputy Assistant Administrator for Protective Services.
		Director of Counterintelligence/Counterterrorism for Protective Services.
	Office of Procurement	Director, Contract Management Division.
		Assistant Administrator for Procurement.
		Director, Analysis Division.
		Director, Program Operations Division.
		Director, Contract Management Division.
	National Aeronautics and Space Administration Management Office.	Director National Aeronautics and Space Administration Management Office.
	Office of Safety and Mission Assurance	Director, National Aeronautics and Space Administration Safety Center.
		Director, Mission Support Division.
		Deputy Chief, Safety and Mission Assurance Officer.
		Director, Safety and Assurance Requirements Division.
		Chief, Safety and Mission Assurance Office.
	Office of the Chief Financial Officer/ Comptroller.	Director, Financial and Budget Systems Management Division.
		Director, Policy Division.
		Director, Business Integration.
		Director for Performance Reporting.
		Director, Strategic Management and Planning.
		Director, Quality Assurance.
		Director, Financial Management.
		Senior Advisor to the Deputy Chief Financial Officer.
		Deputy Chief Financial Officer.
		Director, Budget Division.
	Office of the Chief Information Officer	Deputy Chief Information Officer for Information Technology Reform.
		Chief Technology Officer for Information Technology.
		Deputy Chief Information Officer for Information Technology Security.
		Associate Chief Information Officer for Capital Planning and Governance.
		Associate Chief Information Officer for Enterprise Service and Integration Division.
	Office of the Chief Engineer	Senior Advisor.
		Aeronautics Research Mission Directorate (ARMD), Chief Engineer.
		Science Mission Chief Engineer.
		Exploration Systems Mission Directorate Chief Engineer.
	Office of Communications	Deputy Assistant Administrator for Legislative Affairs.
		Director, Media Services Division.
		Assistant Administrator for Legislative and Intergovernmental Affairs.
	Office of Program and Institutional Integration.	Director of Program and Institutional Integration Office.
		Deputy Director of the Office of Program and Institutional Integration.
	Office International and Interagency Relations.	Deputy Director, Export Control and Interagency Liaison Division.
		Director, Advisory Committee Management Division.
		Director, Export Control and Interagency Liaison Division.

Agency	Organization	Title
		Director, Human Exploration and Operations Division.
	Office of Legislative and Intergovernmental Affairs.	Deputy Associate Administrator for Legislative Affairs.
	Office of Diversity and Equal Opportunity.	Director, Complaints Management Division.
		Director, Programs, Planning and Evaluation Division.
	Office of Small Business Programs	Associate Administrator, Small Business Programs.
	Johnson Space Center	Director, Human Exploration Development Support Office.
		Manager, Program Planning and Control, Multi-Purpose Crew Vehicle (MPCV).
		Program Executive for Federal Aviation Administration and International Space Station.
		Manager, Space Shuttle Transition and Retirement.
		Assistant Manager, Exploration Planning.
		Deputy Associate Administrator, Exploration Planning.
		Chief of Staff, Exploration Planning.
		Deputy Manager, Commercial Crew Program.
		Assistant to the Director, Innovation and Partnerships.
		Associate Director for Strategic Capabilities.
		Director, Astromaterials Research and Exploration Science.
		Deputy Associate Administrator, Strategic Program Planning.
		Chief of Staff, Office of the Director.
		Chief Knowledge Officer.
		Manager, Advanced Planning.
		Chief Financial Officer.
		Director of Human Resources.
		Associate Director (Technical).
		Assistant to the Director, Engineering.
		Associate Director.
		Director, External Relations.
		Associate Director, Commercial Crew Program.
		Special Assistant for Program Integration, Orion.
		Manager, Technology Transfer and Commercialization.
	Space Station Program Office	Manager, International Space Station Program Transportation Integration Office.
		Deputy Manager, International Space Station Program.
		Manager, Program Projects Integration.
		Senior Advisor, Exploration and Space Operations.
		Manager, Operations Integration.
		Director, Human Space Flight Program—Russia.
		Manager, Vehicle Office.
		Manager, Program Planning and Control Office, International Space Station.
		Manager, International Space Station Payloads Office.
		Manager, International Space Station Program.
		Deputy Manager for Utilization.
		Manager, Avionics and Software Office.
		Manager, Mission Integration and Operations Office.
	Space Shuttle Program	Manager, Space Shuttle Business Office.
		Manager, Orbiter Project Office.
		Manager, Space Shuttle Systems Engineering and Integration Office.
		Deputy Manager, Space Shuttle Program.
		Manager, Space Shuttle Program.
		Associate Manager, Space Shuttle Program.
		Deputy Space Shuttle Program Manager for Kennedy Space Center.
		Manager, Launch Integration (Kennedy Space Center).
		Manager, Safety and Mission Assurance Office.
	Mission Operations	Director, Mission Operations.
		Deputy Director, Mission Operations.
		Chief, Engineering Projects.
	Constellation Program Office	Director, Systems Engineering and Integration, Constellation.
		Manager, Constellation Program.
		Deputy Manager, Orbiter Project Office.
		Director, Operation Integration, Constellation Program.
		Deputy Manager, Constellation Office.
		Director, Program Planning and Control, Constellation.
		Deputy Manager, Orion Project.
		Transition Manager, Operations and Test Integration Office, Constellation Program.

Agency	Organization	Title
		Assistant Orion Project Manager, Program Planning and Control, Constellation.
		Assistant to the Director for Constellation.
		Associate Program Manager for Lunar Formulation.
		Constellation Program Deputy for the Orion Project.
		Director, Safety Reliability and Quality Assurance, Constellation.
	Orion Program	Manager, Orion Program.
		Manager, Crew and Service Module Office.
		Manager, Avionics, Power and Software Office.
		Deputy Manager, Orion Program.
		Manager, Vehicle Integration Office.
	Flight Operations	Deputy Director, Flight Crew Operations.
		Director, Flight Crew Operations.
		Chief, Aircraft Operations Division.
		Assistant Director, Flight Crew Operations.
		Deputy Director, Flight Operations.
		Director, Flight Operations.
		Chief Flight Director Office.
		Chief Astronaut Office.
	Office of Engineering	Deputy Director, Engineering.
		Manager, Systems Architecture and Integration Office.
		Manager, Program Engineering Integration Office.
		Manager, Engineering Services and Management Integration Office.
		Chief, Crew and Thermal Systems Division.
		Chief, Propulsion and Power Division.
		Associate Director for Commercial Spaceflight.
		Director, Engineering.
		Chief, Structural Engineering Division.
		Associate Director for Commercial Spaceflight.
	Human Health and Performance	Manager, Human Research Program.
		Director, Human Health and Performance.
		Deputy Director, Human Health and Performance.
	Exploration Integration and Science	Director, Performance Management Integration Office.
		Director, Exploration Integration and Science.
		Manager, Strategic Analysis and Integration Office.
		Director, Strategic Opportunities and Partnership Development.
		Deputy Director, Exploration Integration and Science.
	Information Resources	Director, Information Resources.
	Office of Procurement	Director, Office of Procurement.
	Center Operations	Director, Center Operations.
	Safety and Mission Assurance	Director, Safety and Mission Assurance.
		Assistant to the Director, Safety and Mission Assurance.
		Deputy Director, Safety and Mission Assurance.
	White Sands Test Facility	Manager, National Aeronautics and Space Administration White Sands Test Facility.
	Eva Project Office	Manager, Eva Project Office.
	Kennedy Space Center	Director, Ground Processing Directorate.
		Manager, Office of the Chief Engineer, Engineering and Technology Directorate.
		Kennedy Space Center Associate Manager, Commercial Crew Program.
		Manager, Commercial Crew Program.
		21st Century Space Launch Complex Project Manager, Ground Systems Development and Operations Program.
		Deputy Director, Technical, Engineering and Technology Directorate.
		Director, Engineering and Technology Directorate.
		Deputy Director, Management, Engineering and Technology Directorate.
		Exploration Systems Manager, Ground Systems Development and Operations Program.
		Deputy Director, Engineering and Technology Directorate.
		Director, International Space Station Ground Processing and Research Project Office.
		Deputy Manager, Ground Processing Development and Operations Program.
		Manager, Ground Systems Development and Operations Program.
		Director, Center Operations Directorate.
		Director, Procurement Office.
		Director, Human Resources Office.

Agency	Organization	Title
		Chief Financial Officer.
		Associate Director, John F. Kennedy Space Center.
		Director, John F. Kennedy Space Center.
		Director, Public Affairs Directorate.
		Deputy Manager, Launch Services Program.
	Information Technology and Communications Services.	Director, Information Technology and Communications Services.
	Safety and Mission Assurance	Director, Safety and Mission Assurance.
	Launch Services Program	Manager, Launch Services Program.
	Office of the Director	Associate Director, Technical, Marshall Space Flight Center.
	Office of the Deputy Director	Chief Engineer, Exploration Systems Development Division.
		Senior Executive for Technology and Integration.
	Office of the Associate Director	Associate Director, Marshall Space Flight Center.
	Michaud Assembly Facility	Deputy Director, Michaud Assembly Facility.
		Director, Michaud Assembly Facility.
	Engineering Directorate	Director, Mission Operations Laboratory, Engineering Directorate.
		Deputy Director, Engineering Directorate, Engineering Directorate.
		Deputy Director, Space Systems Department, Engineering Directorate.
		Director, Space Systems Department, Engineering Directorate.
		Deputy Director, Propulsion Systems Department, Engineering Directorate.
		Director, Propulsion Systems Department, Engineering Directorate.
		Director, Materials and Processes Laboratory, Engineering Directorate.
		Director, Test Laboratory, Engineering Directorate.
		Director, Spacecraft and Vehicle Systems Department, Engineering Directorate.
		Deputy Director, Spacecraft and Vehicle Systems Department, Engineering Directorate.
		Associate Director for Technical Operations, Engineering Directorate.
		Deputy Manager, Office of the Chief Engineer, Engineering Directorate.
		Associate Director for Operations, Engineering Directorate.
		Chief Engineer, Space Launch System, Engineering Directorate.
		Deputy Chief Engineer, Space Launch System Program, Engineering Directorate.
		Manager, Office of the Chief Engineer, Engineering Directorate.
	Office of the Chief Financial Officer	Chief Financial Officer (2).
	Office of Center Operations	Deputy Director, Office of Center Operations.
		Director, Office of Center Operations.
	Office of Procurement	Director, Office of Procurement.
	Safety and Mission Assurance Directorate.	Chief Safety Officer, Safety and Mission Assurance Directorate.
		Deputy Director, Safety and Mission Assurance Directorate.
		Director, Safety and Mission Assurance Directorate.
	Office of Strategic Analysis and Communications.	Director, Office of Strategic Analysis and Communications.
	Space Launch System Program Office	Manager, Space Launch System Program.
		Deputy Manager, Space Launch System Program Office.
		Manager, Spacecraft/Payload Integration and Evolution Office, Space Launch System Program.
		Manager, Stages Office, Space Launch System Program.
		Associate Program Manager, Space Launch System Program Office.
		Manager, Boosters Office, Space Launch System Program.
		Manager, Program Planning and Control Office, Space Launch System Program.
		Manager, Engines Office, Space Launch System Program.
	Science and Technology Office	Deputy Manager, Science and Technology Office.
		Manager, Science and Technology Office.
	Office of Chief Information Officer	Deputy Director, Enterprise Integration Office.
		Deputy Chief Information Officer, National Aeronautics and Space Administration Enterprise Applications Competency Center.

Agency	Organization	Title
	Flight Programs and Partnerships Office.	Manager, Flight Programs and Partnerships.
		Deputy Manager, Flight Programs and Partnerships Office.
	Office of Human Capital	Director, Office of Human Capital.
		Special Assistant to Director, Office of Human Capital.
	Stennis Space Center	Deputy Director, Engineering and Test Directorate.
		Director, Office of Safety and Mission Assurance.
		Chief Financial Officer.
		Director, Projects Directorate.
		Associate Director.
		Deputy Director, Stennis Space Center.
		Director, Engineering and Science Directorate.
		Director, Center Operations Directorate.
	Chief of Strategic Communications	Director, Business and Administration Operations.
	Ames Research Center	Ames Research Center Liaison for University Affiliated Research Center.
		Procurement Officer.
		Deputy Associate Director for Institutions and Research.
		Human Capital Director.
		Chief, Flight Vehicle Research and Tech Division.
		Director of Engineering.
		Deputy Director, Exploration Technology.
		Associate Director for Institutions and Research.
		Director, New Ventures and Communications Directorate.
		Director, Aeronautics Test Program.
		Director, Programs and Projects Directorate.
		Director, National Aeronautics and Space Administration Astrobiology Institute.
		Chief, Intelligent Systems Division.
		Chief Information Officer.
		Director, Exploration Technology Directorate.
		Associate Director for Institutional Management and Engineering.
		Director of Center Operations.
		Chief Financial Officer.
		Special Assistant to the Director.
		Deputy Director for Research.
		Chief, Space Technology Division.
		Deputy Director, Ames Research Center.
		Chief, Computational Sciences Division.
		Director, Office of Safety, Environment and Mission Assurance.
		Chief, Aviation Systems Division.
		Chief Counsel.
		Deputy Director, Center Operations.
		Deputy Director of Aeronautics.
	Astrobiology and Space Research	Chief, Life Sciences Division.
		Director of Science.
	Dryden Flight Research Center	Assistant Director for Strategic Implementation.
		Associate Center Director.
		Director of Mission Information and Test Systems.
		Program Manager for Stratospheric Observatory for Infrared Astronomy (SOFIA).
		Director for Programs.
		Chief Counsel.
		Director for Safety and Mission Assurance.
		Chief Financial Officer (Financial Manager).
		Director, Flight Operations Directorate.
	Langley Research Center	Director, Space Technology and Exploration Directorate.
		Director, Flight Projects Directorate.
		Deputy Director for Programs.
		Associate Director for Special Programs.
		Director, Office of Strategic Analysis, Communications, and Business Development.
		Senior Advisor for Space Technology.
		Deputy Director, Facilities and Laboratory Operations.
		Senior Advisor for Engineering Development.
		Deputy Director for Safety.
		Director, Ground Facilities and Testing Directorate.
		Director, Earth System Science Pathfinder Program Office.
		Associate Director, Langley Research Center.
		Deputy Director, Safety and Mission Assurance Office.
		Deputy Director for Advanced Projects.
		Chief Information Officer.

Agency	Organization	Title
		Deputy Director, Research and Technology Test Operations.
		Deputy Director for Program Development.
		Deputy Director, National Aeronautics and Space Administration Engineering and Safety Center.
		Director, Research Services Directorate.
		Director, Systems Analysis and Advanced Concepts Directorate.
		Director, Science Directorate.
		Director, Aeronautics Research Directorate.
		Director, Center Operations Directorate.
		Deputy Director, Research Directorate.
		Director, Research Directorate.
		Deputy Director, Engineering Directorate.
		Director, Engineering Directorate.
		Manager, Systems Engineering Office.
		Director, Office of Human Capital Management.
		Manager, Management and Technical Support Office.
		Director, National Aeronautics and Space Administration Engineering and Safety Center.
		Special Assistant to the Director.
		Chief Financial Officer.
		Director, Safety and Mission Assurance Office.
		Director, Office of Procurement.
	Glenn Research Center	Director, Safety and Mission Assurance Directorate.
		Associate Director for Strategy.
		Director, Venture and Partnerships.
		Director, Space Flight Systems Directorate.
		Chief, Office of Acquisition.
		Deputy Director, Office of Technical Partnerships and Planning.
		Director, Office of Technology Incubation and Innovation.
		Plum Brook Station Manager.
		Director of Center Operations.
		Chief Financial Officer.
		Director, Systems Management Office.
	Aeronautics Directorate	Director, Aeronautics Directorate.
	Facilities and Test Directorate.	
		Chief, Facilities and Test Engineering Division.
		Associate Director for Infrastructure Assessment.
		Director of Facilities and Test.
		Director, Facilities and Test Directorate.
		Director, Facilities and Test Directorate.
	Deputy Director, Facilities, Test and Manufacturing Directorate.	Deputy Director of Facilities, Test and Manufacturing Directorate.
	Research and Technology Directorate	Chief, Structures and Materials Division.
		Chief, Power and On-Board Propulsion Division.
		Chief, Turbomachinery and Propulsion.
		Chief, Communications, Instrumentation and Controls Division.
	Space Flight Systems Directorate	Deputy Director, Space Flight Systems.
		Strategic Capability Manager.
	Engineering Directorate	Chief, Mechanical and Fluid Systems Division.
		Director of Engineering.
		Deputy Director of Engineering and Technical Services.
		Chief, Avionics and Electrical Systems Division.
		Chief, Systems Engineering and Analysis Division.
		Deputy Director of Engineering.
		Director, Engineering Directorate.
	Research and Engineering Directorate	Director, Research and Engineering Directorate.
		Deputy Chief, Power Division.
		Deputy Director, Research and Engineering Directorate.
		Chief, Power Division.
		Chief, Chief Engineer Office.
		Deputy Chief, Materials and Structures Division.
	Systems Engineering and Architecture Division.	Deputy Chief, Systems Engineering and Architecture Division.
		Chief, Systems Engineering and Architecture Division.
	Materials and Structures Division	Chief, Materials and Structures Division.
	Propulsion Division	Chief, Propulsion Division.
		Deputy Chief, Propulsion Division.
	Communications and Intelligent Systems Division.	Chief, Communications and Intelligent Systems Division.
	Office of the Chief Information Officer	Chief Information Officer.

Agency	Organization	Title
	Safety and Mission Assurance Directorate.	Director, Safety and Mission Assurance.
	National Aeronautics and Space Administration Safety Center.	Director, Technical Excellence.
		Director, Audits and Assessments.
	Goddard Space Flight Center	Assistant Director for Advanced Concepts.
		Associate Director of Flight Projects for James Webb Space Telescope (JWST).
		Deputy Director for Science, Operations and Program Performance.
	Office of Human Resources	Director of Human Capital Management.
	Office of Comptroller	Chief Financial Officer/Comptroller.
		Deputy Chief Financial Officer.
	Office of Management Operations	Deputy Director of Management Operations.
		Associate Director for Acquisition.
	Office of Flight Assurance	Director of Systems Safety and Mission Assurance.
		Deputy Director of Safety and Mission Assurance.
	Flight Projects	Deputy Associate Director for Earth Science Projects Division.
		Associate Director for Earth Science Projects Division.
		Associate Director for Exploration and Space Communications Projects Division.
		Deputy Director for Planning and Business Management.
		Deputy Director of Flight Projects.
		Director of Flight Projects.
		Associate Director for Astrophysics Projects Division.
		Associate Director for Explorers and Heliophysics Projects Division.
		Associate Director for Earth Science Technology Office (ESTO).
		Deputy Associate Director for Explorers and Heliophysics Science Projects Division.
		Associate Director for Space Servicing Capabilities Project.
		Associate Director for Joint Polar Satellite System (JPSS) Program.
		Deputy Associate Director for Joint Polar Satellite System (JPSS) Program.
	Applied Engineering and Technology Directorate.	Chief, Instrument Systems and Technology Division.
		Chief, Mission Engineering and Systems Analysis Division.
		Chief, Electrical Systems Division.
		Deputy Director of Applied Engineering and Technology for Planning and Business Management.
		Deputy Director of Applied Engineering and Technology.
		Chief, Software Engineering Division.
		Chief, Mechanical Systems Division.
	Sciences and Exploration	Director, Earth Sciences Division.
		Chief, Laboratory for Atmospheres.
		Director, Solar System Exploration Division.
		Deputy Director, Solar System Exploration Division.
		Deputy Director of Sciences and Exploration for Planning and Business Management.
		Deputy Director of Sciences and Exploration.
		Director of Sciences and Exploration.
		Deputy Director, Earth Sciences Division.
		Chief, Goddard Institute for Space Studies.
		Director, Astrophysics Science Division.
		Director, Heliophysics Science Division.
	Suborbital Projects and Operations	Special Assistant for Project Management Training.
	Office of Security Management and Safeguards.	Deputy Assistant Administrator for Security and Program Protection.
	Office of Chief Education Officer	Deputy Chief Education Officer.
		Director Elementary and Secondary Education Division.
	Office of Security Management and Safeguards.	Assistant Administrator for Security Management.
		Deputy Assistant Administrator for Security Management and Safeguards.
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION OFFICE OF THE INSPECTOR GENERAL.	National Aeronautics and Space Administration Office of the Inspector General.	Counsel to the Inspector General.
		Assistant Inspector General for Management and Planning.
		Deputy Inspector General.
		Assistant Inspector General for Investigations.
		Assistant Inspector General for Auditing.
NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.	Archivist of United States and Deputy Archivist of the United States.	Deputy Archivist of the United States.

Agency	Organization	Title
	Office of the General Counsel	General Counsel.
	Office of the Congressional Affairs Staff	Director, Congressional and Legislative Affairs.
	Office of the Chief Operating Officer	Chief Operating Officer.
	Agency Services	Chief Records Officer.
		Director, Information Security Oversight Office.
		Director, Office of Government Information Services.
		Director, National Declassification Center.
		Director, Records Center Programs.
		Agency Services Executive.
	Business Support Services	Chief Financial Officer.
		Business Support Services Executive.
	Research Services	Director, Preservation Programs.
		Research Services Executive.
	Office of the Federal Register	Director of the Federal Register.
	Information Services	Information Services Executive/Chief Information Officer.
		Director, Information Technology Operations.
	Legislative Archives, Presidential Libraries and Museum Services.	Legislative Archives, Presidential Libraries and Museum Services Executive.
	Office of Presidential Libraries	Deputy for Presidential Libraries.
	Office of Human Capital	Chief Human Capital Officer.
	Office of Strategy and Communications	Chief Strategy and Communications Officer.
	Office of Innovation	Chief Innovation Officer.
NATIONAL ARCHIVES AND RECORDS ADMINISTRATION OFFICE OF THE INSPECTOR GENERAL.	National Archives and Records Administration Office of the Inspector General.	Inspector General.
NATIONAL CAPITAL PLANNING COMMISSION.	National Capital Planning Commission Staff.	General Counsel.
		Chief Operating Officer.
		Deputy Executive Director.
		Executive Director.
NATIONAL ENDOWMENT FOR THE ARTS.	National Endowment for the Arts	Chief Information Officer.
		Deputy Chairman for Programs and Partnerships.
		Director, Research and Analysis.
		Deputy Chairman for Management and Budget.
NATIONAL ENDOWMENT FOR THE ARTS OFFICE OF THE INSPECTOR GENERAL.	National Endowment for the Arts Office of the Inspector General.	Inspector General.
NATIONAL ENDOWMENT FOR THE HUMANITIES.	National Endowment for the Humanities	Assistant Chairman for Planning and Operations.
NATIONAL LABOR RELATIONS BOARD.	National Labor Relations Board	Deputy Associate General Counsel, Division of Enforcement Litigation.
	Office of the Board Members	Assistant General Counsel.
		Deputy Executive Secretary.
		Inspector General.
		Chief Information Officer.
	Division of Enforcement Litigation	Deputy Associate General Counsel , Appellate Court Branch.
		Director, Office of Appeals.
	Division of Advice	Deputy Associate General Counsel, Division of Advice.
		Associate General Counsel, Division of Advice.
	Division of Administration	Director, Division of Administration.
		Deputy Director, Division of Administration.
		Director of Administration.
	Division of Operations Management	Deputy Associate General Counsel, Division of Operations-Management.
		Associate General Counsel, Division of Operation-Management.
		Assistant to General Counsel (2).
		Assistant General Counsel (2).
	Regional Offices	Regional Director, Region 24, Hato Rey, Puerto Rico.
		Regional Director, Region 22, Newark, New Jersey.
		Regional Director, Region 21, Los Angeles, California.
		Regional Director, Region 20, San Francisco, California.
		Regional Director, Region 19, Seattle, Washington.
		Regional Director, Region 18, Minneapolis, Minnesota.
		Regional Director, Region 17, Kansas City, Kansas.
		Regional Director, Region 16, Fort Worth, Texas.
		Regional Director, Region 15, New Orleans, Louisiana.
		Regional Director, Region 14, Saint Louis, Missouri.
		Regional Director, Region 13, Chicago, Illinois.
		Regional Director, Region 12, Tampa, Florida.
		Regional Director, Region 11, Winston Salem, North Carolina.
		Regional Director, Region 10, Atlanta, Georgia.

Agency	Organization	Title
		Regional Director, Region 9, Cincinnati, Ohio.
		Regional Director, Region 8, Cleveland, Ohio.
		Regional Director, Region 7, Detroit, Michigan.
		Regional Director, Region 6, Pittsburgh, Pennsylvania.
		Regional Director, Region 5, Baltimore, Maryland.
		Regional Director, Region 4, Philadelphia, Pennsylvania.
		Regional Director, Region 3, Buffalo, New York.
		Regional Director Region 2, New York.
		Regional Director, Region 1, Boston, Massachusetts.
		Regional Director, Region 32, Oakland, California.
		Regional Director, Region 31, Los Angeles, California.
		Regional Director, Region 25, Indianapolis, Indiana.
		Regional Director, Region 26, Memphis, Tennessee.
		Regional Director, Region 27, Denver, Colorado.
		Regional Director, Region 28, Phoenix, Arizona.
		Regional Director, Region 34, Hartford, Connecticut.
		Regional Director, Region 30, Milwaukee, Wisconsin.
		Regional Director, Region 29, Brooklyn, New York.
NATIONAL SCIENCE FOUNDATION	Office of the Director	Chief Technology Officer.
	Office of Integrative Activities	Senior Advisor (Level–II).
		Senior Advisor.
	Office of Diversity and Inclusion	Office Head, Office of Diversity and Inclusion.
	Office of the General Counsel	Deputy General Counsel.
	Directorate for Geosciences	Deputy Assistant Director.
	Division of Atmospheric and Geospace Sciences.	Section Head, National Center for Atmospheric Research (NCAR)/Facilities Section.
	Division of Earth Sciences	Head, Deep Earth Processes Section.
	Division of Ocean Sciences	Section Head, Integrative Programs Section.
	Division of Polar Programs	Head, Section for Antarctic Infrastructure and Logistic.
	Division of Engineering Education and Centers.	Deputy Division Director.
	Division of Civil, Mechanical, and Manufacturing Innovation.	Deputy Division Director.
	Division of Industrial Innovation and Partnerships.	Deputy Division Director.
		Senior Advisor.
	Division of Chemical, Bioengineering, Environmental, and Transport Systems.	Deputy Division Director (2).
	Division of Electrical, Communication and Cyber Systems.	Deputy Division Director.
	Directorate for Biological Sciences	Deputy Assistant Director.
	Division of Environmental Biology	Deputy Division Director.
	Division of Integrative Organismal Systems.	Deputy Division Director.
	Directorate for Mathematical and Physical Sciences.	Senior Science Associate.
		Senior Advisor.
		Deputy Assistant Director.
	Division of Astronomical Sciences	Deputy Division Director.
	Division of Mathematical Sciences	Deputy Division Director.
	Division of Materials Research	Deputy Division Director.
	Division of Research on Learning In Formal and Informal Settings.	Senior Advisor for Research.
	Directorate for Social, Behavioral and Economic Sciences	Deputy Assistant Director.
	National Center for Science and Engineering Statistics	Division Director.
	Directorate for Computer and Information Science and Engineering	Deputy Assistant Director.
	Office of Budget, Finance and Award Management	Director, Budget, Finance and Award and Chief Financial Officer.
		Deputy Director-Planning, Coordination and Analysis.
	Budget Division	Deputy Director.
		Division Director.
	Division of Financial Management	Deputy Division Director, Division of Financial Management.
		Division Director and Deputy Chief Financial Officer.
	Division of Grants and Agreements	Division Director.
	Division of Acquisition and Cooperative Support	Division Director.
	Division of Institutional and Award Support	Deputy Division Director.
		Division Director.
	Office of Information and Resource Management	Senior Staff Associate.

Agency	Organization	Title
		Deputy Director.
		Head, Office of Information and Resource Management and Chief Human Capital Officer.
	Division of Information Systems	Deputy Division Director.
	Division of Human Resource Management	Deputy Division Director.
		Division Director.
	Division of Administrative Services	Deputy Division Director.
		Division Director.
NATIONAL SCIENCE FOUNDATION OFFICE OF THE INSPECTOR GENERAL.	National Science Foundation Office of the Inspector General.	Assistant Inspector General for Audit/Chief Information Officer to Office of Inspector General.
		Assistant Inspector General for Management, Legal and External Affairs.
		Inspector General.
		Deputy Inspector General.
		Assistant Inspector General for Investigations.
NATIONAL TRANSPORTATION SAFETY BOARD.	Office of the Managing Director	Deputy Managing Director (2).
	Office of Administration	Director, Office of Administration.
	Office of Aviation Safety	Director Bureau of Accident Investigation.
		Deputy Director, Office of Aviation Safety.
		Deputy Director, Regional Operations.
	Office of Research and Engineering	Director Office of Research and Engineering.
		Deputy Director Office of Research and Engineering.
	Office of Chief Financial Officer	Chief Financial Officer.
	Office of Railroad, Pipeline and Hazardous Materials Investigations.	Deputy Director, Office of Railroad, Pipeline and Hazardous Materials Safety.
		Director, Office of Railroad, Pipeline and Hazardous Materials Investigations.
	Office of Communications	Deputy Director, Office of Communications.
	Office of Highway Safety	Director, Office of Highway Safety.
	Office of Chief Information Officer	Chief Information Officer.
	Office of Marine Safety	Director, Office of Marine Safety.
NUCLEAR REGULATORY COMMISSION.	Office of the Chief Financial Officer	Controller.
		Budget Director.
		Deputy Chief Financial Officer.
	Office of Commission Appellate Adjudication.	Director, Office of Commission Appellate Adjudication.
	Office of Information Services	Deputy Director, Office of Information Services.
		Director, Information Technology/Information Management Portfolio Management and Planning Division.
		Director, Operations Division.
		Director, Customer Service Division.
		Director, Solutions Development Division.
	Computer Security Office	Chief Information Security Officer/Director, Computer Security Office.
	Office of Administration	Director, Acquisition Management Division.
		Director, Division of Administrative Services.
		Director, Division of Facilities and Security.
		Associate Director for Space Planning and Consolidation.
		Deputy Director, Office of Administration.
	Office of Nuclear Security and Incident Response.	Deputy Director, Office of Nuclear Security and Incident Response.
	Division of Security Policy	Director, Division of Security Policy.
		Deputy Director, Division of Security Policy.
	Division of Preparedness and Response.	Director, Division of Preparedness and Response.
		Deputy Director, Division of Preparedness and Response.
	Division of Security Operations	Director, Division of Security Operations.
		Deputy Director, Division of Security Operations.
	Cyber Security Directorate	Director, Cyber Security Directorate.
	Office of Small Business and Civil Rights.	Director, Office of Small Business and Civil Rights.
	Office of New Reactors	Deputy Director, Office of New Reactors.
	Division of Advanced Reactors and Rulemaking.	Deputy Director, Division of Advanced Reactors and Rulemaking.
		Director, Division of Advanced Reactors and Rulemaking.
	Division of New Reactor Licensing	Director, Division of New Reactor Licensing.
		Deputy Director, Division of New Reactor Licensing (2).
	Division of Site Safety and Environmental Analysis.	Deputy Director, Division of Site Safety and Environmental Analysis.

Agency	Organization	Title
		Deputy Director, Division of Site Safety and Environmental Analysis.
		Director, Division of Site Safety and Environmental Analysis.
	Division of Safety Systems and Risk Assessment.	Deputy Director, Division of Safety Systems and Risk Assessment.
		Director, Division of Safety Systems and Risk Assessment.
	Division of Engineering	Deputy Director, Division of Engineering.
		Director, Division of Engineering.
	Division of Construction Inspection and Operational Programs.	Director, Division of Construction Inspection and Operational Programs.
		Deputy Director, Division of Construction Inspection and Operational Programs.
	Office of Nuclear Reactor Regulation	Director, Japan Lessons Learned Project Directorate.
	Division of Safety Systems	Deputy Director, Division of Safety Systems.
		Director, Division of Safety Systems.
		Deputy Director, Division of Systems Safety.
	Division of Engineering	Director, Division of Engineering.
		Deputy Director, Division of Engineering.
	Division of Risk Assessment	Deputy Director, Division of Risk Assessment.
		Director, Division of Risk Assessment.
	Division of License Renewal	Deputy Director, Division of License Renewal.
		Director, Division of License Renewal.
	Division of Operating Reactor Licensing	Deputy Director, Division of Operating Reactor Licensing (2).
		Director, Division of Operating Reactor Licensing.
	Division of Inspection and Regional Support.	Director, Division of Inspection and Regional Support.
		Deputy Director, Division of Inspection and Regional Support.
	Division of Policy and Rulemaking	Director, Division of Policy and Rulemaking.
		Deputy Director, Division of Policy and Rulemaking (2).
	Office of Nuclear Material Safety and Safeguards.	Special Assistant.
		Director, Program Planning, Budgeting, and Program Analysis Staff.
	Division of Fuel Cycle Safety, Safeguards, and Environmental Review.	Deputy Director, Division of Fuel Cycle Safety, Safeguards, and Environmental Review.
		Director, Division of Fuel Cycle Safety, Safeguards, and Environmental Review.
	Yucca Mountain Directorate	Director, Yucca Mountain Directorate.
	Division of Spent Fuel Management	Deputy Director, Division of Spent Fuel Management.
		Director, Division of Spent Fuel Management.
	Division of Materials Safety, States, Tribal, and Rulemaking Programs.	Director, Division of Materials Safety, State, Tribal, and Rulemaking Programs.
		Deputy Director, Division of Materials Safety, State, Tribal, and Rulemaking Programs.
	Division of Decommissioning, Uranium Recovery, and Waste Programs.	Deputy Director, Environmental Protection and Performance Assessment Directorate.
		Director, Division of Decommissioning, Uranium Recovery, and Waste Programs.
		Deputy Director, Division of Decommissioning, Uranium Recovery, and Waste Programs.
	Office of Federal and State Materials and Environmental Management Programs.	Deputy Director, Office of Federal and State Materials and Environmental Management Programs.
	Division of Intergovernmental Liaison and Rulemaking.	Deputy Director, Division of Intergovernmental Liaison and Rulemaking.
		Director, Division of Intergovernmental Liaison and Rulemaking.
	Division of Engineering	Deputy Director, Division of Engineering.
		Director, Division of Engineering.
	Division of Systems Analysis	Deputy Director, Division of Systems Analysis (2).
		Director, Division of Systems Analysis.
	Division of Risk Analysis	Deputy Director, Division of Risk Analysis.
		Director, Division of Risk Analysis.
	Region I	Deputy Regional Administrator.
		Director, Division of Nuclear Materials Safety.
		Director, Division of Reactor Projects.
		Director Division of Reactor Safety.
		Deputy Director, Division of Reactor Safety.
		Deputy Director, Division of Reactor Projects.
	Region II	Director, Division of Fuel Facility Inspection.
		Deputy Director, Division of Reactor Projects.

Agency	Organization	Title
		Director, Division of Reactor Projects.
		Deputy Regional Administrator for Operations.
		Director, Division of Reactor Safety.
		Deputy Regional Administrator for Construction.
		Director, Division of Construction Projects.
		Deputy Director, Division of Construction Projects.
		Director, Division of Construction Inspection.
		Deputy Director, Division of Construction Inspection.
		Deputy Director, Division of Reactor Safety.
		Deputy Director, Division of Fuel Facility Inspection.
	Region III	Director, Division of Nuclear Materials Safety.
		Deputy Regional Administrator.
		Director, Division of Reactor Projects.
		Deputy Director, Division of Reactor Safety.
		Deputy Director, Division of Reactor Projects.
		Director, Division of Reactor Safety.
	Region IV	Deputy Director, Division of Reactor Projects.
		Deputy Regional Administrator.
		Director, Division of Reactor Safety.
		Director, Division of Nuclear Materials Safety.
		Director, Division of Reactor Projects.
		Deputy Director, Division of Reactor Safety.
NUCLEAR REGULATORY COMMISSION OFFICE OF THE INSPECTOR GENERAL.	Nuclear Regulatory Commission Office of the Inspector General.	Deputy Inspector General.
	Office of Assistant Inspector General for Audits.	Assistant Inspector General for Audits.
	Office of Assistant Inspector General for Investigations.	Assistant Inspector General for Investigations.
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION	Office of the Executive Director	Executive Director.
OFFICE OF GOVERNMENT ETHICS.	Office of Government Ethics	Deputy Director for Internal Operations Division.
		Deputy Director for Compliance.
		Deputy Director for Financial Disclosure.
		Supervisory Attorney Advisor.
OFFICE OF MANAGEMENT AND BUDGET	Office of the Director	Senior Advisor to the Deputy/*Director for Management.
	Staff Offices	Deputy Associate Director for Economic Policy.
		Assistant Director for Management and Operations.
		Associate Director for Management and Operations.
		Deputy Assistant Director for Management.
	Legislative Reference Division	Chief, Economics, Science and Government Branch.
		Assistant Director Legislative Reference.
		Chief, Resources-Defense-International Branch.
		Chief, Labor, Welfare, Personnel Branch.
	Office of Federal Procurement Policy	Associate Administrator.
		Associate Administrator (Acquisition Policy).
		Associate Administrator for Acquisition Implementation.
		Associate Administrator.
		Deputy Administrator for Federal Procurement Policy.
		Associate Administrator for Procurement Law and Legislation.
	Office of the General Counsel	Associate General Counsel for Budget.
	Office of Information and Regulatory Affairs.	Chief, Information Policy Branch.
		Chief, Statistical Policy Branch.
		Chief, Natural Resources and Environment Branch.
		Senior Advisor (2).
		Chief, Food, Health and Labor Branch.
	Office of E-Government and Information Technology.	Deputy Administrator for E-Government and Information Technology.
		Chief Architect.
	Office of Federal Financial Management.	Chief, Financial Standards and Grants Branch.
		Chief, Federal Financial Systems Branch.
		Senior Advisor to the Director.
		Chief, Financial Integrity and Analysis Branch.
		Chief, Accountability, Performance, and Reporting Branch.
	Office of Budget Review	Deputy Assistant Director for Budget Review.
		Deputy Chief, Budget Analysis Branch.
		Chief, Budget Analysis Branch.
		Assistant Director for Budget Review.
		Deputy Assistant Director for Budget Analysis and Systems.

Agency	Organization	Title
		Chief, Budget Concepts Branch.
		Deputy Chief, Budget Review Branch.
		Chief, Budget Review Branch.
		Chief, Budget Systems Branch.
	International Affairs Division	Deputy Associate Director for International Affairs.
		Chief, Economic Affairs Branch.
		Chief, State/United States Information Agency Branch.
	National Security Division	Chief Operations and Support Branch.
		Chief, Force Structure and Investment Branch.
		Deputy Associate Director for National Security.
		Chief, Veteran Affairs Branch.
		Chief, Command, Control, Communication, Computers, and Intelligence Branch.
		Chief, Veterans Affairs and Defense Health Branch.
	Human Resource Programs	Senior Advisor.
		Chief, Personnel Policy Branch.
		Chief, Income Maintenance Branch.
		Deputy Associate Director for Education, Income Maintenance and Labor.
		Chief, Education Branch.
		Chief, Labor Branch.
		Deputy Associate Director, Education and Human Resources Division.
	Health Division	Deputy Associate Director for Health.
		Chief, Health and Financing Branch.
		Chief, Public Health Branch.
		Chief, Health and Human Services Branch.
		Chief, Health Insurance and Data Analysis Branch.
		Chief, Medicaid Branch.
		Chief, Medicare Branch.
	Transportation, Homeland, Justice and Services Division.	Deputy Associate Director, Transportation, Homeland, Justice and Services.
		Chief, Transportation Branch.
		Chief, Transportation/General Services Administration Branch.
		Chief, Justice Branch.
		Chief, Homeland Security Branch.
	Housing, Treasury and Commerce Division.	Chief, Commerce Branch.
		Deputy Associate Director for Housing, Treasury and Commerce.
		Chief, Treasury Branch.
		Chief, Housing Branch.
	Natural Resource Programs	Senior Advisor.
	Natural Resources Division	Deputy Associate Director for Natural Resources.
		Chief, Agricultural Branch.
		Chief, Interior Branch.
		Chief, Environment Branch.
	Energy, Science and Water Division	Deputy Associate Director for Energy, Science, and Water Division.
		Chief, Energy Branch.
		Chief, Science and Space Programs Branch.
		Chief, Water and Power Branch.
OFFICE OF NATIONAL DRUG CONTROL POLICY.	Office of Supply Reduction	Assistant Deputy Director of Supply Reduction.
		Associate Director for Intelligence.
	National Youth Anti-Drug Media Campaign.	Associate Deputy Director for State, Local and Tribal Affairs (National Youth Anti-Drug Media Campaign).
OFFICE OF PERSONNEL MANAGEMENT.	Office of Planning and Policy Analysis	Deputy Director, Actuary.
	Office of Facilities, Security and Contracting.	Director, Facilities, Security and Contracting.
		Deputy Director, Facilities, Security and Contracting.
	Office of Healthcare and Insurance	Assistant Director, Federal Employee Insurance Operations.
	Retirement Services	Deputy Associate Director, Retirement Operations.
		Deputy Associate Director, Retirement Services.
		Associate Director, Retirement Services.
	Office of Merit System Audit and Compliance.	Deputy Associate Director, Merit System Audit and Compliance.
	Federal Investigative Services	Deputy Associate Director, Operations.
	Office of the Chief Financial Officer	Deputy Chief Financial Officer.
		Associate Chief Financial Officer, Financial Services.
		Chief Financial Officer.

Agency	Organization	Title
	Office of the Chief Information Officer ..	Chief Information Officer.
OFFICE OF PERSONNEL MANAGEMENT OFFICE OF THE INSPECTOR GENERAL	Office of the Inspector General	Deputy Inspector General.
	Office of Investigations	Assistant Inspector General for Investigations.
		Deputy Assistant Inspector General for Investigations.
	Office of Audits	Assistant Inspector General for Audits.
		Deputy Assistant Inspector General for Audits.
		Senior Advisor to the Assistant Inspector General for Audits.
		Deputy Assistant Inspector General for Audits.
	Office of Legal Affairs	Assistant Inspector General for Legal Affairs.
	Office of Policy, Resources Management, and Oversight.	Chief Information Technology Officer.
		Assistant Inspector General for Management.
OFFICE OF SPECIAL COUNSEL.	Headquarters, Office of Special Counsel.	Director of Management and Budget.
		Chief Financial Officer and Director of Administrative Services.
		Director, Office of Planning and Analysis.
		Senior Associate Special Counsel for Investigation and Prosecution.
		Associate Special Counsel for Investigation and Prosecution (3).
		Associate Special Counsel Planning and Oversight.
		Associate Special Counsel for Legal Counsel and Policy.
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE	Office of Labor	Assistant United States Trade Representative for Labor.
	Office of Industry, Market Access and Telecommunications.	Assistant United States Trade Representative for Industry, Market Access and Telecommunications.
	Office of South Asian Affairs	Assistant United States Trade Representative for South Asian Affairs.
RAILROAD RETIREMENT BOARD	Board Staff	Director of Policy and Systems.
		Director of Operations.
		Director of Fiscal Operations.
		Director of Programs.
		General Counsel.
		Chief Financial Officer.
		Deputy General Counsel.
		Director of Administration.
		Director of Field Service.
		Chief Actuary.
		Director of Hearings and Appeals.
		Chief of Technology Service.
		Chief Information Officer.
	Office of Inspector General	Assistant Inspector General for Audit.
		Assistant Inspector General for Investigations.
SELECTIVE SERVICE SYSTEM	Selective Service System	Associate Director for Operations.
	Office of the Director	Senior Advisor to the Director.
		Associate Director for Operations.
SMALL BUSINESS ADMINISTRATION	Office of the General Counsel	Associate General Counsel, Litigation.
		Associate General Counsel for Procurement Law.
		Associate General Counsel for Financial Law and Lender Oversight.
		Associate General Counsel for General Law.
	Office of Field Operations	District Director, Washington Metro Area District Office.
		District Director (4).
	Office of Hearings and Appeals	Assistant Administrator for Hearings and Appeals.
	Office of the Chief Financial Officer	Deputy Chief Financial Officer.
		Associate Administrator for Performance Management and Chief Financial Officer.
	Office of Capital Access	Director of Economic Opportunity.
	Office of Surety Guarantees	Director for Surety Bonds and Guarantees Programs.
	Office of Investment and Innovation	Deputy Associate Administrator for Investment.
	Office of Entrepreneurial Development	Deputy Associate Administrator for Entrepreneurial Development.
		Associate Administrator for Small Business Development Centers.
	Office of Human Resources Solutions ..	Deputy Chief Human Capital Officer.
		Deputy Chief Operating Officer/Chief Human Capital Officer.
	Office of the Chief Information Officer ..	Deputy Chief Information Officer.
	Office of Government Contracting and Business Development.	Director for Policy Planning and Liaison.

Agency	Organization	Title
	Office of Hub zone Empowerment Contracting.	Director of Hub zone.
	Office of Business Development	Associate Administrator for Business Development.
SMALL BUSINESS ADMINISTRATION OFFICE OF THE INSPECTOR GENERAL	Small Business Administration Office of the Inspector General.	Counsel to the Inspector General.
		Assistant Inspector General for Management and Policy.
		Assistant Inspector General for Auditing Division.
		Assistant Inspector General for Investigations.
		Deputy Inspector General.
SOCIAL SECURITY ADMINISTRATION	Office of the Chief Strategic Officer	Chief Strategic Officer.
	Office of Disability Adjudication and Review.	Assistant Deputy Commissioner for Disability Adjudication and Review.
		Deputy Commissioner for Disability Adjudication and Review.
	Office of Appellate Operations	Deputy Executive Director, Office of Appellate Operations.
		Executive Director, Office of Appellate Operations.
	Office of Medical and Vocational Expertise.	Associate Commissioner for Medical and Vocational Expertise.
	Office of the Chief Actuary	Chief Actuary.
		Deputy Chief Actuary (Long-Range).
		Deputy Chief Actuary (Short-Range).
	Office of Disability Determinations	Associate Commissioner for Disability Determinations.
	Office of Personnel	Deputy Associate Commissioner for Personnel.
		Associate Commissioner for Personnel.
	Office of Civil Rights and Equal Opportunity.	Deputy Associate Commissioner for Civil Rights and Equal Opportunity.
		Associate Commissioner for Civil Rights and Equal Opportunity.
	Office of Labor-Management and Employee Relations.	Deputy Associate Commissioner for Labor-Management and Employee Relations.
		Associate Commissioner for Labor-Management and Employee Relations.
	Office of Budget, Finance, Quality and Management.	Assistant Deputy Commissioner for Budget, Finance and Management.
	Office of Financial Policy and Operations.	Associate Commissioner, Office of Finance Policy and Operations.
		Deputy Associate Commissioner, Financial Policy and Operations.
	Office of Budget	Deputy Associate Commissioner for Budget.
		Associate Commissioner for Budget.
	Office of Acquisition and Grants	Deputy Associate Commissioner for Acquisition and Grants.
		Associate Commissioner for Acquisition and Grants.
	Office of Telecommunications and Systems Operations.	Assistant Associate Commissioner for Enterprise Information Technology Services Management.
		Deputy Associate Commissioner for Telecommunications and Systems Operations.
		Associate Commissioner for Telecommunications and Systems Operations.
	Office of Information Security	Associate Commissioner for Information Security.
	Office of General Law	Deputy Associate General Counsel for General Law.
		Associate General Counsel for General Law.
	Office of Program Law	Deputy Associate General Counsel for Program Law.
	Office of Public Disclosure	Executive Director for Public Disclosure.
SOCIAL SECURITY ADMINISTRATION OFFICE OF THE INSPECTOR GENERAL.	Immediate Office of the Inspector General.	Deputy Inspector General.
	Office of Counsel to the Inspector General.	Counsel to the Inspector General.
	Office of External Relations	Assistant Inspector General for External Relations (2).
	Office of Audit	Assistant Inspector General for Audit.
		Deputy Assistant Inspector General for Audit (Program Audit and Evaluations).
		Deputy Assistant Inspector General for Audit (Financial Systems and Operations Audits).
	Office of Investigations	Deputy Assistant Inspector General for Investigations (Western Field Operations).
		Deputy Assistant Inspector General for Investigations (Eastern Field Operations).
		Assistant Inspector General for Investigations.
	Office of Communications and Resource Management.	Deputy Assistant Inspector General for Communications and Resource Management.
		Assistant Inspector General for Communications and Resource Management.

Agency	Organization	Title
DEPARTMENT OF STATE	Office of Civil Rights	Deputy Director.
	Office of the Under Secretary for Management.	Ombudsman.
	Bureau of Administration	Director, Office of Acquisitions.
		Procurement Executive.
	Bureau of Human Resources	Principal Deputy Assistant Secretary.
		Human Resources Officer.
	Bureau of International Security and Nonproliferation.	Office Director (2).
	Bureau of Arms Control, Verification, and Compliance.	Director, Office of Strategic Negotiations and Implementation.
DEPARTMENT OF STATE OFFICE OF THE INSPECTOR GENERAL..	Office of Inspector General	Deputy Assistant Inspector General for Middle East Regional Office.
		Deputy Inspector General.
		Assistant Inspector General for Management.
		Deputy General Counsel.
		Deputy Assistant Inspector General for Inspections.
		Assistant Inspector General for Evaluations and Special Projects.
		Deputy Assistant Inspector General for Management.
		Assistant Inspector General for Audits.
		Deputy Assistant Inspector General for Investigations.
		Deputy Assistant Inspector General for Audits.
		General Counsel to the Inspector General.
		Assistant Inspector General for Investigations.
TRADE AND DEVELOPMENT AGENCY	Office of the Director	Deputy Director.
		Assistant Director for Policy and Programs.
	Office of the General Counsel	General Counsel.
DEPARTMENT OF TRANSPORTATION	Office of the Secretary	Executive Director for the Office of the Under Secretary of Transportation for Policy.
	Office of Intelligence, Security and Emergency Response.	Deputy Director.
		Director, Office of Intelligence, Security and Emergency Response.
	Chief Information Officer	Chief Information Security Officer.
	Office of Safety, Energy and Environment.	Director.
	Assistant Secretary for Budget and Programs.	Chief Financial Officer.
		Deputy Chief Financial Officer.
	Office of the Senior Procurement Executive.	Senior Procurement Executive.
	Office of the Administrator	Executive Director.
		Chief Financial Officer.
	Office of Associate Administrator for Railroad Safety.	Associate Administrator for Railroad Safety/Chief Safety Officer.
	Office of the Administrator	Executive Director.
	Office of Associate Administrator for Strategic Sealift.	Deputy Associate Administrator for Federal Sealift.
	Office of Associate Administrator for Environment and Compliance.	Deputy Associate Administrator for Environment and Compliance.
		Associate Administrator for Environment and Compliance.
	Office of the Administrator	Executive Director.
		Director of Innovative Program Delivery.
	Office of the Chief Financial Officer	Director, Office of Acquisition Management.
		Chief Financial Officer.
		Deputy Chief Financial Officer and Chief Budget Officer.
	Office of Real Estate Services	Director, Office of Real Estate Services.
	Office of Associate Administrator for Safety.	Associate Administrator for Safety.
	Office of Safety Research and Development.	Director, Office of Safety Research, Development and Technology.
	Office of the Administrator	Assistant Administrator/Chief Safety Officer.
		Chief Financial Officer.
	Office of Licensing and Safety Information.	Director, Office for Licensing and Safety Information.
	Office of Bus and Truck Standards and Operations.	Director, Office of Bus and Truck Standards and Operations.
	Office of Enforcement and Compliance	Director, Office of Enforcement and Compliance.
	Office of Associate Administrator for Enforcement.	Director, Office of Defects Investigation.
		Associate Administrator for Enforcement.
		Director, Office of Vehicle Safety Compliance.
	Office of Proceedings	Deputy Director—Legal Analysis.
	Office of the Managing Director	Managing Director.
	Office of Chief Safety Officer	Assistant Administrator and Chief Safety Officer.
	Office of Pipeline Safety	Associate Administrator for Pipeline Safety.

Agency	Organization	Title
		Deputy Associate Administrator for Policy and Programs.
		Deputy Associate Administrator for Field Operations.
DEPARTMENT OF TRANSPORTATION OFFICE OF THE INSPECTOR GENERAL.	Deputy Inspector General	Deputy Inspector General.
	Office of Auditing and Evaluation	Principal Assistant Inspector General for Auditing and Evaluation (2).
		Deputy Principal Assistant Inspector General for Auditing and Evaluating.
	Office of Financial and Information Technology Audits.	Assistant Inspector General for Financial and Information Technology Audits.
	Office of Acquisition and Procurement Audits.	Assistant Inspector General for Acquisition and Procurement Audits.
	Office of Aviation Audits	Assistant Inspector General for Aviation Audits (2).
	Office of Surface Transportation Audits	Assistant Inspector General for Surface Transportation Audits.
	Principal Assistant Inspector General for Investigations.	Principal Assistant Inspector General for Investigations.
	Assistant Inspector General for Investigations.	Deputy Assistant Inspector General for Investigations.
	Office of Administration	Assistant Inspector General for Administration.
	Office of Legal, Legislative and External Affairs.	Assistant Inspector General for Legal, Legislative and External Affairs.
	Office of Surface Transportation Audits	Assistant Inspector General for Surface Transportation Audits.
	Office of Aviation Audits	Assistant Inspector General for Aviation Audits.
DEPARTMENT OF THE TREASURY	Office of the Secretary of the Treasury	Director, Office of Small and Disadvantaged Business Utilization.
	Office of the Under Secretary for Domestic Finance.	Director of Policy.
	Office of the Fiscal Assistant Secretary	Fiscal Assistant Secretary.
		Deputy Assistant Secretary (Accounting Policy).
		Deputy Assistant Secretary for Fiscal Operations and Policy.
	Bureau of the Fiscal Service	Deputy Assistant Commissioner, Office of Retail Securities.
		Deputy Assistant Commissioner, Payment Management.
		Director, Cash Management Infrastructure Group.
		Assistant Commissioner, Payment Management.
		Deputy Assistant Commissioner (Office of Information and Security Services).
		Deputy Assistant Commissioner (Financing).
		Deputy Assistant Commissioner, Government-wide Accounting.
		Assistant Commissioner (Office of Management Services).
		Deputy Chief Information Officer.
		Executive Director (Administrative Resource Center).
		Assistant Commissioner (Financing).
		Director, Regional Financial Center (Austin).
		Director, Regional Financial Center (San Francisco).
		Executive Director, Government Securities Regulations.
		Assistant Commissioner, Federal Finance.
		Assistant Commissioner, Management (Chief Financial Officer).
		Director, Revenue Collection Group.
		Assistant Commissioner (Public Debt Accounting).
		Assistant Commissioner, Debt Management Services.
		Assistant Commissioner, Government-wide Accounting.
		Director, Regional Financial Center (Philadelphia).
		Director, Regional Financial Center (Kansas City).
		Deputy Assistant Commissioner (Debt Management Services).
		Director, Debt Management Services Operations, West.
		Deputy Commissioner, Accounting and Shared Services.
		Deputy Commissioner, Finance and Administration.
		Deputy Assistant Commissioner for Information Services.
		Commissioner, Bureau of the Fiscal Service.
		Deputy Commissioner, Financial Services and Operations.
		Deputy Assistant Commissioner (Fiscal Accounting Operations).
		Assistant Commissioner, Information and Security Services (Chief Information Officer).
	Bureau of the Public Debt	Deputy Executive Director, Administrative Resources Center.
	Office of the Assistant Secretary for Financial Institutions.	Deputy Director, Federal Insurance Office.
		Director, Federal Insurance Office.

Agency	Organization	Title
	Office of the Assistant Secretary for Terrorist Financing.	Director, Executive Office for Asset Forfeiture.
	Financial Crimes Enforcement Network	Associate Director, Enforcement Division.
		Associate Director, Intelligence Division.
		Executive Advisor.
		Deputy Associate Director, Compliance and Enforcement Programs.
		Associate Director, International.
		Associate Director, Management Programs Division.
		Associate Director, Technology Solutions and Services Division/Chief Information Officer.
		Associate Director, Regulatory Policy and Programs Division.
		Associate Director, Liaison Division.
		Deputy Director.
		Director, Financial Crimes Enforcement Network.
		Chief Counsel, Financial Crimes Enforcement Network.
	Office of Assistant Secretary for Intelligence and Analysis.	Deputy Assistant Secretary for Security.
	Treasury Inspector General for Tax Administration.	Assistant Inspector General for Investigation.
		Deputy Inspector General for Audit.
		Assistant Inspector General for Audit (Wage and Investment).
		Assistant Inspector General for Audit (Small Business and Corporate Entities).
		Assistant Inspector General for Audit (Headquarters Operations).
		Deputy Inspector General for Investigations.
		Assistant Inspector General for Audit (Information Systems Programs).
		Deputy Assistant Inspector General for Investigations.
		Assistant Inspector General for Investigations (Field Operations).
		Counsel to the Treasury Inspector General for Tax Administration.
		Associate Inspector General for Mission Support.
		Deputy Inspector General.
		Deputy Inspector General for Inspections and Evaluations.
	Office of Assistant Secretary (Tax Policy).	Director, Economic Modeling and Computer Applications.
	Alcohol and Tobacco Tax and Trade Bureau.	Assistant Administrator, Field Operations.
		Deputy Administrator, Alcohol and Tobacco Tax and Trade Bureau.
		Assistant Administrator, Headquarter Operations.
		Administrator, Alcohol and Tobacco Tax and Trade Bureau.
		Assistant Administrator Information Resources/Chief Information Officer.
		Assistant Administrator, Management/Chief Financial Officer.
	Office of Assistant Secretary for Management.	Director, Office of Procurement.
		Director, Office of Minority and Women Inclusion.
		Deputy Chief Financial Officer.
	Internal Revenue Service	Deputy Director, Prefiling and Technical Guidance.
		Director, Field Specialists—Large and Mid-Size Business.
		Director, Field Operations, Special—Wage and Investment.
		Director, Exempt Organizations, Rulings and Agreements.
		Director, Operations.
		Director, Program Analysis Customer Account Services—Wage and Investment.
		Director, Compliance Area.
		Director, Detroit Computing Center.
		Director, Portfolio Management.
		Director of Compliance, Atlanta—Wage and Investment.
		Deputy Director, Procurement.
		Director, Taxpayer Education and Communication Area, St Louis—Small Business and Self Employed.
		Area Director, Stakeholder, Partnership, Education, and Communication, Dallas—Wage and Investment.
		Director, Compliance Area, Baltimore—Small Business and Self Employed.
		Director, Procurement.

Agency	Organization	Title
		Director, Taxpayer Education Area, Chicago—Small Business and Self Employed.
		Deputy Associate Commissioner, Systems Integration.
		Director, Compliance Area, Dallas—Small Business and Self Employed.
		Director, Mission Assurance.
		Compliance Service Field Director, Andover—Wage and Investment.
		Director, Security Policy, Support and Oversight.
		Director, Field Assistance Area.
		Accounts Management Field Director, Fresno—Wage and Investment.
		Director of Field Operations, New York—Large and Mid-Size Business.
		Associate Chief Financial Officer for Internal Financial Management—National Headquarters.
		Director, Compliance Area, Oakland—Small Business and Self-Employed.
		Director, Statistics of Income.
		Executive Director, Systemic Advocacy—National Taxpayer Advocate.
		Director, Media and Publications.
		Director, Internet Development Services.
		Director, Strategic Services.
		Director, Compliance Area.
		Associate Chief Financial Officer for Corporate Strategy.
		Director, Strategic Planning and Program Management.
		Director, Pre-Filing and Technical Guidance.
		Director, Compliance Area—Denver, Small Business and Self Employed.
		Submission Processing Field Director—Fresno, California.
		Director, Customer Account Manager.
		Director, Safety and Security.
		Deputy Director, Enterprise Operations Services.
		Director, Enterprise Operations Services.
		Director, Corporate Data and Systems Management Division.
		Deputy Director, Business Systems Development Division.
		Director, Management Services.
		Director, Change Management and Release Management.
		Director, Professional Responsibility.
		Director, Strategy and Finance, Appeals.
		Compliance Service, Field Director—Atlanta.
		Director, Strategy and Finance.
		Director, Management and Support.
		Director, Product Assurance.
		Submission Processing Field Director—Austin.
		Deputy Chief, Appeals.
		Deputy Director, Submission Processing, Cincinnati—Small Business and Self Employed.
		Chief, Information Technology Services.
		Director, Strategy, Research and Performance Management.
		Area Director, Stakeholder, Partnership, Education and Communications—New Orleans.
		Director, Compliance , Detroit—Small Business and Self Employed.
		Director, Business Systems Planning—Large and Mid-Size Business.
		Project Director—Appeals.
		Industry Director—Financial Services—Large and Mid-Size Business.
		Director, Performance, Quality and Innovation—Large and Mid Size Business.
		Field Director, Accounts Management, Wage and Investment.
		Director, Reporting Compliance.
		Deputy Director, Office of Professional Responsibility.
		Director, Accounts Management, Wage and Investment.
		Director, Media and Publications Distribution Division.
		Director, Field Operations, East, Appeals.
		Director, Field Operations, West, Appeals.
		Area Director, Information Technology.
		Director, Business Systems Planning.

Agency	Organization	Title
		Deputy Director, Taxpayer Education and Communication.
		Deputy Chief, Criminal Investigation.
		Director, Taxpayer Education Area—Los Angeles.
		Director, Field Operations.
		Accounts Management Field Director.
		Executive Director, Equity, Diversity, and Inclusion.
		Area Director, Western.
		National Director of Appeals.
		Director, Human Resources—Wage and Investment.
		Deputy National Taxpayer Advocate.
		Commissioner, Tax Exempt and Government Entities Division.
		Deputy Chief, Agency wide Shared Services.
		Director, Government Entities.
		Industry Director, Heavy Manufacturing and Pharmaceuticals.
		Chief, Management and Finance—Large and Mid-Size Business.
		Deputy Division Commissioner, Tax Exempt and Government Entities.
		Director, Employee Plans.
		Director, Tax Exempt Bonds.
		Director, Field Operations (Financial Services), Laguna Niguel.
		Director, Personnel Services.
		Director, Communications, Technology and Media Industry—Large and Mid-Size Business.
		Director, Submission Processing (Cincinnati)—Wage and Investment.
		Director, Customer Account Services—Wage and Investment.
		Director, Strategy and Finance—Wage and Investment.
		Director, Field Assistance—Wage and Investment.
		Director, Field Assistance Area (Phoenix)—Wage and Investment.
		Director, Communication, Assistance, Research and Education.
		Deputy Chief, Criminal Investigation.
		Director, Taxpayer Education and Communication—Small Business and Self Employed.
		Compliance Service Field Director—Philadelphia.
		Compliance Service Field Director—Kansas City.
		Submission Processing Field Director—Andover.
		Submission Processing Field Director—Atlanta.
		Deputy Director, Submission Processing.
		Submission Processing Field Director—Philadelphia.
		Accounts Management Field Director—Andover.
		Accounts Management Field Director, Fresno.
		Director, Exempt Organizations.
		Director, Personnel Policy.
		Director, Field Operations, Communications, Technology and Media—Northwest.
		Special Agent In Charge, Los Angeles.
		Director, Equal Employment Opportunity and Diversity.
		Commissioner, Wage and Investment.
		Compliance Service Field Director, Austin—Wage and Investment.
		Accounts Management Field Director, Austin—Wage and Investment.
		Director, Research, Analysis and Statistics of Income.
		Project Director—Small Business and Self Employed.
		Area Director, Stakeholder Partnership Education and Communication.
		Director, Human Resources—Small Business and Self Employed.
		Senior Counselor to the Commissioner (Tax Administration, Practice and Professional Responsibility).
		Division Information Officer—Large and Mid-Size Business.
		Director, Real Estate and Facilities Management.
		Project Director.
		Director of Research.
		Director, Compliance Systems Division.
		Director, Internet Development Services.
		Deputy Director, Office of Professional Responsibility.

Agency	Organization	Title
		Deputy Director, Operation Standards.
		Director, Field Operations-Heavy Manufacturing and Transportation.
		Director, Product Assurance.
		Compliance Service Field Director.
		Project Director (Small Business and Self Employed) Transition Executive).
		Submission Processing Field Director.
		Accounts Management Field Director.
		Compliance Service Field Director.
		Project Director.
		Director, Field Operations-Natural Resources and Construction.
		Director, Field Operations-Financial Services.
		Associate Chief Information Officer for Management and Finance.
		Area Director, Field Assistance.
		Director, Office of Information Technology Acquisition.
		Project Director.
		Deputy Director, Enterprise Operations Services.
		Director, Financial Management Services.
		Assistant Deputy Commissioner for Services and Enforcement.
		Director, Internal Management Systems Development Division.
		Deputy Chief Financial Officer.
		Project Director, Employee Tax Compliance.
		Director, Business Systems Planning.
		Deputy Associate Chief Information Officer, Business Systems Development.
		Project Director, Office of Professional Responsibility.
		Chief, Communications and Liaison.
		Director of Field Operations.
		Associate Chief Information Officer for Information Technology Services.
		Director, Employment, Talent, and Security.
		Director, Operational Readiness.
		Project Director.
		Director, Technical Systems Software.
		Director, Tax Forms and Publications.
		Director, Development Services.
		Director, Compliance Area (2).
		Director, Technical Services.
		Area Director, Field Assistance.
		Director, Enterprise Operations Services.
		Director, Research.
		Director, Employee Plan Determination Letter Redesign.
		Director, Regulatory Compliance.
		Chief, Criminal Investigation.
		Director, Strategy, Program Management and Personnel Security.
		Chief Financial Officer, Internal Revenue Service.
		Chief, Mission Assurance and Security Services.
		Director, Operations Policy and Support.
		Director, Stakeholder, Partnership, Education and Communications.
		Director, Competitive Sourcing.
		Assistant Deputy Commissioner for Operations Support.
		Chief Human Capital Officer, Internal Revenue Service.
		Director, Financial Management Services.
		Director, Strategy, Criminal Investigations.
		Assistant to Director, Real Estate and Facilities Management.
		Information Technology Manager, Policy and Planning.
		Chief Information Officer.
		Commissioner, Large and Mid-Sized Business Division.
		Commissioner, Small Business and Self Employed.
		Compliance Service Field Director.
		Project Manager.
		Deputy Commissioner, Operations Support.
		Chief of Staff, Internal Revenue Service.
		Submission Processing Field Director.
		Director, Special Programs and Oversight.
		Director, Strategy and Resource Management.

Agency	Organization	Title
		Director, Compliance Campus Operations (5).
		Director, Campus Reporting Compliance.
		Director, Specialty Programs.
		Director, Technical Services.
		Director, Examination Area (3).
		Director, Abusive Transactions.
		Director, Examination Policy
		Director, Examination Area.
		Director, Collection Area (6).
		Director, Collection Business Reengineering.
		Director, Planning and Analysis.
		Director, Collection Policy.
		Modernization Executive.
		Director, Taxpayer Education and Communication Field Operations.
		Director, Criminal Investigation Technology Operations and Investigative Services.
		Director, Collection.
		Director, Workforce Relations.
		Submission Processing Field Director.
		Director, Collection Area.
		Deputy Chief Human Capital Officer, Internal Revenue Service.
		Director, Compliance Services Campus Operations.
		Area Director of Information Technology.
		Submission Processing Field Director.
		Director, Media and Publications Distribution Division.
		Director, Office of Privacy and Information Protection.
		Director, Refund Crimes.
		Accounts Management Field Director.
		Director, Filing and Payment Compliance.
		Director, Joint Operations Center.
		Director, Examination Operations Support.
		Senior Advisor, Information Systems Current Processing Environment Security.
		Director, Emergency Management Programs.
		Director of Field Operations (2).
		Director, Advisory, Insolvency and Quality.
		Director, Field Operations.
		Director, Employee Support Services.
		Deputy Commissioner, Small Business/Self-Employed.
		Associate Chief Financial Officer for Revenue and Financial Management.
		Project Director (Business Requirements).
		Director, Operational Assurance.
		Deputy Division Commissioner.
		Deputy Director, Field Specialists.
		Director, Leadership and Education.
		Accounts Management Field Director.
		Director, Filing Systems.
		Deputy Director, Procurement.
		Special Agent In Charge.
		Deputy Commissioner, Services and Enforcement.
		Director, Enterprise Systems Testing.
		Deputy Associate Chief Information Officer, Applications Development.
		Director, Corporate Data.
		Director, Individual Master File.
		Director, Project Services.
		Director, Internal Management.
		Director, Submission Processing.
		Deputy Director, Submission Processing.
		Director, Client Services Division.
		Director, Customer Applications Development.
		Accounts Management Field Director.
		Director, Earned Income and Health Coverage Tax Credits.
		Director, Centers of Excellence.
		Director, Program Control and Process Management.
		Deputy Director, Electronic Tax Administration.
		Business Modernization Executive.
		Accounts Management Field Director.
		Deputy Commissioner, Large and Mid-Size Business, International.
		Director, Field Operations.

Agency	Organization	Title
		Director, Contact Center Support Division.
		Director, Network Architecture, Engineering, and Voice.
		Director, Capital Planning and Investment.
		Project Director, Technology Operations and Investigative Services.
		Director, E-File Systems.
		Director, Cyber Security Operations.
		Deputy Director, Field Assistance.
		Industry Director, Natural Resources and Construction.
		Director, Examination Planning and Delivery.
		Associate Chief Financial Officer for Corporate Planning and Internal Control.
		Associate Chief Financial Officer for Corporate Budget.
		Deputy Chief, Mission Assurance and Security Services.
		Director, Workforce Progression and Management.
		Director, Customer Relationship and Integration.
		Director, Emergency Management Programs.
		Director, Fraud/Bank Secrecy Act.
		Director, Burden Reduction and Compliance Strategies.
		Special Agent In Charge.
		Director, Strategy, Research and Program Planning.
		Director, Field Operations.
		Project Director, Collection.
		Director, Stakeholder Liaison Field.
		Director, Research.
		Director, Communications and Stakeholder Outreach.
		Director, Correspondence Production Services.
		Area Director, Southeast.
		Director, Data Management.
		Director, Field Operations.
		Deputy Director, Accounts Management.
		Chief, Agency-Wide Shared Services.
		Director, Employee Plans, Rulings, and Agreements.
		Director, Campus Collection Compliance.
		Director, Examination Area (3).
		Accounts Management Field Director (4).
		Director, Retail, Food, Pharmaceutical, and Health Care.
		Deputy Director, Customer Account Data Engine.
		Special Agent In Charge—Criminal Investigation.
		Director, Development Services.
		Field Director, Accounts Management.
		Director, Reporting Compliance.
		Director, Infrastructure Architecture and Engineering.
		Director, Data Strategy Implementation.
		Director, Cyber Security Policy and Programs.
		Associate Chief Information Officer, End User Equipment and Services.
		Deputy Associate Chief Information Officer, Enterprise Operations.
		Director, Electronic Tax Administration.
		Deputy Commissioner (Domestic), Large Business and International.
		Project Director (33).
		Executive Director, Case Advocacy.
		Director, Campus Compliance Services.
		Project Director, Security and Law Enforcement.
		Director, Online Fraud Detection and Prevention.
		Deputy Associate Chief Information Officer, End User Equipment and Services.
		Project Director, Private Debt Collection.
		Associate Chief Information Officer, Enterprise Networks.
		Field Director, Accounts Management.
		Director, Office of Privacy, Information Protection and Data Security.
		Director, Operational Security Program.
		Senior Advisor, Operational Information.
		Director, Enterprise Networks Operations.
		Associate Chief Information Officer, Cybersecurity.
		Submission Processing Field Director.
		Director, Earned Income and Health Coverage Tax Credits.
		Project Director.
		Director, Office of Taxpayer Burden.
		Director, Personnel Security.
		Director, Treaty Administration and Tax Advisory Services.

Agency	Organization	Title
		Director, Office of Program Evaluation and Risk Analysis.
		Accounts Management Field Director.
		Director, Information Technology Security Engineering.
		Director, Information Technology Infrastructure.
		Director, Examination Area, Boston.
		Associate Chief Information Officer, Applications Development.
		Director, Field Operations.
		Supervisory Criminal Investigator (Project Director).
		Director, Office of Professional Responsibility.
		Director, Office of Communications.
		Director, Field Operations.
		Director, Whistleblower Office.
		Director, Program Management and Technology.
		Director, Product and Partnership Development.
		Director, Portal Program Management.
		Project Director.
		Director, Business Systems Planning.
		Special Agent In Charge
		Director, International Compliance, Strategy, and Policy.
		Director, Management Services and Security.
		Director, Reporting Compliance.
		Accounts Management Field Director.
		Director, Customer Service.
		Director, Telecommunications Center of Excellence.
		Director, Examination Area.
		Area Director, Field Assistance.
		Director, Server, Middleware and Test Systems Infrastructure Division.
		Director, Requirements and Demand Management.
		Field Director, Compliance Services.
		Director, Headquarters Operations.
		Deputy Director, Enterprise Architecture.
		Field Director, Compliance Services (Atlanta).
		Director, Collection Area, Gulf States.
		Director, Financial Management Services.
		Deputy Chief of Staff.
		Director, Delivery Management.
		Deputy Director, Customer Relationships and Integration.
		Deputy Commissioner for Support, Wage and Investment.
		Director, Global High Wealth Industry.
		Associate Chief Information Officer for Enterprise Operations.
		Director, Management Services.
		Director, Business Systems Planning.
		Director, Compliance Campus Operations.
		Deputy Director, Enterprise Systems Testing.
		Deputy Director, Employment, Talent, and Security.
		Associate Chief Information Officer, Strategy and Planning.
		Deputy Commissioner for Operations, Wage and Investment.
		Director, Individual Master Files.
		Director, Strategy and Capital Planning.
		Senior Advisor to the Deputy Commissioner (Operations Support).
		Director, Appeals Policy and Valuation.
		Deputy Associate Chief Information Officer for Cybersecurity.
		Counselor.
		Director, Capital Planning and Investment.
		Project Director, Customer Account Data Engine.
		Director, Planning, Research and Analysis.
		Deputy Director, Submission Processing.
		Special Assistant to the Associate Chief Information Officer for Applications Development.
		Deputy Director, Program Management.
		Director, Collection Policy.
		Deputy Division Counsel #2 (Operations)/Small Business and Self Employed.
		Director, Service Delivery Management.
		Project Director, Taxpayer Communication.
		Director, Program Integration.
		Deputy Associate Chief Information Officer.
		Project Director, Workforce of Tomorrow.

Agency	Organization	Title
		Director, Enterprise Voice Networks.
		Director, Continuity Operations.
		Project Director.
		Deputy Director, Electronic Tax Administration and Refund Credits.
		Special Assistant to the Deputy Commissioner for Services and Enforcement.
		Deputy Chief of Staff.
		Director, Filing and Payment Compliance.
		Submission Processing Field Director.
		Director, Enforcement.
		Director, Collection Area.
		Senior Advisor to Associate Chief Information Officer (Enterprise Network).
		Director, Business Rules and Requirements Management.
		Deputy Chief Information Officer for Operations.
		Director, Field Operations East.
		Deputy Director, Return Preparer Office.
		Director, Compliance Campus Operations.
		Deputy Commissioner for Support, Wage and Investment.
		Director, Filing and Payment Compliance.
		Director, Tax Forms and Publications.
		Director, Customer Service and Stakeholders.
		Project Director.
		Deputy Associate Chief Financial Officer for Financial Management.
		Director, Business Services and Management.
		Director, Portfolio Control and Performance.
		Director, Real Estate and Facilities Operations.
		Executive Director, Systems Advocacy.
		Area Director, Field Assistance (Area 1).
		Area Director, Field Assistance (Area 2).
		Director, Network Engineering.
		Director, Enforcement.
		Director, Program Management.
		Director, Business Modernization.
		Director, Examination Area.
		Director, Implementation Oversight.
		Director, Information Technology Technical Director.
		Director, Campus Compliance Operations.
		Director, Examination Area.
		Director, Enterprise Collection Strategy.
		Director, Transition State 2 Program Management.
		Director, Field Operations, International Business Compliance West.
		Director, Field Operations, Field Specialists East.
		Compliance Services Field Director.
		Director, Return Preparer Office.
		Deputy Director, Pre-Filing and Technical Guidance.
		Deputy Director, Strategy and Finance.
		Director, Examination Operations Support.
		Director, Operations Service Support.
		Deputy Commissioner, Operations Support.
		Associate Chief Information Officer, Affordable Care Act—Program Management Office.
		Chief Engineer.
		Deputy Associate Chief Information Officer for Applications.
		Deputy Associate Chief Information Officer for Enterprise Networks.
		Director, Examination Policy.
		Area Director, Stakeholder Partnership, Education, and Communication.
		Area Director, Stakeholder Partnership, Education, and Communication.
		Project Director.
		Director, Refund Crimes.
		Area Director, Field Assistance.
		Director, Transfer Pricing Operations.
		Director, International Operations.
		Deputy Director, Research, Analysis, and Statistics.
		Director, Program Strategy and Integration.
		Director, Field Operations, Retailers, Food, Transportation and Healthcare—East.
		Director, International Business Compliance.

Agency	Organization	Title
		Director, Collection Area.
		Deputy Associate Chief Information Officer for Enterprise Services.
		Director, Field Operations, Field Specialists West.
		Director, Cade 2 Database.
		Director, Accounts Management Services.
		Deputy Director, Portal Program Management.
		Director, Filing and Payment Compliance.
		Director, Large Systems and Storage Infrastructure Division.
		Director, Business Performance Solutions.
		Director, Earned Income Tax Credit.
		Director, E-File Systems.
		Director, Real Estate and Facilities Operations.
		Director of Field Operations Southern Area.
		Director, Shared Support.
		Director, Field Operations, Engineering.
		Director of Field Operations, Heavy Manufacturing and Pharmaceuticals, Southeast.
		Director, Collection Strategy and Organization.
		Executive Director, Business Modernization.
		Area Director, Stakeholder, Partnership, Education, and Communication.
		Director, Business Planning and Risk Management.
		Director, Implementation and Testing.
		Director, Campus Operations.
		Director, Business Reengineering.
		Director, Campus Compliance Operations.
		Project Director Extension Legislation.
		Compliance Services Field Director.
		Submission Processing Field Director.
		Director, Service Delivery Management.
		Director, Detroit Program Management Office.
		Director, Privacy and Information Protection.
		Director, International Data Management.
		Director, Strategy, Research and Program Planning.
		Area Director, Stakeholder, Partnerships, Education and Communication.
		Director, Program Strategy and Integration.
		Director, Compliance Strategy and Policy.
		Director, Technical Services.
		Director, Data Delivery Services.
		Director, Examination Policy.
		Director, Strategic Supplier Management.
		Director, Transfer Pricing Operations.
		Director, Infrastructure and Portal Programs.
		Director, Collection Area—California.
		Director, Exempt Organizations Examination.
		Director, Leadership, Education and Development.
		Director, Business Relationship and Service Delivery.
		Director, Examination Area—North Atlantic.
		Executive Director, Investigative and Enforcement Services.
		Executive Director, Investigative and Enforcement Operations.
		Director, Large Systems and Storage Infrastructure Division.
		Director, Filing and Payment Compliance.
		Director, Contact Center Support Division.
		Director, Field Operations, Retail Food, Pharmaceuticals, and Healthcare—West.
		Director, Cybersecurity Policy and Programs.
		Director, Return Integrity and Correspondence Services.
		Director, Advanced Pricing and Mutual Agreement.
		Director, Product Management.
		Associate Chief Financial Officer, Corporate Planning and Internal Control.
		Director, International Individual Compliance.
		Director, Customer Service Support.
		Director, Abusive Transactions and Technical Issues.
		Deputy Director, Office of Professional Responsibility Operations.
		Director, Examination Area.
		Accounts Management Field Director.
		Director, Campus Compliance Operations.

Agency	Organization	Title
		Director, Collection Area.
		Director, Field Operations, Natural Resources and Construction—West.
		Field Director, Submission Processing.
		Director, Information Technology Transition Initiatives.
		Assistant Deputy Commissioner (International).
		Director, Filing and Premium Tax Credit.
		Director, Field Operations, International Business Compliance.
		Accounts Management Field Director.
		Deputy Commissioner, Wage and Investments.
		Director, Human Capital.
		Director, Enterprise Networks Operations.
		Associate Chief Information Officer, Affordable Care Act Program Management Office.
		Director, Unified Communications.
		Director, Infrastructure Services.
		Director, Executive Services.
		Director, Foreign Account Tax Compliance Act—Program Management Office.
		Senior Director for Operations, Affordable Care Act.
		Associate Chief Information Officer, Enterprise Information Technology Program Management.
		Director, E-File Services.
		Chief of Staff.
	Internal Revenue Service Chief Counsel.	Assistant Chief Counsel (Disclosure and Privacy Law).
		Division Counsel (Wage and Investment).
		Deputy Associate Chief Counsel (Strategic International Programs).
		Deputy Division Counsel/Deputy Associate Chief Counsel (Tax Exempt and Government Entities).
		Deputy Associate Chief Counsel (General Legal Services) (Labor and Personnel Law).
		Division Counsel (Small Business and Self Employed).
		Deputy Associate Chief Counsel (Finance and Management).
		Area Counsel (Large and Mid-Size Business) (Area 2) (Heavy Manufacturing, Construction and Transportation).
		Area Counsel (Large and Mid-Size Business) (Area 4) (Natural Resources).
		Deputy to the Special Counsel to the Chief Counsel.
		Special Counsel to the Chief Counsel.
		Area Counsel, Small Business and Self Employed, Area 9.
		Deputy Division Counsel (Technical), Large Business and International.
		Deputy Associate Chief Counsel (International Field Service and Litigation).
		Director, Employee Plans Examinations.
		Special Counsel to the Chief Counsel.
		Assistant Chief Counsel (International) (Litigation).
		Associate Chief Counsel (Financial Institutions and Products).
		Associate Chief Counsel (Finance and Management).
		Associate Chief Counsel (International).
		Deputy Chief Counsel (Technical).
		Deputy Chief Counsel (Operations).
		Associate Chief Counsel/Operating Division Counsel (Tax Exempt and Government Entities).
		Deputy Associate Chief Counsel (International Technical).
		Special Counsel to the National Taxpayer Advocate.
		Deputy Division Counsel and Deputy Associate Chief Counsel (Tax Exempt and Government Entities).
		Associate Chief Counsel (General Legal Services).
		Deputy Associate Chief Counsel (General Legal Services).
		Deputy Division Counsel/Deputy Associate Chief Counsel.
		Associate Chief Counsel (Corporate).
		Associate Chief Counsel (Procedure and Administration).
		Deputy Associate Chief Counsel (Financial Institutions and Products).
		Assistant Chief Counsel (Collection, Bankruptcy and Summonses).
		Deputy Division Counsel/Deputy Assistant Chief Counsel (Criminal Tax).

Agency	Organization	Title
		Associate Chief Counsel (Income Tax and Accounting).
		Deputy Associate Chief Counsel (Procedure and Administration).
		Associate Chief Counsel (Pass-through and Special Industries).
		Deputy Division Counsel (Large and Mid-Size Business).
		Deputy Associate Chief Counsel (Corporate).
		Deputy Associate Chief Counsel #2 (Pass-throughs and Special Industries).
		Division Counsel (Large and Mid-Size Business).
		Deputy Associate Chief Counsel #2 (Income Tax and Accounting).
		Division Counsel/Associate Chief Counsel (Criminal Tax).
		Area Counsel, Large and Mid-Size Business (Area 3) (Food, Mass Retailers, and Pharmaceuticals).
		Area Counsel (Large Business and International) (Area 1).
		Area Counsel (Small Business and Self Employed) (Area 7).
		Area Counsel (Small Business and Self Employed)—Los Angeles.
		Area Counsel (Small Business and Self Employed)—Denver.
		Area Counsel (Small Business and Self Employed).
		Area Counsel (Small Business and Self Employed)—Chicago.
		Area Counsel (Small Business and Self Employed)—Jacksonville.
		Area Counsel (Small Business and Self Employed)—Philadelphia.
		Area Counsel (Small Business and Self Employed)—New York.
		Deputy Division Counsel (Small Business and Self Employed).
		Area Counsel (Large Business and International).
	United States Mint	Associate Director for Information Technology (Chief Information Officer).
		Associate Director for Financial Management/Chief Financial Officer.
		Associate Director for Sales and Marketing.
		Associate Director for Manufacturing.
		Chief Administrative Officer.
		Plant Manager, Philadelphia.
		Associate Director for Workforce Solutions.
		Associate Director for Systems Integration.
		Plant Manager.
DEPARTMENT OF THE TREASURY OFFICE OF THE INSPECTOR GENERAL.	Immediate Office of the Inspector General.	Special Deputy Inspector General for Small Business Lending Fund.
		Deputy Inspector General.
	Office of Counsel	Counsel to the Inspector General.
	Office of Management	Assistant Inspector General for Management.
	Office of Audit	Deputy Assistant Inspector General for Audit (Program Audits).
		Assistant Inspector General for Audit.
		Deputy Assistant Inspector General for Audit (Financial Management).
	Office of Investigations	Assistant Inspector General for Investigations.
		Deputy Assistant Inspector General for Investigations.
DEPARTMENT OF THE TREASURY SPECIAL INSPECTOR GENERAL FOR THE TROUBLED ASSET RELIEF PROGRAM.	Department of the Treasury Special Inspector General for the Troubled Asset Relief Program.	Chief Investigative Counsel.
		Assistant Deputy Special Inspector General for Audit and Evaluation.
		Deputy Special Inspector General, Operations.
		Deputy Special Inspector General, Audit.
		General Counsel for Special Inspector General for the Troubled Asset Relief Program (SIGTARP).
		Deputy Special Inspector General, Investigations.
		Assistant Deputy Special Inspector General for Investigations.
DEPARTMENT OF THE TREASURY TAX ADMINISTRATION OFFICE OF THE INSPECTOR GENERAL.	Department of the Treasury Tax Administration Office of the Inspector General.	Deputy Counsel to the Inspector General.

Agency	Organization	Title
		Deputy Inspector General for Audit.
		Deputy Assistant Inspector General for Investigations.
		Chief Information Officer (2).
		Assistant Inspector General for Management, Planning and Workforce Development.
		Assistant Inspector General for Audit, Compliance and Enforcement Organizations.
		Deputy Assistant Inspector General for Investigations.
		Deputy Inspector General for Inspections and Evaluations.
		Principal Deputy Inspector General.
		Associate Inspector General for Mission Support.
		Chief Counsel.
		Assistant Inspector General for Investigations (4).
		Assistant Inspector General, Returns Processing and Accounting Services.
		Assistant Inspector General for Audit, Management Planning and Workforce Development.
		Assistant Inspector General Returns Processing and Accounting Services.
		Assistant Inspector General for Audit, Management Services and Exempt Organizations.
		Assistant Inspector General for Investigations.
UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.	Office of the General Counsel	Deputy General Counsel.
		Assistant General Counsel for Ethics and Administrations.
		General Counsel, Chief Innovation Counsel.
	Office of the Inspector General	Deputy Assistant Inspector General for Audit.
		Deputy Inspector General.
		Counselor to the Inspector General.
		Assistant Inspector General for Management.
		Supervisory Criminal Investigator.
		Assistant Inspector General for Millennium Challenge Corporation.
	Office of Security	Director, Office of Security.
	Office of Small and Disadvantaged Business Utilization.	Director, Office of Small and Disadvantage Business Utilization.
	Office of Civil Rights and Diversity	Equal Opportunity Officer.
	Bureau for Democracy, Conflict, and Humanitarian Assistance.	Deputy Assistant Administrator.
		Deputy Director, Office of Military Affairs (OMA).
		Deputy Director, Office of Foreign Disaster Assistance.
	Office of Afghanistan and Pakistan Affairs.	Assistant Administrator.
	Office of Budget and Resource Management.	Director, Budget and Resource Management.
	Bureau for Global Health	Deputy Assistant Administrator.
	Bureau for Africa	Deputy Assistant Administrator, Bureau for Africa.
	Bureau for Management	Deputy Controller.
		Deputy Director for Office of Acquisition and Assistance Policy, Support, and Evaluation.
		Deputy Chief Financial Officer (2).
		Deputy Director, Office of Acquisition and Assistance Operations.
		Deputy Director, Office of Management, Policy, Budget, and Performance.
		Deputy Director, Accountability, Compliance, Transparency and System Support.
		Director, Office of Administrative Service.
		Chief Information Officer.
		Deputy Assistant Administrator.
		Director, Office of Management, Policy, Budget and Performance.
	Office of Human Capital Talent Management.	Chief Human Capital Officer.
		Deputy Chief Human Capital Officer.
	Bureau for Foreign Assistance	Senior Coordinator.
UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF THE INSPECTOR GENERAL.	United States Agency for International Development Office of the Inspector General.	Deputy Assistant Inspector General for Investigations.
		Assistant Inspector General for Investigations.
		Deputy Assistant Inspector General for Audit.
		Deputy Inspector General.
		Counselor to the Inspector General.

Agency	Organization	Title
		Deputy Assistant Inspector General for Audit.
		Assistant Inspector General for Management.
UNITED STATES INTERNATIONAL TRADE COMMISSION.	Office of External Relations	Director, Office of External Relations.
	Office of Industries	Director, Office of Industries.
	Office of Investigations	Director, Office of Investigations.
	Office of the Inspector General	Inspector General.
DEPARTMENT OF VETERANS AFFAIRS.	Office of the Secretary and Deputy	Director, Office of Employment Discrimination Complaint Adjudication.
		Executive Director.
	Office of Acquisitions, Logistics and Construction.	Executive Director.
		Director, Facilities, Programs, and Plans.
		Associate Chief Facilities Management Officer for Resource Management.
		Associate Chief Facilities Management Officer for Strategic Management.
		Associate Executive Director, Office of Operations.
		Director, Facilities Acquisition Support.
		Associate Executive Director, Strategic Acquisition Center.
		Executive Director.
		Executive Director, Construction and Facilities Management.
	Office of Acquisition and Materiel Management.	Executive Director, Center for Acquisition Innovation.
		Associate Deputy Assistant Secretary for Acquisition Program Support.
		Deputy Assistant Secretary for Acquisition and Materiel Management.
		Executive Director National Acquisition Center.
	Board of Veterans' Appeals	Vice Chairman.
		Deputy Vice Chairman (2).
		Principal Deputy Vice Chairman.
		Director, Management, Planning and Analysis.
	Office of the General Counsel	Regional Counsel (22).
		Deputy General Counsel, Legal Policy.
		Senior Advisor (Strategic Planning).
		Deputy General Counsel, Legal Operations.
		Executive Director, Management Planning and Analysis.
	Office of the Assistant Secretary for Management.	Principal Deputy Assistant Secretary for Management.
	Office of Finance	Associate Deputy Assistant Secretary for Financial Business Operations.
		Director, Financial Services Center.
		Associate Deputy Assistant Secretary for Finance.
		Director, Debt Management Center.
		Deputy Assistant Secretary for Finance.
	Office of Acquisition and Materiel Management.	Executive Director, Office of Acquisition Operations.
	Office of Asset Enterprise Management	Deputy Director, Asset Enterprise Management.
	Office of Business Oversight	Director, Office of Business Oversight.
	Office of Human Resources Management.	Associate Deputy Assistant Secretary for Human Resources Management Policy.
	Office of Corporate Senior Executive Management.	Executive Director.
	Office of the Assistant Secretary for Information and Technology.	Deputy Assistant Secretary for Information Security.
		Associate Deputy Assistant Secretary for Policy, Privacy and Incident Management.
		Executive Director, Acquisition Strategy and Business Relationship.
		Executive Director for Quality and Performance.
		Deputy Assistant Secretary for Information Technology Resource Management.
		Executive Director, Budget and Finance.
		Executive Director (Enterprise Operations).
		Associate Deputy Assistant Secretary for Security Operations.
	National Cemetery Administration	Deputy Under Secretary for Finance and Planning/Chief Financial Officer.
	Veterans Benefits Administration	Deputy Director for Operations.
		Deputy Director for Policy and Procedures.
		Deputy Chief Financial Officer.
		Chief Financial Officer.

Agency	Organization	Title
	Veterans Health Administration	Associate Chief Financial Officer.
		Chief Procurement and Logistics Officer.
		Associate Chief Financial Officer for Managerial Cost Accounting.
		Director, Service Area Office (East).
		Associate Chief Financial Officer.
		Director, Service Area Office (West).
		Director Service Area Office (Central).
		Deputy Chief Procurement Officer.
		Director, Veterans Canteen Service.
		Chief Financial Officer.
		Chief Compliance and Business Integrity Officer
		Deputy Chief Financial Officer.
		Chief Operating Officer.
	Medical Center Directors	Medical Center Director (Advisory).
	Office of Emergency Management	Deputy Assistant Secretary for Emergency Management.
	Office of Operations, Security and Preparedness.	Director for Security and Law Enforcement.
DEPARTMENT OF VETERANS AFFAIRS OFFICE OF THE INSPECTOR GENERAL.	Immediate Office of the Inspector General.	Counselor to the Inspector General.
		Deputy Counselor to the Inspector General.
		Deputy Inspector General.
	Office of the Assistant Inspector General for Investigations.	Deputy Inspector General for Investigations (Field Operations).
		Assistant Inspector General for Investigations.
		Deputy Assistant Inspector General for Investigations (Headquarters Operations).
	Office of the Assistant Inspector General for Audits and Evaluations.	Assistant Inspector General for Audits and Evaluations.
		Deputy Assistant Inspector General for Audits and Evaluations (Field Operations).
		Deputy Assistant Inspector General for Audits and Evaluations (Headquarters Management and Inspections).
	Office of the Assistant Inspector General for Management and Administration.	Assistant Inspector General for Management and Administration.
		Deputy Assistant Inspector General for Management and Administration.
	Office of the Assistant Inspector General for Healthcare Inspections.	Medical Officer (Deputy Director of Medical Consultation and Review).
		Medical Officer (Director of Medical Consultation and Review).
		Deputy Assistant Inspector General for Healthcare Inspections.
		Assistant Inspector General for Healthcare Inspections.

Authority: 5 U.S.C. 3132.

U.S. Office of Personnel Management.

Beth F. Cobert,

Acting Director.

[FR Doc. 2015–25893 Filed 10–14–15; 8:45 am]

BILLING CODE 6325–39–P

FEDERAL REGISTER

Vol. 80 Thursday,
No. 199 October 15, 2015

Part III

Securities and Exchange Commission

17 CFR Parts 210, 270, 274
Open-End Fund Liquidity Risk Management Programs; Swing Pricing; Re-Opening of Comment Period for Investment Company Reporting Modernization Release; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210, 270, 274

[Release Nos. 33–9922; IC–31835; File Nos. S7–16–15; S7–08–15]

RIN 3235–AL61; 3235–AL42

Open-End Fund Liquidity Risk Management Programs; Swing Pricing; Re-Opening of Comment Period for Investment Company Reporting Modernization Release

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule; re-opening of comment period.

SUMMARY: The Securities and Exchange Commission is proposing a new rule and amendments to its rules and forms designed to promote effective liquidity risk management throughout the open-end fund industry, thereby reducing the risk that funds will be unable to meet redemption obligations and mitigating dilution of the interests of fund shareholders in accordance with section 22(e) and rule 22c–1 under the Investment Company Act. The proposed amendments also seek to enhance disclosure regarding fund liquidity and redemption practices. The Commission is proposing new rule 22e–4, which would require each registered open-end fund, including open-end exchange-traded funds (''ETFs'') but not including money market funds, to establish a liquidity risk management program. The Commission also is proposing amendments to rule 22c–1 to permit a fund, under certain circumstances, to use ''swing pricing,'' the process of adjusting the net asset value of a fund's shares to effectively pass on the costs stemming from shareholder purchase or redemption activity to the shareholders associated with that activity, and amendments to rule 31a–2 to require funds to preserve certain records related to swing pricing. With respect to reporting and disclosure, the Commission is proposing amendments to Form N–1A regarding the disclosure of fund policies concerning the redemption of fund shares, and the use of swing pricing. The Commission also is proposing amendments to proposed Form N–PORT and proposed Form N–CEN that would require disclosure of certain information regarding the liquidity of a fund's holdings and the fund's liquidity risk management practices. In connection with these proposed amendments, the Commission is re-opening the comment period for Investment Company Reporting Modernization, Investment Company Act Release No. 31610 (May 20, 2015).

DATES: The comment period for the proposed rule published June 12, 2015 (80 FR 33589) is reopened. Comments on this release (Investment Company Act Release No. 31835) and Investment Company Act Release No. 31610 should be received on or before January 13, 2016.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/proposed.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number S7–16–15 or S7–08–15 on the subject line; or
- Use the Federal Rulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

Paper Comments

- Send paper comments to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–16–15 or S7–08–15. The 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/proposed.shtml*). Comments are also 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 a.m. and 3 p.m. 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.

Studies, memoranda, or other substantive items may be added by the Commission or staff to the comment file during this rulemaking. A notification of the inclusion in the comment file of any such materials will be made available on the Commission's Web site. To ensure direct electronic receipt of such notifications, sign up through the ''Stay Connected'' option at *www.sec.gov* to receive notifications by email.

FOR FURTHER INFORMATION CONTACT: Melissa S. Gainor, Senior Special Counsel; Naseem Nixon, Senior Counsel; Amanda Hollander Wagner, Senior Counsel; Sarah A. Buescher, Branch Chief; or Sarah G. ten Siethoff, Assistant Director, Investment Company Rulemaking Office, at (202) 551–6792, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–8549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission (the ''Commission'') is proposing for public comment amendments to rules 22c–1 [17 CFR 270.22c–1] and 31a–2 [17 CFR 270.31a–2], and new rule 22e–4 [17 CFR 270.22e–4], under the Investment Company Act of 1940 [15 U.S.C. 80a–1 *et seq.*] (''Investment Company Act'' or ''Act''); amendments to Form N–1A [referenced in 17 CFR 274.11A] under the Investment Company Act and the Securities Act of 1933 (''Securities Act'') [15 U.S.C. 77a *et seq.*]; amendments to Article 6 [17 CFR 210.6–01 *et seq.*] of Regulation S–X [17 CFR 210]; and amendments to proposed Form N–PORT [referenced in 17 CFR 274.150] and proposed Form N–CEN [referenced in 17 CFR 274.101] under the Investment Company Act.[1]

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[1] Unless otherwise noted, all references to statutory sections are to the Investment Company Act, and all references to rules under the Investment Company Act will be to Title 17, Part 270 of the Code of Federal Regulations [17 CFR 270].

I. Introduction

Daily redeemability is a defining feature of open-end management investment companies (''open-end funds'' or ''funds'') such as mutual funds.[2] As millions of Americans have come to rely on open-end funds as an investment vehicle of choice, the role of fund liquidity management in reducing the risk that a fund will be unable to meet its obligations to redeeming shareholders while also minimizing the impact of those redemptions on the fund (*i.e.,* mitigating investor dilution) is becoming more important than ever. The U.S. fund industry has experienced significant growth in the last 20 years,[3] markets have grown more complex, and funds pursue more complex investment strategies, including fixed income and alternative investment strategies that are focused on less liquid asset classes. Yet, it has been over twenty years since we have provided guidance regarding the liquidity of open-end funds other than money market funds.[4]

We remain committed, as the primary regulator of open-end funds, to designing regulatory programs that respond to the risks associated with the increasingly complex portfolio composition and operations of the asset management industry. Commission staff engaged with large and small fund complexes to better understand funds' management of liquidity risk. Through these outreach efforts our staff has learned that, while some funds and their managers have developed comprehensive liquidity risk management programs, others have dedicated significantly fewer resources to managing liquidity risk in a formalized way. We believe proposing to address these variations in practices is appropriate and that it is in the interest of funds and fund investors to create a regulatory framework that would reduce the risk that a fund will be unable to meet its redemption obligations and minimize dilution of shareholder interests by promoting stronger and more effective liquidity risk management across open-end funds.

We are proposing a set of comprehensive reforms that would provide for: (i) Liquidity risk management standards that address issues arising from modern portfolio construction; (ii) a new pricing method that, if funds choose to use it, could better allocate costs to shareholders entering or exiting the fund; and (iii) fuller disclosure of information regarding the liquidity of fund portfolios and how funds manage liquidity risk and redemption obligations. To accomplish this, first, we are proposing new rule 22e–4 under the Act, which would require funds to establish liquidity risk management programs. Under the proposed rule, the principal components of a liquidity risk management program would include a fund's classification and monitoring of each portfolio asset's level of liquidity, as well as designation of a minimum amount of portfolio liquidity, which funds would tailor to their particular

[2] An open-end fund is required by law to redeem its securities on demand from shareholders at a price approximating their proportionate share of the fund's net asset value at the time of redemption. Section 22(d) of the Act prohibits a dealer from selling a redeemable security that is being offered to the public by or through an underwriter other than at a current public offering price described in the fund's prospectus. Rule 22c–1 under the Act requires open-end funds, their principal underwriters, and dealers in fund shares (and certain others) to sell and redeem fund shares at a price determined at least daily based on the current net asset value next computed after receipt of an order to buy or redeem. Together, these provisions require that fund shareholders be treated equitably when buying and selling their fund shares. While a money market fund is an open-end management investment company, money market funds generally are not subject to the amendments we are proposing (except certain amendments to proposed Form N–CEN) and thus are not included when we refer to ''funds'' or ''open-end funds'' in this release except where specified. The term ''mutual fund'' is not defined in the 1940 Act.

[3] As of the end of 2014, there were 8,734 open-end funds (excluding money market funds, but including ETFs), as compared to 2,960 at the end of 1992. *See* Investment Company Institute, 2015 Investment Company Fact Book (2015), *available at http://www.ici.org/pdf/2015_factbook.pdf* (''2015 ICI Fact Book''), at 177 and 184.

[4] Revisions of Guidelines to Form N–1A, Investment Company Act Release No. 18612 (Mar. 12, 1992) [57 FR 9828 (Mar. 20, 1992)] (''Guidelines Release'').

circumstances after consideration of a set of market-related factors established by the Commission.

Second, in order to provide funds with an additional tool to mitigate potential dilution and to manage fund liquidity, we are proposing amendments to rule 22c–1 under the Act to permit funds (except money market funds and ETFs) to use ''swing pricing,'' a process of adjusting the net asset value of a fund's shares to pass on to purchasing or redeeming shareholders more of the costs associated with their trading activity. Lastly, in order to give investors, market participants, and Commission staff improved information on fund liquidity and redemption practices, we are proposing amendments to our disclosure requirements and recently proposed data reporting forms. We discuss these proposals as well as why liquidity management is so vital to investors in open-end funds and the developments that have led us to this proposal further below. Taken together, these reforms are designed to provide investors with increased protections regarding how liquidity in their open-end funds is managed, thereby reducing the risk that funds will be unable to meet redemption obligations and mitigating dilution of the interests of fund shareholders. These reforms are also intended to give investors better information with which to make investment decisions, and to give the Commission better information with which to conduct comprehensive monitoring and oversight of an ever-evolving fund industry.

II. Background

A. Open-End Funds

Over the past few decades, investors increasingly have come to rely on investments in open-end funds to meet their financial needs and access the capital markets. Individuals invest in these funds for a variety of reasons, from investing for retirement and their children's college education to providing a source of financial security for emergencies and other lifetime events. Institutions also invest significantly in open-end funds as part of basic or sophisticated trading and hedging strategies or to manage cash flows.

There are currently two kinds of open-end funds: Mutual funds and ETFs.[5] At the end of 2014, 53.2 million households, or 43.3 percent of all U.S. households owned mutual funds.[6] Mutual funds allow investors to pool their investments with those of other investors so that they may together benefit from fund features such as professional investment management, diversification, and liquidity. Fund shareholders share the gains and losses of the fund, and also share its costs. Investors in mutual funds can redeem their shares on each business day and, by law, must receive their pro rata share of the fund's net assets (or its cash value) within seven calendar days after delivery of a redemption notice.[7]

ETFs also offer investors an undivided interest in a pool of assets. Since 2003, the number of ETFs traded in U.S. markets has increased by more than 1,200 funds, and the assets held by ETFs have increased from $151 billion at the end of 2003 to $1.9 trillion at the end of 2014.[8] ETF shares, similar to stocks, are bought and sold throughout the day by investors on an exchange through a broker-dealer.[9] In addition, like mutual funds, ETFs provide redemption rights on a daily basis, but, pursuant to exemptive orders, such redemption rights may only be exercised by certain large market participants—typically broker-dealers—called ''authorized participants.'' Authorized participants may purchase and redeem ETF shares at the ETF's net asset value per share (''NAV'') from the ETF.[10] When an authorized participant transacts with an ETF to purchase and sell ETF shares, these share transactions are structured in large blocks called ''creation units.'' Most ETFs are structured so that an authorized participant will purchase a creation unit with a ''portfolio deposit,'' which is a basket of assets (and sometimes cash) that generally reflects the composition of the ETF's portfolio.[11] The ETF makes public the contents of the portfolio deposit before the beginning of the trading day.[12] After purchasing a creation unit, an authorized participant may hold the ETF shares or sell (or lend) some or all of them to investors in the secondary market.

Similarly, for most ETFs, when an authorized participant wishes to redeem ETF shares, it presents a creation unit of ETF shares to the ETF for redemption and receives in return a ''redemption basket,'' the contents of which are made public by the ETF before the beginning of the trading day. The redemption basket (which is usually, but not always, the same as the portfolio deposit) typically consists of securities and a small amount of cash.[13] In addition, while less common, some ETFs represent to the Commission that they ordinarily intend to conduct all purchase and redemption transactions with authorized participants in cash instead of an in-kind basket of assets, and all ETFs reserve the right to transact with authorized participants in cash. The ability of these authorized participants to purchase and redeem creation units at each day's NAV enables authorized participants (or market makers that trade through authorized participants) to exercise arbitrage opportunities that are generally expected to have the effect of keeping the market price of ETF shares at or close to the NAV of the ETF.[14]

[5] ETFs registered with the Commission are organized either as open-end management investment companies or unit investment trusts. *See* section 4(2) of the Act (defining ''unit investment trust'' as an investment company which (i) is organized under a trust indenture, contract of custodianship or agency, or similar instrument, (ii) does not have a board of directors, and (iii) issues only redeemable securities, each of which represents an undivided interest in a unit of specified securities, but does not include a voting trust). Most ETFs are organized as open-end management investment companies and, except where specified, when we refer to ETFs in this release, we are referring to ETFs that are organized as open-end management investment companies.

[6] *See* 2015 ICI Fact Book, *supra* note 3, at 114.

[7] *See* section 2(a)(32) of the Act (defining a ''redeemable security'' as any security, other than short-term paper, that entitles its holder to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof), and section 22(e) of the Act (providing, in part, that no open-end fund shall suspend the right of redemption, or postpone the date of payment upon redemption of any redeemable security in accordance with its terms for more than seven days after tender of the security absent specified unusual circumstances).

[8] *See* 2015 ICI Fact Book, *supra* note 3, at 60.

[9] *See* Exchange-Traded Funds, Investment Company Act Release No. 28193 (Mar. 11, 2008) [73 FR 14618 (Mar. 18, 2008)] (''ETF Proposing Release'').

[10] Authorized participants purchase ETF shares at the ETF's NAV through the ETF's underwriter or other service provider.

[11] *See* Request for Comment on Exchange-Traded Products, Securities Exchange Act Release No. 75165 (June 12, 2015) [80 FR 34729 (June 17, 2015)] (''2015 ETP Request for Comment''), at n.19 and accompanying text.

[12] *See id.* at n.20 and accompanying text.

[13] *See id.* at n.21 and accompanying text.

[14] For example, if ETF shares begin trading on national securities exchanges at a price below the ETF's NAV, authorized participants can purchase ETF shares in secondary market transactions and, after accumulating enough shares to comprise a creation unit, redeem them from the ETF in exchange for the more valuable securities in the ETF's redemption basket. Those purchases create greater market demand for the ETF shares, and thus tend to drive up the market price of the shares to a level closer to NAV. Conversely, and again by way of example, if the market price for ETF shares exceeds the NAV of the ETF itself, an authorized participant can deposit a basket of securities in exchange for the more valuable creation unit of ETF shares, and then sell the individual shares in the market to realize its profit. These sales would increase the supply of ETF shares in the secondary market, and thus tend to drive down the price of the ETF shares to a level closer to the NAV of the ETF share. In each case, the authorized participant (or its market maker customer) may hedge its

Recently, the Commission has also approved exchange-traded managed funds (''ETMFs'').[15] ETMFs are a hybrid between a traditional mutual fund and an ETF. Like ETFs, ETMFs would have shares listed and traded on a national securities exchange; directly issue and redeem shares in creation units only; impose fees on creation units issued and redeemed to authorized participants to offset the related costs to the ETMFs; and primarily utilize in-kind transfers of portfolio deposits in issuing and redeeming creation units. Like mutual funds, ETMFs would be bought and sold at prices linked to NAV and would seek to maintain the confidentiality of their current portfolio positions. While no ETMF has been launched yet, the proposed rule and amendments (except the proposed amendments to rule 22c–1) would also apply to ETMFs to the same extent as to other open-end funds whose shares are redeemable on a daily basis.

Open-end funds are an attractive investment option for many different types of investors because they provide diversification, economies of scale, and professional management. They also facilitate retail investors' access to certain investment strategies or markets that might be difficult (if not impossible) or time consuming for investors to replicate on their own.[16] Additionally, open-end funds have become a popular investment vehicle because they may provide a cost-efficient way for investors to track a benchmark index or strategy.[17]

B. The Role of Liquidity in Open-End Funds

1. Introduction

A hallmark of open-end funds is that they must be able to convert some portion of their portfolio holdings into cash on a frequent basis because they issue redeemable securities,[18] and are required by section 22(e) of the Investment Company Act to make payment to shareholders for securities tendered for redemption within seven days of their tender.[19] As a practical matter, many investors expect to receive redemption proceeds in less than seven days as some mutual funds disclose in their prospectuses that they will generally pay redemption proceeds on a next-business day basis.[20] Furthermore, open-end funds that are redeemed through broker-dealers must meet redemption requests within three business days because broker-dealers are subject to rule 15c6–1 under the Securities Exchange Act of 1934 (the ''Exchange Act''), which establishes a three-day (T+3) settlement period for security trades effected by a broker or a dealer.[21] Given the statutory and regulatory requirements for meeting redemption requests, as well as any disclosure made to investors regarding payment of redemption proceeds, a mutual fund must adequately manage the liquidity of its portfolio so that redemption requests can be satisfied in a timely manner.[22]

Sufficient liquidity of ETF portfolio positions also is important. ETFs typically make in-kind redemptions of creation units, which can mitigate liquidity concerns for ETFs compared to mutual funds, if the in-kind redemptions are of a representative basket of the ETF's portfolio assets that do not alter the ETF's liquidity profile.[23] However, transferring illiquid instruments to the redeeming authorized participants could result in a liquidity cost to the authorized participant or any of its clients, which would then be reflected in the bid-ask spread and ultimately impact investors. Moreover, declining liquidity in an ETF's basket assets could affect the ability of an authorized participant or any of its clients to readily assemble the basket for purchases of creation units and to sell securities received upon redemption of creation units.[24]

In addition, a significant amount of illiquid securities in an ETF's portfolio can make arbitrage opportunities more difficult to evaluate because it would be difficult for market makers to price, trade, and hedge their exposure to, the

exposure to cover the risk from the time the arbitrage opportunity is exercised through the time it can deliver shares or assets to the ETF, at which time it will unwind its hedge. *See* ETF Proposing Release, *supra* note 9, at nn.25–30 and accompanying text; *see also* 2015 ETP Request for Comment, *supra* note 11, at section I.C.2.

[15] *See* Eaton Vance Management, et al., Investment Company Act Release Nos. 31333 (Nov. 6, 2014) (notice) (''ETMF Notice'') and 31361 (Dec. 2, 2014) (order). For the purposes of the proposed amendments to rule 22c–1, the definition of ''exchange-traded fund'' shall include ETMFs.

[16] For example, many retail investors would have difficulty investing in certain foreign and emerging market securities given local requirements for purchasing and holding such securities. In addition, some securities may only be sold in large blocks that retail investors would be unlikely to be able to purchase. Many retail investors also may not have the expertise to construct investment strategies followed by, for example, alternative funds on their own. *See also* Notice Seeking Comment on Asset Management Products and Activities, Docket No. FSOC–2014–0001 (''FSOC Notice''); Comment Letter of the Asset Management Group of SIFMA and the Investment Adviser Association on the FSOC Notice (Mar. 25, 2015) (''SIFMA IAA FSOC Notice Comment Letter''), at 12 (''Pooled funds provide many individual investors exposure to asset classes that they could not reach without investing collectively.''); Comment Letter of the Investment Company Institute on the FSOC Notice (Mar. 25, 2015) (''ICI FSOC Notice Comment Letter''), at 11 (''The vast majority of [mutual fund] investors would be unable to replicate such investment exposure by directly holding securities themselves.'').

[17] *See e.g.,* Rick Ferri, *Index Funds Gain Momentum (Part 1 of 2),* FORBES (July 29, 2013), *available at http://www.forbes.com/sites/rickferri/2013/07/29/index-funds-gain-momentum-part-1-of-2/* (discussing the growth of passively managed index funds and ETFs that follow indexes).

[18] *See* sections 5(a)(1) and 2(a)(32) of the Act. All other management companies are closed-end (''closed-end funds''). Closed-end fund shareholders do not have redemption rights and closed-end funds are usually traded on secondary markets, either on exchanges or over the counter, at prices that may be at a premium or a discount to the fund's NAV.

[19] Section 22(e) of the Act provides, in part, that no registered investment company shall suspend the right of redemption or postpone the date of payment upon redemption of any redeemable security in accordance with its terms for more than seven days after tender of the security absent specified unusual circumstances.

[20] *See* Comment Letter of Fidelity Investments on the FSOC Notice (Mar. 25, 2015) (''Fidelity FSOC Notice Comment Letter''), at 6 (''mutual funds normally process redemption requests by the next business day''); *see also* ICI FSOC Notice Comment Letter, *supra* note 16, at 17 (''For example, a mutual fund has by law up to seven days to pay proceeds to redeeming investors, although as a matter of practice funds typically pay proceeds within one to two days of a redemption request.'').

[21] 17 CFR 240.15c6–1. In a 1995 staff no-action letter, the Division of Investment Management expressed the view that because rule 15c6–1 under the Exchange Act applies to broker-dealers and does not apply directly to funds, the implementation of T+3 pursuant to rule 15c6–1 did not change the standards for determining liquidity, which were based on the requirements of section 22(e) of the Investment Company Act. The Division noted, however, that as a practical matter, many funds have to meet redemption requests within three business days because a broker-dealer is often involved in the redemption process. *See* Letter from Jack W. Murphy, Associate Director and Chief Counsel, Division of Investment Management, SEC, to Paul Schott Stevens, General Counsel, Investment Company Institute (May 26, 1995), *available at http://www.sec.gov/divisions/investment/noaction/1995/ici052695.pdf*, (''May 1995 Staff No-Action Letter''); *see also* Fidelity FSOC Notice Comment Letter, *supra* note 20, at 6 (''As a practical matter, three-day settlement requirements under Exchange Act Rule 15c6–1 . . . effectively take most fund investments to a T+3 settlement timeline.'').

[22] *See* ICI FSOC Notice Comment Letter, *supra* note 16, at 6–7 (''Daily redeemability is a defining feature of mutual funds. This means that liquidity management is not only a regulatory compliance matter, but also a major element of investment risk management, an intrinsic part of portfolio management, and a constant area of focus for fund managers.'').

[23] ETFs have some discretion in determining their basket composition. *See, e.g.,* New York Alaska ETF Management LLC, et al., Investment Company Act Release Nos. 31667 (June 12, 2015) (notice) and 31709 (July 8, 2015) (order).

[24] ETF Proposing Release, *supra* note 9 at section III.A.1. *But see, e.g.,* Shelly Antoniewicz, Investment Company Institute, *Plenty of Players Provide Liquidity for ETFs* (Dec. 2, 2014), *available at http://www.ici.org/viewpoints/view_14_ft_etf_liquidity* (''Antoniewicz'') (stating that most of the trading activity in bond ETF shares is done in the secondary market and not through creations and redemptions with authorized participants).

ETF.[25] The effective functioning of this arbitrage mechanism has been pivotal to the operation of ETFs and to the Commission's approval of exemptions that allow their operation.[26] The liquidity of the ETF's portfolio positions is a factor that contributes to the effective functioning of the ETF's arbitrage mechanism and the ETF shares trading at a price that is at or close to the NAV of the ETF.[27]

If authorized participants are unwilling or unable to trade ETF shares in the primary market, and the majority of trading takes place among investors in the secondary market, the ETF's shares may trade at a significant premium or a discount to the value of the ETF's underlying portfolio securities.[28] As a result, the ETF's arbitrage mechanism that keeps the secondary price at or close to NAV would not function effectively. In a period of significant decline in market liquidity, this could cause the ETF, in effect, to function more like a closed-end investment company, potentially frustrating the expectations of secondary market investors.[29] In addition, all ETFs permit authorized participants to redeem in cash, rather than in kind, and some ETFs ordinarily redeem authorized participants in cash. ETFs that elect to redeem authorized participants in cash, like mutual funds, would need to ensure that they have adequate portfolio liquidity (in conjunction with any other liquidity sources) to meet shareholder redemptions.[30]

As noted above, ETMFs have features of both mutual funds and ETFs. As ETMFs would redeem their shares on a daily basis from authorized participants, the ETMF would need to hold sufficiently liquid assets to meet such redemptions to the extent that authorized participants redeem in cash. Like ETFs, however, the ETMF's ability to make in-kind redemptions could mitigate liquidity concerns.[31] Further, as ETMF market makers would not engage in the same arbitrage as ETF market makers,[32] the liquidity of an ETMF's portfolio might have a limited relevance beyond the ETMF's ability to meet redemptions.

2. Liquidity Management by Open-End Funds

Portfolio managers consider a variety of factors in addition to liquidity when constructing a fund's portfolio, including the fund's investment strategies, economic and market trends, portfolio asset credit quality, and tax considerations. Nevertheless, meeting daily redemption obligations is fundamental for open-end funds, and funds must manage liquidity in order to meet these obligations.[33] Several factors influence how liquidity management by open-end funds affects the equitable treatment of investors in a fund, investor incentives, and potentially the orderly operation of the markets when fulfilling redemption obligations.

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[25] *See* Comment Letter of the Investment Company Institute on Exchange-Traded Funds, File No. S7–07–08 (May 19, 2008) (discussing the impact of the inclusion of illiquid assets in an ETF's portfolio). *See also* Comment Letter of The American Stock Exchange LLC on the Concept Release: Actively Managed Exchange-Traded Funds, File No. S7–20–01 (Mar. 5, 2002) (''Ultimately it is in the interest of the sponsor and investment adviser to provide for effective arbitrage opportunities. It is unlikely that an . . . ETF sponsor would be able to convince the critical market participants such as specialists, market makers, arbitragers and other Authorized Participants to support a product that contained illiquid securities to a degree that would affect the liquidity of the ETF, making it difficult to price, trade and hedge, ultimately leading to its failure in the marketplace.'').

[26] ETFs exist today only through exemptive orders issued by the Commission providing relief from a number of provisions of the Investment Company Act, including the requirement that they sell and redeem their individual shares at NAV.

[27] *See* 2015 ETP Request for Comment, *supra* note 11, at n.102 and accompanying text (requesting comment on the trading of exchange-traded product securities that invest in less liquid assets and the effective functioning of the arbitrage mechanism in these products). *See, e.g.,* Comment Letter of BlackRock, Inc. on the 2015 ETP Request for Comment (Aug. 11, 2015) (discussing the arbitrage mechanism with respect to less liquid assets); Comment Letter of KCG Holdings, Inc. on the 2015 ETP Request for Comment (Aug. 17, 2015) (''While ETF pricing closely tracks NAV for most ETFs, certain types of ETFs exhibit less close alignment between ETF prices and NAV. . . Price discovery difficulties in the bond market makes it much more difficult and expensive to perform arbitrage in bond ETFs, and this difficultly may be exacerbated during stressed market environments.''); Comment Letter of State Street Global Advisors on the 2015 ETP Request for Comment (Aug. 17, 2015) (discussing the arbitrage mechanism with respect to fixed-income based ETFs).

[28] *See, e.g.,* Bradley Hope et al., *Stock-Market Tumult Exposes Flaws in Modern Markets,* The Wall Street Journal (Aug. 25, 2015), *available at http://www.wsj.com/articles/stock-market-tumult-exposes-flaws-in-modern-markets-1440547138* (noting that ''[d]ozens of ETFs traded at sharp discounts'' to NAV during a market sell-off, ''leading to outsize losses for investors who entered sell orders at the depth of the panic''). We recognize that not all changes in market liquidity can lead to such extreme results. In many cases of day-to-day price volatility and fluctuations in liquidity, market participants will simply demand greater compensation for purchasing less liquid or more volatile assets. However, declining liquidity can become so acute that market makers and investors begin to refrain from conducting transactions. *See, e.g.,* Carrie Driebusch et al., *The Problem with ETFs*, The Wall Street Journal (Sept. 14, 2015) (stating that the ''trading turmoil of Aug. 24 disrupted the arbitrage activity in which traders buy and sell ETFs and their components to take advantage of price discrepancies.'').

[29] *See, e.g.,* Matthew Tucker & Stephen Laipply, ''Fixed Income ETFs and the Corporate Bond Liquidity Challenge'' (2014), *available at http://www.ishares.com/us/literature/brochure/blackrock-ish-fixed-income-etfs-wp-prd-814.pdf*, at 9 (''It should be noted that, although fixed income ETFs have created an incremental source of bond market liquidity for investors, the ETF structure itself remains dependent on the liquidity of the underlying bond market. ETFs serve as efficient risk transfer vehicles because the value at which they trade is reflective of the value of the underlying bonds held within the ETF. If a true and actionable value discrepancy between the ETF and its underlying bond portfolio develops, market participants can trade one versus the other to take advantage of the arbitrage opportunity. This mechanism is premised upon a functioning OTC bond market that can be accessed to buy and sell the underlying securities. Ultimately, if the underlying bond market liquidity becomes impaired then the ETF creation/redemption process would become impaired as well. In such a scenario the ETF would continue to provide price discovery, but would mechanically begin to function more like a closed-end fund (which is unable to grow or shrink in size in order to balance supply and demand). While ETFs provide liquidity enhancement for the bond market, they remain structurally dependent upon the same market.'').

Market stresses have demonstrated how declines in market liquidity may cause an ETF's shares to trade at a significant premium or discount to the shares of the ETF's underlying portfolio assets. *See, e.g.,* Eleanor Laise, *Risks Lurk for ETF Investors,* The Wall Street Journal (Feb. 1, 2010), *available at http://www.wsj.com/articles/SB10001424052748703837004575012772071656484* (''A lack of liquidity also may cause the ETF to trade at a large premium or discount to net asset value. . . . This means an investor buying the fund may overpay for that portfolio, or an investor selling could get less than that basket of securities is worth.''); Bradley Kay, *Has the ETF Arbitrage Mechanism Failed?,* Morningstar (Mar. 11, 2009), *available at http://news.morningstar.com/articlenet/article.aspx?id=283302* (stating that during periods of market stress, market prices for ETFs may deviate significantly from NAV); ETF Trends, *While Athens Exchange is Closed, the Greece ETF Show Goes On* (July 6, 2015), *available at http://www.etftrends.com/2015/07/while-athens-exchange-is-closed-the-greece-etf-show-goes-on/* (reporting that the Global X FTSE Greece 20 ETF was trading at a significant discount compared to the net asset value of its underlying portfolio assets because of the closure of the Athens Stock Exchange); ETF Trends, *China A-Shares ETFs Trading at Steep Discount to NAV* (July 9, 2015), *available at http://www.etftrends.com/2015/07/china-a-shares-etfs-trading-at-steep-discount-to-nav/* (reporting that U.S.-listed China A-shares ETFs were trading at a steep discount to the underlying market because of the fact that a significant number of companies stopped trading on China's mainland stock exchanges).

[30] When an ETF does permit an authorized participant to redeem in cash, it typically requires the authorized participant to pay a fee covering the costs of the liquidity it receives. *See* BlackRock, Viewpoint, *Fund Structures as Systemic Risk Mitigants* (Sept. 2014), *available at http://www.blackrock.com/corporate/en-us/literature/whitepaper/viewpoint-fund-structures-as-systemic-risk-mitigants-september-2014.pdf* (''BlackRock Fund Structures Paper''), at 7.

[31] However, an ETMF's transferring illiquid instruments to the redeeming authorized participants would likely affect the premium/discount over NAV at which ETMF shares trade. *See* ETMF Notice, *supra* note 15, at n.17.

[32] ETMF market makers would assume no intraday market risk in their ETMF share inventory positions because all trading prices are linked to NAV. *See id.* at paragraphs 13 and 24.

[33] *See supra* note 2.

First, it is important to consider how a mutual fund (or ETF redeeming shares by using significant amounts of cash) meets redemptions. When a fund receives redemption requests from shareholders, and the fund does not have cash on hand to meet those redemptions,[34] the fund has discretion to determine whether to sell portfolio assets to generate cash to meet the redemptions and which assets will be sold, or to obtain cash by other available means such as bank lines of credit.[35] A fund may choose to sell its most liquid assets first. This method of selling is limited to some degree by the investment strategies of the fund, and a fund pursuing this method of meeting redemptions to any significant degree may in the near term need to rebalance its portfolio so that the fund continues to follow its investment strategies.[36] A fund that chooses to sell its most liquid assets to meet fund redemptions may minimize the effect of the redemptions on short-term fund performance for redeeming and remaining shareholders, but may leave remaining shareholders in a potentially less liquid and riskier fund until the fund rebalances.[37] In contrast to meeting redemptions by selling its most liquid assets first, a fund alternatively could choose to meet redemptions by selling, to the best of its ability, a ''strip'' of the fund's portfolio (*i.e.,* a cross-section or representative selection of the fund's portfolio assets).[38] Funds also could choose to meet redemptions by selling a range of assets in between its most liquid, on one end of the spectrum, and a perfect pro rata strip of assets, on the other end of the spectrum. Additionally, funds could choose to opportunistically pare back or eliminate holdings in a particular asset or sector to meet redemptions. As discussed further in section IV.B.2, analysis conducted by staff in the Division of Economic and Risk Analysis (the ''DERA Study'' [39]) suggests that the typical U.S. equity fund appears to sell relatively more liquid assets (as opposed to a strip of the fund's portfolio) to meet redemptions, and that as a fund's liquidity decreases, a fund will become even more likely to sell its relatively more liquid assets (rather than a strip of its portfolio) to meet redemptions (thus resulting in decreased liquidity in the fund's portfolio).

Second, the effect of redemptions on shareholders is determined by how and when those redemptions affect the price of the fund's shares. Under rule 22c–1, all investors who redeem from an open-end fund on any particular day must receive the NAV next calculated by the fund after receipt of such redemption request.[40] As most funds, with the exception of money market funds, only calculate their NAV once a day, this means that redemption requests received during the day receive the end of day NAV, typically calculated as of 4 p.m. Eastern time.[41] When calculating a fund's NAV, however, rule 2a–4 requires funds to reflect changes in holdings of portfolio securities and changes in the number of outstanding shares resulting from distributions, redemptions, and repurchases no later than the first business day following the trade date.[42] We allow this calculation method to provide funds with additional time and flexibility to incorporate last-minute portfolio transactions into their NAV calculations on the business day following the trade date, rather than the trade date.[43] As a practical matter, this calculation method also gives broker-dealers, retirement plan administrators, and other intermediaries additional time to process transactions received by 4 p.m. on the trade date, which then may be reflected in the fund's NAV on the business day following the trade date. Given that under many circumstances reflecting these changes on the trade date would not materially affect the fund's price, we have allowed and continue to allow such changes to be reflected no later than the first business day following the trade date.

Nevertheless, we recognize that trading activity and other changes in portfolio holdings associated with meeting redemptions may occur over multiple business days following the redemption request. Such activities associated with meeting redemptions may include, for example, selling assets and, if the fund's most liquid assets are sold to meet redemptions, rebalancing the portfolio to avoid departing from the fund's investment strategies. If these activities occur (and their associated costs are incurred) in days following redemption requests, the costs of providing liquidity to redeeming investors could be borne at least partially by the remaining investors in the fund, thus potentially diluting the

[34] A fund can have cash on hand to meet redemptions from cash held in the fund's portfolio, cash received from investor purchases of fund shares, interest payments and dividends on portfolio securities, or maturing bonds. *See, e.g.,* Fidelity FSOC Notice Comment Letter, *supra* note 20, at n.17 (''[S]ecurities do not need to be sold every time a redemption order is placed. Sale of fund assets is necessary only when gross redemptions significantly exceed net inflows.'').

[35] *See, e.g., id.,* at 21 (''When facing stressed markets and shareholder redemptions, a portfolio manager must decide whether to: (i) maintain current portfolio composition and sell a cross section of holdings; (ii) meet redemptions with cash and/or index futures if held, with the result being increased concentrations in non-cash positions; or (iii) reposition a portfolio's composition by selling a mixture of holdings and cash and/or index futures, thereby realigning holdings in response to shifting market prices and expectations.'').

A fund could also use a line of credit to meet redemptions instead of selling assets, but using a line of credit leverages the fund, and thus many funds only do so infrequently. *See infra* section III.C.5.a (discussing the extent to which drawing on a credit line to meet redemptions could result in negative impacts on the fund, and providing guidance on borrowing arrangements entered into by funds); *see also* Fidelity FSOC Notice Comment Letter, *supra* note 20, at 21 (''Fully substituting cash liquidation for security sales is a very short-term strategy if redemptions are persistent.''); Comment Letter of Invesco Ltd. on the FSOC Notice (Mar. 25, 2015) (''Invesco FSOC Notice Comment Letter''), at 10 (stating that Invesco portfolio managers do not automatically sell the most liquid assets when there is a need to raise cash for redemptions or other purposes and that they may seek to rebalance portfolios in falling markets in a manner that cushions the impact of redemptions). *But see infra* note 371 (noting that other funds rely on lines of credit more frequently).

A fund also may reserve the right to redeem its shares in kind instead of in cash. However, there are often logistical issues associated with paying in-kind redemptions, which limit the availability of in-kind redemptions under many circumstances. *See infra* section III.C.5.c.

[36] Some mutual funds disclose that they may temporarily depart from their investment strategies in order to take a ''temporary defensive position'' to avoid losses in response to adverse market, economic, political or other conditions. *See* Investment Company Names, Investment Company Act Release No. 24828 (Jan. 17, 2001) [66 FR 8509 (Feb. 1, 2001)] (''Investment Company Names Rule Release'').

[37] *See, e.g.,* Matt Wirz, *Waddell Fund's Sales Leave Investors With Riskier Securities,* The Wall Street Journal (June 16, 2015), *available at http://www.wsj.com/articles/waddell-funds-sales-leave-investors-with-riskier-securities-1434482621* (noting that from July 2014 through June 2015, a high-yield bond fund experienced heavy redemptions that caused its net assets to shrink 33% in this period, and during this same period, the fund's holdings of bonds rated triple-C or below grew to 47% of assets, from 35% before the redemptions).

[38] There are practical limitations on a fund's ability to sell a pro rata slice of its portfolio, such as minimum trade sizes, transfer restrictions, illiquid assets, tax complications from certain sales, and avoidance of odd lot positions.

[39] Paul Hanouna, Jon Novak, Tim Riley, Christof Stahel, ''Liquidity and Flows of U.S. Mutual Funds,'' Division of Economic and Risk Analysis White Paper, September 2015, *available at http://wcm.sec.gov/dera/staff-papers/white-papers/liquidity-white-paper-09-2015.pdf.*

[40] Rule 22c–1(a). *See also supra* note 2.

[41] Commission rules do not require that a fund calculate its NAV at a specific time of day. Rule 22c–1 generally requires that the purchase and redemption of a redeemable security be effected at the current NAV next computed after receipt of a purchase or redemption request. *See* rule 22c–1(a). Current NAV must be computed at least once daily, subject to limited exceptions, Monday through Friday, at the specific time or times set by the board of directors. *See* rule 22c–1(b)(1).

[42] Rule 2a–4(a)(2)–(3).

[43] *See* Adoption of Rule 2a–4 Defining the Term ''Current Net Asset Value'' in Reference to Redeemable Securities Issued by a Registered Investment Company, Investment Company Act Release No. 4105 (Dec. 22, 1964) [29 FR 19100 (Dec. 30, 1964)].

interests of non-redeeming shareholders.[44] The less liquid the fund's portfolio holdings, the greater these liquidity costs can become.[45]

Thus, with respect to redemptions, there can be significant adverse consequences to remaining investors in a fund when it fails to adequately manage liquidity.[46] For example, portfolio assets held by a fund can become increasingly illiquid as its more liquid portfolio assets are sold to meet redemptions and thus could have a compounding effect of causing the fund's entire portfolio to become increasingly illiquid for purposes of meeting future shareholder redemptions, which could adversely affect the fund's risk profile.[47] Furthermore, if a fund finds that it can only sell portfolio assets (or portions of a position in a particular asset) that are less liquid at prices that incorporate a significant discount from fair value, the discounted sale price can materially affect the fund's NAV.[48]

These factors in fund redemptions—either individually or in combination—can create incentives in times of liquidity stress in the markets for early redemptions (or a ''first-mover advantage'').[49] If investor redemptions are motivated by this first-mover advantage,[50] they can lead to increasing levels of redemptions, and as the level of outflows from a fund increases, the incentive to redeem also increases.[51] Regardless of whether investor redemptions are motivated by a first-mover advantage or other factors, there can be significant adverse consequences to remaining investors in a fund when it fails to adequately manage liquidity.[52] This underlines the importance of fund liquidity management for advancing investor protection by reducing the risk that a fund would be unable to meet redemption obligations without materially affecting the fund's NAV.[53]

There also is a potential for adverse effects on the markets when open-end funds fail to adequately manage liquidity. For example, if liquid asset levels are insufficient to meet redemptions, funds may sell less-liquid portfolio assets at discounted or even fire sale prices. These sales can produce significant negative price pressure on those assets and correlated assets. Accordingly, redemptions and funds' liquidity risk management can affect not just the remaining investors in the fund, but any other investors holding these assets. Such liquidity stress on the assets held in the fund may transmit

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[44] *See, e.g.,* Comment Letter of Mutual Fund Directors Forum on the FSOC Notice (Mar. 25, 2015), at 5 (stating that ''there could be severe outlier situations in which sudden and extensive redemptions might impose costs on non-redeeming shareholders, either because of increases in transaction costs associated with selling portfolio securities in stressful circumstances or because portfolio managers are forced to sell securities into falling markets at a price less than what they believe the security's fundamental value to be.''). We note that ETFs either conduct redemptions with authorized participants in kind or, if in cash, typically require the authorized participant to pay a fee covering the costs of the liquidity it receives. *See supra* note 30 and accompanying text. Accordingly, ETFs do not necessarily create the same dilution concerns as mutual funds.

[45] *See* Comment Letter of Nuveen Investments on the FSOC Notice (Mar. 25, 2015) (''Nuveen FSOC Notice Comment Letter''), at 10 (stating that ''to the extent that the prices of portfolio securities do not reflect the most current market conditions, which is more likely to occur with less liquid asset classes in stressed markets, a fund with net redemptions may be paying more to redeeming shareholders than it should (giving such redeemers a 'first mover advantage'), thereby harming remaining shareholders and the long-term performance of the fund'' but noting that there is no evidence that shareholders are actually motivated by this advantage); Comment Letter of Occupy the SEC on the FSOC Notice (Mar. 25, 2015) (''Occupy the SEC FSOC Notice Comment Letter''), at 13 (stating that many funds that hold securities traded over-the-counter cannot observe market prices so they base their NAVs on price estimates and that these ''estimates are surely lagging, particularly in turbulent times'').

[46] *See, e.g.,* Jason Greene & Charles Hodges, *The Dilution Impact of Daily Fund Flows on Open-end Mutual Funds,* 65 J. of Fin. Econ. 131 (2002) (''Greene & Hodges'') (''Active trading of open-end funds has a meaningful economic impact on the returns of passive, nontrading shareholders, particularly in U.S.-based international funds. The overall sample of domestic equity funds shows no dilution impact, but we find an annualized negative impact of 0.48% in international funds (and nearly 1% for a subsample of funds whose daily flows are particularly large).'').

[47] *See, e.g.,* In re Heartland Advisors, Inc., et al., Investment Company Act Release No. 28136 (Jan. 25, 2008) (''Heartland Release'') (settled enforcement action against advisory firm alleging that certain high-yield bond funds experienced liquidity problems (caused in part by adviser's unwillingness to sell bond holdings at prices below which the funds had valued them) and, as a result, the funds borrowed heavily against a line of credit to meet fund redemption requests, and investors redeemed fund shares at prices that benefited redeeming shareholders at the expense of remaining and new investors).

[48] *Id.*

[49] *See, e.g.,* Qi Chen, Itay Goldstein & Wei Jiang, *Payoff Complementarities and Financial Fragility: Evidence from Mutual Fund Outflows,* 97 J. Fin. Econ. 239 (2010), at 240 (''Because mutual funds conduct most of the resulting trades after the day of redemption, most of the costs are not reflected in the NAV paid out to redeeming investors, but rather are borne by the remaining investors. This leads to strategic complementarities—the expectation that other investors will withdraw their money reduces the expected return for staying in the fund and increases the incentive for each individual investor to withdraw as well—and amplifies the damage to the fund.''); Comment Letter of State Street Corporation on the FSOC Notice (Mar. 25, 2015), at 3 (''Anticipation of other investors' activity could be a powerful motivator for selling units by a fund holder, particularly if the structure of the fund was such that continuing investors were concerned in some way of being disadvantaged by earlier generations of exiting investors.''). *But see* Fidelity FSOC Notice Comment Letter, *supra* note 20, at 9–10 (stating that there are several limitations in the Chen, Goldstein, & Jiang academic paper, including that its analysis excluded retirement shares, analyzed only equity and not bond funds, and did not examine recent data (it examined data from 1995 to 2005); Nuveen FSOC Notice Comment Letter, *supra* note 45, at 10 (stating that there is no evidence that shareholders are actually motivated by a first-mover advantage). We also note that any first-mover advantage may be further mitigated in ETFs to the extent that they conduct in-kind redemptions of authorized participants or charge liquidity fees for cash redemptions. *See supra* note 30 and accompanying text.

[50] *See, e.g.,* Comment Letter of BlackRock on the FSOC Notice (Mar. 25, 2015) (''BlackRock FSOC Notice Comment Letter''), at 17 (stating that although incentives to redeem may exist, this does not necessarily imply that investors will in fact redeem *en masse* in times of market stress, but also noting that a well-structured fund ''should seek to avoid features that could create a 'first-mover advantage' in which one investor has an incentive to leave'' before others); Comment Letter of Association of Institutional Investors on the FSOC Notice (Mar. 25, 2015) (''AII FSOC Notice Comment Letter''), at 10–11 (''The empirical evidence of historical redemption activity, even during times of market stress, supports the view that either (i) there are not 'incentives to redeem' that are sufficient to overcome the asset owner's asset allocation decision or (ii) that there are disincentives, such as not triggering a taxable event, that outweigh the hypothesized 'incentives to redeem.' ''); Comment Letter of The Capital Group Companies on the FSOC Notice (Mar. 25, 2015), at 8 (''We also do not believe that the mutualization of fund trading costs creates any first mover advantage.''); ICI FSOC Notice Comment Letter, *supra* note 16, at 7 (''Investor behavior provides evidence that any mutualized trading costs must not be sufficiently large to drive investor flows. We consistently observe that investor outflows are modest and investors continue to purchase shares in most funds even during periods of market stress.'').

[51] *See, e.g.,* Joshua Coval & Erik Stafford, *Asset Fire Sales (and Purchases) in Equity Markets,* 86 J. Fin. Econ. 479 (2007) (''Coval & Stafford'') (''Funds experiencing large outflows tend to decrease existing positions, which creates price pressure in the securities held in common by distressed funds. Similarly, the tendency among funds experiencing large inflows to expand existing positions creates positive price pressure in overlapping holdings. Investors who trade against constrained mutual funds earn significant returns for providing liquidity. In addition, future flow-driven transactions are predictable, creating an incentive to front-run the anticipated forced trades by funds experiencing extreme capital flows.''); Teodor Dyakov & Marno Verbeek, *Front-Running of Mutual Fund Fire-Sales,* 37 J. of Bank. and Fin. 4931 (2013) (''Dyakov & Verbeek'') (''We show that a real-time trading strategy which front-runs the anticipated forced sales by mutual funds experiencing extreme capital outflows generates an alpha of 0.5% per month during the 1990–2010 period . . . Our results suggest that publicly available information of fund flows and holdings exposes mutual funds in distress to predatory trading.''). *See infra* notes 805–809 and accompanying text for a discussion of predatory trading concerns.

[52] *See, e.g.,* Greene & Hodges, *supra* note 46.

[53] *See, e.g.,* Fidelity FSOC Notice Comment Letter, *supra* note 20, at 18 (''Managing liquidity levels to fulfill [a fund adviser's] fiduciary obligations benefits [redeeming and remaining] shareholders as well as the broader financial markets.'').

stress to other funds or portions of the market as well.[54]

In December 2014, the Financial Stability Oversight Council (''FSOC'') issued a notice seeking public comment on the potential risks to the U.S. financial system that may be posed by asset management products and activities in the areas of liquidity and redemptions among others.[55] Although our rulemaking proposal is independent of FSOC, several commenters responding to the FSOC notice discussed issues concerning liquidity and redemptions, and we have considered and cited to the relevant comments throughout the release.[56] As the primary regulator of the U.S. securities markets, we are proposing rules today that focus on mitigating the adverse effects that liquidity risk in funds can have on investors and the fair, efficient and orderly operation of the markets. To the extent there are any potential financial stability risks from poor fund liquidity management,[57] our proposal may mitigate those risks as well.

C. Recent Developments in the Open-End Fund Industry

Recent industry developments have underlined our focus on the importance of liquidity risk management practices in open-end funds. These developments include significant growth in assets of, and shareholder inflows into, open-end funds with fixed income strategies and alternative strategies since 2008 and the evolution of settlement periods and redemption practices utilized by open-end funds. While mutual funds holding U.S. equities continue to make up the largest category of funds in terms of fund assets, their share of the total industry assets has declined from 65.2% in 2000 to 44.5% in 2014.[58] Assets of foreign bond and foreign equity funds have grown during the same period from 11% to 17.4%,[59] and there has been significant growth in fixed income and alternative strategy funds, as discussed below.

1. Fixed Income Funds and Alternative Funds

We have observed significant growth in cash flows into, and assets of, fixed income mutual funds and fixed income ETFs. Assets in these funds grew from $1.5 trillion at the end of 2008 to $3.5 trillion at the end of 2014, with net inflows exceeding $1.3 trillion during that period.[60] As growth in fixed income fund assets was occurring, we increased our focus on fixed income market structure, holding a roundtable focused on the fixed income markets in 2013 and publishing a report on the municipal securities markets in 2012.[61] In addition, both Commissioners and Commission staff have spoken about the need to focus on potential risks relating to the fixed income markets and their underlying liquidity.[62] Commission staff also has focused on the nature of liquidity risk management in fixed income funds, including by selecting fixed income funds as an examination priority in 2014 and 2015.[63]

We also have observed recent growth in alternative mutual funds. Since 2005, the assets of open-end funds with alternative strategies have grown significantly, from approximately $365 million at the end of 2005 to approximately $334 billion at the end of 2014.[64] Although the assets of open-end funds pursuing alternative strategies accounted for a relatively small percentage (approximately 3%) of the mutual fund market as of December 2014, the growth of assets in these funds has been substantial, with asset growth of approximately 58% each year from

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[54] *See, e.g.,* Francis A. Longstaff, *The Subprime Credit Crisis and Contagion in Financial Markets,* 97 J. Fin. Econ. No. 3 436 (2010) (finding that financial contagion during the financial crisis from the subprime asset-backed securities market was propagated to other markets primarily through liquidity and risk-premium channels, rather than through a correlated-information channel); U.S. Presidential Task Force on Market Mechanisms & U.S. Dept. of the Treasury, *Report of the Presidential Task Force on Market Mechanisms* (Jan. 1988), *available at https://archive.org/details/reportofpresiden01unit* (''1987 Market Crash Report''), at III–16—III–26, IV–1—IV–8 (discussing mutual fund selling behavior during the October 1987 stock market crash, and in particular the selling of three mutual fund companies, whose heavy selling of assets to meet significant redemptions ''accounted for approximately one quarter of all trading on the NYSE for the first 30 minutes that the Exchange was open'' on October 19, 1987 and that such selling had ''a significant impact on the downward direction of the market'').

[55] FSOC Notice, *supra* note 16.

[56] Comments submitted in response to the FSOC Notice are available at *http://www.regulations.gov/#!docketDetail;D=FSOC-2014-0001*.

[57] *See, e.g.,* Itay Goldstein, Hao Jiang & David T. Ng, *Investor Flows and Fragility in Corporate Bond Funds,* unpublished working paper (June 25, 2015), *available at http://finance.wharton.upenn.edu/~itayg/Files/bondfunds.pdf* (finding that ''corporate bond funds tend to have more concave flow-performance relationships when they have more illiquid assets and when the overall market illiquidity is high'' and that these results ''point to the possibility of fragility'').

[58] DERA Study, *supra* note 39, at Table 2.

[59] *Id.*

[60] These figures were obtained from staff analysis of Morningstar Direct data, and are based on fund categories defined by Morningstar.

[61] *See* Transcript, Roundtable on Fixed Income Markets (Apr. 16, 2013), *available at https://www.sec.gov/spotlight/fixed-income-markets/2013-04-16-fixed-income-markets-transcript.txt* (discussing, among other topics, liquidity characteristics and risks in the municipal bond and corporate bond markets); Report on the Municipal Securities Market (July 31, 2012), *available at https://www.sec.gov/news/studies/2012/munireport073112.pdf* (discussing, among other topics, the low liquidity, opacity and fragmentation of the municipal securities market).

[62] *See, e.g.,* Chair Mary Jo White, Speech, *Intermediation in the Modern Securities Markets: Putting Technology and Competition to Work for Investors,* (June 20, 2014), *available at http://www.sec.gov/News/Speech/Detail/Speech/1370542122012*; Commissioner Luis A. Aguilar, Speech, *Advocating for Investors Saving for Retirement,* (Feb. 5, 2015), *available at http://www.sec.gov/news/speech/advocating-for-investors-saving-for-retirement.html*; Commissioner Daniel M. Gallagher, Speech, *A Watched Pot Never Boils: the Need for SEC Supervision of Fixed Income Liquidity, Market Structure, and Pension Accounting,* (Mar. 10, 2015), *available at http://www.sec.gov/news/speech/031015-spch-cdmg.html* and *Remarks Regarding the Fixed Income Markets at the Conference on Financial Markets Quality,* (Sept. 19, 2012), *available at http://www.sec.gov/News/Speech/Detail/Speech/1365171491192*; Commissioner Michael S. Piwowar, Speech, *Remarks at the 2014 Municipal Finance Conference presented by The Bond Buyer and Brandeis International Business School,* (Aug. 1, 2014), *available at http://www.sec.gov/News/Speech/Detail/Speech/1370542588006*; Commissioner Kara M. Stein, Speech, *Mutual Funds—The Next 75 Years,* (June 15, 2015), *available at http://www.sec.gov/news/speech/mutual-funds-the-next-75-years-stein.html*; Norm Champ, former Director of the Division of Investment Management, Speech, *Remarks to the ICI 2014 Securities Law Developments Conference,* (Dec. 10, 2014), *available at http://www.sec.gov/News/Speech/Detail/Speech/1370543675348*; IM Guidance Update No. 2014–01, Risk Management in Changing Fixed Income Market Conditions (Jan. 2014), *available at http://www.sec.gov/divisions/investment/guidance/im-guidance-2014-1.pdf* (''2014 Fixed Income Guidance Update'').

[63] *See, e.g.,* 2014 Fixed Income Guidance Update, *supra* note 62; Office of Compliance Inspections and Examinations, National Exam Program 2015 Examination Priorities, *available at http://www.sec.gov/about/offices/ocie/national-examination-program-priorities-2015.pdf* (''National Exam Program 2015 Examination Priorities'') (''With interest rates expected to rise at some point in the future, we will review whether mutual funds with significant exposure to interest rate increases have implemented compliance policies and procedures and investment and trading controls sufficient to ensure that their funds' disclosures are not misleading and that their investments and liquidity profiles are consistent with those disclosures.''); Office of Compliance Inspections and Examinations, National Exam Program 2014 Examination Priorities, *available at http://www.sec.gov/about/offices/ocie/national-examination-program-priorities-2014.pdf* (''The staff will monitor the risks associated with a changing interest rate environment and the impact this may have on bond funds and related disclosures of risks to investors.'').

[64] DERA Study, *supra* note 39, at pp. 7–8. While there is no clear definition of ''alternative'' in the mutual fund space, an alternative mutual fund is generally understood to be a fund whose primary investment strategy falls into one or more of the three following buckets: (i) non-traditional asset classes (for example, currencies or managed futures funds), (ii) non-traditional strategies (such as long/short equity, event driven), and/or (iii) less liquid assets (such as private debt). Their investment strategies often seek to produce positive risk-adjusted returns that are not closely correlated to traditional investments or benchmarks, in contrast to traditional mutual funds that historically have pursued long-only strategies in traditional asset classes.

the end of 2011 to the end of 2014.[65] While growth in alternative mutual funds and ETFs has slowed over the past year, a rising interest rate environment could cause inflows to these funds to increase once again, as investors look to reduce their interest rate risk and/or increase income by investing in alternative strategies.[66]

Unlike alternative mutual funds and ETFs, private funds (such as hedge funds and private equity funds) pursuing similar alternative strategies can invest in portfolio assets that are relatively illiquid without generating the same degree of redemption risk for the fund because investor redemption rights are often limited.[67] In addition, investor expectations of private funds' redemption rights differ from the redemption expectations of typical retail investors in open-end funds. For example, investors in private equity funds typically commit their capital for the life of the fund.[68] Hedge funds often contain ''lock-up'' provisions (in which an investor only can redeem after a specified period of time has elapsed since its initial investment), typically impose limitations on the frequency of redemptions (*e.g.,* allowing redemptions only once a quarter or once a year), and require advance notice periods for redemptions.[69] They also are often able to impose gates, suspensions of redemptions, and side pockets to manage liquidity stress. As a result these funds can, and often do, restrict investor redemption rights as the liquidity of the funds' portfolio assets declines. Data reported on Form PF show that at December 31, 2014, only 16.5% of qualifying hedge funds allowed investors to withdraw *any* of their investment in seven days or less and for almost 60% of reporting qualifying hedge funds, the liquidity of the fund's portfolio was greater than the withdrawal rights provided to investors for all time frames reported on the form.[70] As of that date, 88% of qualifying hedge funds may suspend investor withdrawals and 62% may impose gates on investor withdrawals.[71]

In contrast, alternative strategy mutual funds and ETFs have no such ability to tailor investor redemption rights based on the liquidity profile of the funds' portfolios. Yet some of these funds seek to pursue similar investment strategies as hedge funds and other private funds, while still being bound by the redemption obligations applicable to open-end funds. Accordingly, our staff has been focused on the liquidity of alternative strategy mutual funds and ETFs, the nature of liquidity and redemption risks faced by investors in these funds given their legal right to be paid the proceeds of any redemption request within seven days.[72] The findings in the DERA Study have lent further support to our focus on liquidity risk management practices in this industry segment, as the study found that alternative strategy mutual funds had cash flows that were significantly more volatile than other strategies, indicating that these funds may face higher levels of redemption risk. Volatility in flows places additional importance on liquidity risk management to prevent some of the consequences from a failure to adequately manage liquidity discussed in section II.B.2 above. The proposed rule and rule amendments build off of many of the observations we and our staff have made through efforts examining the growth in funds and ETFs with fixed income strategies and alternative strategies that are discussed below.

2. Evolution of Settlement Periods and Redemption Practices

Practices relating to securities trade settlement periods and the timing of the payment of redemption proceeds to investors also have evolved considerably over the decades since the Commission last addressed liquidity needs in open-end funds.[73] Prior to the adoption of rule 15c6–1 under the Exchange Act in 1993, which established three business days (T+3) as the standard settlement timeframe for broker-dealer trades, there was no federal rule that mandated a specific settlement cycle for securities transactions.[74] Before the adoption of rule 15c6–1, trades settled on a T+5 basis based on industry practice, and the decline in the securities trading settlement period from T+5 to T+3 prompted funds that were sold through broker-dealers to satisfy redemption requests within three business days.[75] In recent years, market participants have explored the possibility of further reducing this T+3 settlement period.[76]

[65] *Id.*

[66] *See, e.g.,* Brian Haskin, *Flows to Liquid Alts Drop in December, End 2014 Up 10%,* DailyAlts.com, (Feb. 16, 2015), *available at http://dailyalts.com/flows-liquid-alts-drop-december-end-2014-10* (''Going into 2014, investors held the view that interest rates would rise and, thus, they looked to reduce interest rate risk and/or increase income with the more flexible non-traditional bond funds. This all came to a halt as interest rates actually declined and flows to the category nearly dried up in the second half. This also impacted market neutral strategies which are often used as a substitute for fixed income portfolios.'').

[67] A private fund is an issuer that would be an investment company, as defined in section 3 of the Investment Company Act, but for the exclusion from the definition of ''investment company'' in section 3(c)(1) or 3(c)(7) of the Act. Section 202(a)(29) of the Investment Advisers Act of 1940 (the ''Investment Advisers Act'').

[68] *See* Comment Letter of Private Equity Growth Capital Council on the FSOC Notice (Mar. 25, 2015).

[69] *See* Comment Letter of Managed Funds Association on the FSOC Notice (Mar. 25, 2015).

[70] Based on data reported in response to questions 32 and 50 of Form PF. Reports filed on Form PF are submitted by advisers registered with the Commission with at least $150 million in private fund assets under management. For a definition of which funds are treated as ''qualifying hedge funds'' for purposes of Form PF that must complete these questions, *see* General Instructions to Form PF, *available at http://www.sec.gov/about/forms/formpf.pdf.*

[71] Based on data reported in response to question 49 of Form PF.

[72] Norm Champ, former Director of the Division of Investment Management, Speech, *Remarks to the Practicing Law Institute, Private Equity Forum,* (June 30, 2014), *available at http://www.sec.gov/News/Speech/Detail/Speech/1370542253660.* (noting that alternative mutual funds should consider setting criteria for assessing the liquidity of a security and consider including those criteria in written policies and procedures for registered fund compliance programs under rule 38a–1 under the Act); National Exam Program 2015 Examination Priorities, *supra* note 63 (''We will continue to assess funds offering alternative investments and using alternative investment strategies, with a particular focus on: (i) leverage, liquidity, and valuation policies and practices; (ii) factors relevant to the adequacy of the funds' internal controls, including staffing, funding, and empowerment of boards, compliance personnel, and back-offices; and (iii) the manner in which such funds are marketed to investors.'').

[73] *See, e.g.,* Invesco FSOC Notice Comment Letter, *supra* note 35, at 14 (noting that it ''was not long ago that equity securities settled on a T+7 basis rather than today's T+3 standard and initiatives are underway to shorten that time to T+2'').

[74] *See* Securities Transactions Settlement, Exchange Act Release No. 33023 (Oct. 6, 1993) [58 FR 52891 (Oct. 13, 1993)] (''Securities Transactions Settlement Release'') (adopting rule 15c6–1 under the Exchange Act).

[75] *See* May 1995 Staff No-Action Letter, *supra* note 21 (noting that funds that are sold through brokers or dealers and that hold portfolio securities that do not settle within three business days ''should assess the mix of their portfolio holdings to determine whether, under normal circumstances, they will be able to facilitate compliance with the T+3 standard by brokers and dealers,'' taking into account the ''percentage of the portfolio that would settle in three days or less, the level of cash reserves, and the availability of lines of credit or interfund lending facilities.'').

[76] *See* PricewaterhouseCoopers LLP (in conjunction with the Depositary Trust Clearing Corporation (''DTCC'') Industry Steering Committee), *Shortening the Settlement Cycle: The Move to T+2* (2015), *available at http://www.ust2.com/pdfs/ssc.pdf*; DTCC, *DTCC Recommends Shortening the U.S. Trade Settlement Cycle* (Apr. 2014), *available at http://www.dtcc.com/~/media/Files/Downloads/WhitePapers/T2-Shortened-Cycle-WP.pdf*; *see also* Recommendation of the Investor Advisory Committee: Shortening the Trade Settlement Cycle in U.S. Financial Markets (Feb. 12, 2015), *available at https://www.sec.gov/spotlight/investor-advisory-committee-2012/settlement-cycle-recommendation-final.pdf. See also* Letter from Mary Jo White, Chair, SEC, to Kenneth E. Bentsen, Jr., President & CEO, Securities Industry and Financial Markets Association, and Paul Schott Stevens, President & CEO, Investment Company Institute (Sept. 16,

We also have observed that some open-end funds disclose in their prospectuses that they generally will satisfy redemption requests in even shorter periods of time than T+3, including on a next-business-day basis.[77]

While standard settlement periods for securities trades in the markets have tended to fall significantly over the last several decades—and investor expectations that redemption proceeds will be paid promptly after redemption requests have risen—settlement periods for other securities held in large amounts by certain funds have not fallen correspondingly. For example, some bank loan funds (an asset class that has grown in recent years)[78] invest substantial amounts of their assets in bank loans and loan participations, which typically have long settlement times compared to other investments.[79] Based on our review of fund filings, many funds that invest in these assets do not consider most of their portfolio holdings to be illiquid and generally represent in their disclosures that they comply with the Commission's current guidelines, which state that an open-end fund should invest no more than 15% of its net assets in ''illiquid'' assets.[80] However, the settlement periods associated with some bank loans and loan participations may extend beyond the period of time the fund would be required to meet shareholder redemptions, creating a potential mismatch between the timing of the receipt of cash upon sale of these assets and the payment of cash for shareholder redemptions.[81]

Overall, the evolution of the market towards shorter settlement periods—and corresponding investor expectations—combined with open-end funds holding certain securities with longer settlement periods have raised concerns for us about whether fund portfolios are sufficiently liquid to support a fund's ability to meet its redemption obligations.

D. Current Regulatory Framework

1. Statutory and Regulatory Requirements

Section 22(e) of the Act provides that no open-end fund shall suspend the right of redemption or postpone the date of payment of redemption proceeds for more than seven days after tender of the security absent specified unusual circumstances.[82] This statutory requirement was enacted ''in response to abusive practices of early open-end companies that claimed that their securities were redeemable, but then instituted barriers to redemption'' to prevent net redemptions or to prevent shareholders from switching to other funds.[83] As previously discussed, in addition to the seven-day redemption requirement in section 22(e), rule 15c6–1 under the Exchange Act also impacts the timing of open-end fund redemptions because the rule requires broker-dealers to settle securities transactions, including transactions in open-end fund shares, within three business days after the trade date. Furthermore, rule 22c–1 under the Act, the ''forward pricing'' rule, requires funds, their principal underwriters, and dealers to sell and redeem fund shares at a price based on the current NAV next computed after receipt of an order to purchase or redeem fund shares, even though fund assets may be sold in subsequent days in order to meet redemption obligations.[84] Thus, there

2015), *available at http://www.sec.gov/divisions/marketreg/chair-white-letter-to-sifma-ici-t2.pdf*; Commissioner Luis A. Aguilar, Public Statement, *The Benefits of Shortening the Securities Settlement Cycle,* (July 16, 2015), *available at http://www.sec.gov/news/statement/benefits-of-shortening-the-securities-settlement-cycle.html*; Commissioner Michael S. Piwowar and Commissioner Kara M. Stein, Public Statement, *Statement Regarding Proposals to Shorten the Trade Settlement Cycle,* (June 29, 2015), *available at http://www.sec.gov/news/statement/statement-on-proposals-to-shorten-the-trade-settlement-cycle.html.*

[77] Disclosures by open-end funds are subject to the antifraud provisions of the federal securities laws. Therefore there may be liability under these provisions if a fund fails to meet redemptions within seven days or any shorter time disclosed in the fund's prospectus or advertising materials. *See* section 17(a) of the Securities Act, section 10(b) of the Exchange Act and rule 10b–5 under the Exchange Act, and section 34(b) of the Exchange Act; *see also* Fidelity FSOC Notice Comment Letter, *supra* note 20, at 6 (''mutual funds normally process redemption requests by the next business day''); Nuveen FSOC Notice Comment Letter, *supra* note 45, at 9 (noting settlement periods for trades of fund portfolio securities as a relevant factor in assessing liquidity risk, particularly with securities that ''do not trade with enforceable settlement rights and tend to settle over longer settlement periods than the T+1 or T+3 periods over which mutual fund share redemptions themselves settle'').

[78] Based on staff analysis of Morningstar Direct Data, net assets of bank loan mutual funds and ETFs grew from $14.6 billion in December 2008 to $123.5 billion in December 2014.

[79] *See, e.g.,* BlackRock, Viewpoint, *Who Owns the Assets? A Closer Look at Bank Loans, High Yield Bonds and Emerging Markets Debt* (Sept. 2014) (''BlackRock, Viewpoint, Who Owns the Assets?''), *available at https://www.blackrock.com/corporate/en-fi/literature/whitepaper/viewpoint-closer-look-selected-asset-classes-sept2014.pdf* (''[T]he settlement periods for bank loans are longer than the settlement periods for fixed income securities such as high yield bonds, which typically settle in three days. This delayed settlement period may cause a potential liquidity mismatch for mutual funds offering daily liquidity, requiring fund managers to ensure that a fund has sufficient liquidity over settlement windows to meet potential redemptions.''); Comment Letter of OppenheimerFunds on the FSOC Notice (Mar. 25, 2015) (''OppenheimerFunds FSOC Notice Comment Letter'') at 3–4 (stating that ''loans still take longer to settle than other securities. Median settlement times for buy-side loan sales are 12 days'' and noting that an ''important tool in managing settlement times is the establishment of a credit line dedicated to bank loan funds.'').

[80] *See infra* note 92 and accompanying text. Under current Commission guidelines, a portfolio security or other asset is considered illiquid if it cannot be sold or disposed of (rather than settled) in the ordinary course of business within seven days at approximately the value at which the fund has valued the investment.

[81] Mutual funds and ETFs investing in foreign securities can also have such settlement mismatches. *See, e.g.,* Investment Company Institute, *Understanding Exchange-Traded Funds: How ETFs Work,* (Sept. 2014), at n.34, *available at https://www.ici.org/pdf/per20-05.pdf* (noting that internationally focused ETFs generally require authorized participants to post collateral ''because the timing of clearing and settlement in another country may not coincide with the T+3 settlement cycle in the United States''). There has been significant growth in emerging market funds since the year 2000. *See infra* note 664 and accompanying text.

[82] Section 22(e) permits open-end funds to suspend redemptions and postpone payment for redemptions already tendered for any period during which the New York Stock Exchange (''NYSE'') is closed (other than customary weekend and holiday closings) and in three additional situations if the Commission has made certain determinations. First, a fund may suspend redemptions for any period during which trading on the NYSE is restricted, as determined by the Commission. Second, a fund may suspend redemptions for any period during which an emergency exists, as determined by the Commission, as a result of which it is not reasonably practicable for the fund to: (i) liquidate its portfolio securities, or (ii) fairly determine the value of its net assets. Third, a fund may suspend redemptions for such other periods as the Commission may by order permit for the protection of fund shareholders. *See also* Letter from Douglas Scheidt, Associate Director and Chief Counsel, Division of Investment Management, SEC, to Craig S. Tyle, General Counsel, Investment Company Institute (Dec. 8, 1999) *available at http://www.sec.gov/divisions/investment/guidance/tyle120899.htm*, at n.2 and accompanying text. The Commission has rarely issued orders permitting the suspension of redemptions for periods of restricted trading or emergency circumstances but has done so on a few occasions. *See, e.g.,* In the Matter of The Reserve Fund, on behalf of two of its series, the Primary Fund and the U.S. Government Fund, Investment Company Act Release No. 28386 (Sept. 22, 2008) [73 FR 55572 (Sept. 25, 2008)]; *see also, e.g.,* In the Matter of Municipal Lease Securities Fund, Inc., Investment Company Act Release No. 17245 (Nov. 29, 1989). Money market funds are able to suspend redemptions in certain limited circumstances. *See* rule 22e–3 under the Act; *see also infra* note 155 and accompanying text.

[83] Periodic Repurchases by Closed-End Management Investment Companies; Redemptions by Open-End Management Investment Companies and Registered Separate Accounts at Periodic Intervals or with Extended Payment, Investment Company Act Release No. 18869 (July 28, 1992) [57 FR 34701 (Aug. 6, 1992)] at nn.16–18 and accompanying text (''Interval Fund Proposing Release'') (citing Investment Trusts and Investment Companies: Hearings on S. 3580 before a Subcomm. of the Senate Comm. on Banking and Currency, 76th Cong., 3d Sess. 291–92 (1940) (statement of David Schenker, Chief Counsel, SEC Investment Trust Study)).

[84] *See supra* notes 41–43 and accompanying text for a discussion of why this calculation method is permitted under rule 22c–1 and rule 2a–4.

are a number of statutory and regulatory provisions that must be considered in assessing a fund's ability to meet redemptions and mitigate potential dilution of shareholders' interests.

With the exception of money market funds subject to rule 2a–7 under the Act, the Commission has not promulgated rules requiring open-end funds to invest in a minimum level of liquid assets.[85] The Commission historically has taken the position that open-end funds should maintain a high degree of portfolio liquidity to ensure that their portfolio securities and other assets can be sold and the proceeds used to satisfy redemptions in a timely manner in order to comply with section 22(e).[86] The Commission also has stated that open-end funds have a ''general responsibility to maintain a level of portfolio liquidity that is appropriate under the circumstances,'' and to engage in ongoing portfolio liquidity monitoring to determine whether an adequate level of portfolio liquidity is being maintained in light of the fund's redemption obligations.[87] As noted in this guidance, a fund experiencing net outflows due to shifts in market sentiment may wish to consider reducing its illiquid asset holdings to maintain adequate liquidity.[88] Similarly, a fund may need to determine whether it is appropriate to take certain actions when it has determined that a previously liquid holding has become illiquid due to changed circumstances.[89]

Open-end funds also are required by rule 38a–1 under the Act to adopt and implement written policies and procedures reasonably designed to prevent violations of the federal securities laws. A fund's compliance policies and procedures should be appropriately tailored to reflect each fund's particular compliance risks.[90] An open-end fund holding a significant portion of its assets in securities with long settlement periods or with infrequent trading, for instance, may be subject to relatively greater liquidity risks than other open-end funds, and should appropriately tailor its policies and procedures to comply with its redemption obligations.[91]

2. 15% Guideline

In addition to the Commission's historical statements regarding the importance of adequate liquidity in open-end fund portfolios pursuant to section 22(e) of the Act, long-standing Commission guidelines generally limit an open-end fund's aggregate holdings of ''illiquid assets'' to 15% of the fund's net assets (the ''15% guideline'').[92] Under the 15% guideline, a portfolio security or other asset is considered illiquid if it cannot be sold or disposed of in the ordinary course of business within seven days at approximately the value at which the fund has valued the investment.[93] The 15% guideline has generally caused funds to limit their exposures to particular types of securities that cannot be sold within seven days and that the Commission and staff have indicated may be illiquid, depending on the facts and circumstances, such as private equity securities, securities purchased in an initial public offering, and certain other privately placed or other restricted securities[94] as well as certain

[85] Under rule 2a–7, money market funds must maintain sufficient liquidity to meet reasonably foreseeable redemptions, generally must invest at least 10% of their portfolios in assets that can provide daily liquidity and at least 30% of their portfolios in assets that can provide weekly liquidity, and may not acquire any illiquid security if, immediately after the acquisition, the money market fund would have invested more than 5% of its total assets in illiquid securities. Rule 2a–7. Additionally, the Commission recently adopted amendments to rule 2a–7 that, among other things: (i) give boards of directors of money market funds discretion to impose a liquidity fee or temporarily suspend the right of redemption if a fund's weekly liquidity level falls below the required regulatory threshold; and (ii) require all non-government money market funds to impose a liquidity fee if the fund's weekly liquidity level falls below a designated threshold of 10%, unless the fund's board determines that imposing such a fee is not in the best interests of the fund. Money Market Fund Reform; Amendments to Form PF, Investment Company Act Release No. 31166 (July 23, 2014) [79 FR 47736 (Aug. 14, 2014)] (''2014 Money Market Fund Reform Adopting Release'').

[86] Statement Regarding ''Restricted Securities,'' Investment Company Act Release No. 5847 (Oct. 21, 1969) [35 FR 19989 (Dec. 31, 1970)] (''Restricted Securities Release'') (''Because open-end companies hold themselves out at all times as being prepared to meet redemptions within seven days, it is essential that such companies maintain a portfolio of investments that enable them to fulfill that obligation. This requires a high degree of liquidity in the assets of open-end companies because the extent of redemption demands or other exigencies are not always predictable.''); Resale of Restricted Securities; Changes to Method of Determining Holding Period of Restricted Securities Under Rules 144 and 145, Investment Company Act Release No. 17452 (Apr. 23, 1990) [55 FR 17933 (Apr. 30, 1990)] (''Rule 144A Release'') (adopting rule 144A under the Securities Act).

[87] Guidelines Release, *supra* note 4, at section I (''[A] mutual fund must compute its net asset value each business day and give purchase and redemption orders the price next computed after receipt of an order. Moreover, most mutual funds allow shareholders easily to exchange their fund shares for shares of another mutual fund managed by the same investment adviser, in transactions which generally can include only nominal costs. Shareholders thus easily may move their money among equity, income, and money market funds as they choose, increasing the need for liquidity of mutual fund assets.''); *see also* Restricted Securities Release, *supra* note 86 (discussing valuation difficulties that may be associated with restricted securities).

[88] Guidelines Release, *supra* note 4.

[89] Rule 144A Release, *supra* note 86, at n.61.

[90] In the rule 38a–1 adopting release, the Commission stated that funds should adopt policies and procedures regarding the pricing of portfolio securities and fund shares. *See* Compliance Programs of Investment Companies and Investment Advisers, Investment Company Act Release No. 26299 (Dec. 17, 2003) [68 FR 74714 (Dec. 24, 2003)] (''Rule 38a–1 Adopting Release'') (''These pricing requirements are critical to ensuring fund shares are purchased and redeemed at fair prices and that shareholder interests are not diluted.''). The Commission also identifies ''portfolio management processes'' as an issue that should be covered in the compliance policies and procedures of a fund or its adviser and indicates that each fund should tailor its policies and procedures to address the fund's particular compliance risks. *See id.,* at n.82 (noting that the chief compliance officer's annual report should discuss the fund's particular compliance risks and any changes that were made to the policies and procedures to address newly identified risks).

[91] *See supra* note 81 and accompanying text.

[92] Guidelines Release, *supra* note 4, at section III. (''If an open-end company holds a material percentage of its assets in securities or other assets for which there is no established market, there may be a question concerning the ability of the fund to make payment within seven days of the date its shares are tendered for redemption. The usual limit on aggregate holdings by an open-end investment company of illiquid assets is 15% of its net assets. An illiquid asset is any asset which may not be sold or disposed of in the ordinary course of business within seven days at approximately the value at which the mutual fund has valued the investment.''). The Guidelines Release modified prior Commission guidance that set a 10% limit on illiquid assets for open-end funds. *See* Restricted Securities Release, *supra* note 86.

While the wording of the Guidelines Release limits *holdings* of illiquid assets above 15% of a fund's net assets, the Guidelines Release cites a prior Commission statement regarding the ''prudent limit on mutual fund holdings of illiquid securities'' that limits a fund from *acquiring* any illiquid asset if, immediately after such acquisition, the fund's holdings of illiquid assets would exceed a certain percentage of the fund's net assets. *See* Guidelines Release, *supra* note 4, at n.8 (citing Restricted Securities Release, *supra* note 86). The latter interpretation (that is, the interpretation that the 15% standard is a limit on the acquisition of illiquid assets, not a limit on the holdings of illiquid assets) is consistent with approaches that Congress and the Commission have historically taken in other parts of the Investment Company Act and the rules thereunder. *See infra* note 348.

[93] Guidelines Release, *supra* note 4; *see also* ETF Proposing Release, *supra* note 9; Valuation of Debt Instruments and Computation of Current Price Per Share by Certain Open-End Investment Companies (Money Market Funds), Investment Company Act Release No. 13380 (July 11, 1983) [48 FR 32555 (July 18, 1983)]; Rule 144A Release, *supra* note 86.

[94] *See* Restricted Securities Release, *supra* note 86. Securities offered pursuant to rule 144A under the Securities Act may be considered liquid depending on certain factors. *See* Rule 144A Release, *supra* note 86. The Commission stated that ''determination of the liquidity of Rule 144A securities in the portfolio of an investment company issuing redeemable securities is a question of fact for the board of directors to determine, based upon the trading markets for the specific security'' and noted that the board should consider the unregistered nature of a rule 144A security as one of the factors it evaluates in determining its liquidity. *Id.* The Division of Investment Management has also stated that an open-end fund's board of directors may determine that an issue of commercial paper in reliance on

instruments or transactions not maturing in seven days or less, including term repurchase agreements.[95] The Commission has not established a set of required factors that must be considered when assessing the liquidity of these or other types of securities, but rather has provided ''examples of factors that would be reasonable for a board of directors to take into account with respect to a rule 144A security (but which would not necessarily be determinative).'' [96] These factors include: the frequency of trades and quotations for the security; the number of dealers willing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades, including the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer.[97]

3. Overview of Current Practices

Over the last two years, Commission staff has had the occasion to observe through a variety of different events the current liquidity risk management practices at a cross-section of different fund complexes with varied investment strategies. The staff has observed that liquidity risk management techniques may vary across funds, including funds within the same fund complex, in light of unique fund characteristics, including, for example, the nature of a fund's investment objectives or strategies, the composition of the fund's investor base, and historical fund flows. These observations collectively have shown the staff that, even with various unique characteristics, many open-end funds and fund complexes have implemented procedures for assessing, classifying, and managing the liquidity of their portfolio assets.[98]

Specifically, some of the funds observed by the staff assess their ability to sell particular assets within various time periods (typically focusing on one-, three-, and/or seven-day periods).[99] In conducting this analysis, these funds may take into account relevant market, trading, and other factors, and monitor whether their initial liquidity determination should be changed based on changed market conditions. This process helps open-end funds determine their ability to meet redemption requests in various market conditions within the disclosed period for payment of redemption proceeds.

Funds observed by the staff that have implemented procedures for assessing and classifying the liquidity of their portfolio assets also often have developed controls to manage fund portfolio liquidity risk and the risk of changing levels of shareholder redemptions, such as holding certain amounts of the fund's portfolio in highly liquid assets, setting minimum cash reserves, and establishing committed back-up lines of credit or interfund lending facilities.[100] A few of the funds observed by staff conduct stress testing relating to the availability of liquid assets to cover possible levels of redemptions.[101] Some of these funds' advisers also have periodic discussions with their boards of directors about how the fund approaches liquidity risk management and what emerging risks they are observing relating to liquidity risk. We have observed that some of the funds with the more thorough liquidity risk management practices have appeared to be able to better meet periods of higher than typical redemptions without significantly altering the risk profile of the fund or materially affecting the fund's performance, and thus with less dilutive impacts.

Conversely, the Commission is concerned that some funds employ liquidity risk management practices that are substantially less rigorous. Some funds observed by the staff do not take different market conditions into account when evaluating portfolio asset liquidity, and do not conduct any ongoing liquidity monitoring. Some funds do not incorporate any independent oversight of fund liquidity risk management outside of the portfolio management process.[102] Staff has observed that some of these funds, when faced with higher than normal redemptions, experienced particularly poor performance compared with their benchmark and some even experienced an adverse change in the fund's risk profile, each of which can increase the risk of investor dilution.

Finally, the Commission learned through staff outreach that many funds treat their risk management process for assessing the liquidity profile of portfolio assets, and the incorporation of market and trading information, as entirely separate from their assessment of assets under the 15% guideline. The former process is typically conducted on an ongoing basis through the fund's risk management function, through the fund's portfolio management function, or through the fund's trading function (or a combination of the foregoing), while assessment of assets under the 15% guideline is more typically conducted upon purchase of an asset through the fund's compliance or ''back-office'' functions, with little indication that information generated from the risk management or trading functions informs the compliance determinations. This functional divide may be a by-product of the limitations of the 15% guideline as a stand-alone method for comprehensive liquidity risk management, a situation that our

section 4(a)(2) of the Securities Act is liquid, even if it may not be resold under rule 144A in certain circumstances. *Merrill Lynch Money Markets Inc.,* SEC Staff No-Action Letter (Jan. 14, 1994).

[95] *See* Interval Fund Proposing Release, *supra* note 83.

[96] *See* Rule 144A Release, *supra* note 86.

[97] *Id.*

[98] There are varying degrees of formality in the adoption and implementation of these procedures.

[99] *See* 2014 Fixed Income Guidance Update, *supra* note 62 (noting that fund advisers ''generally assess overall fund liquidity and funds' ability to meet potential redemptions over a number of periods'' and discussing certain steps that fund advisers may consider taking given potential fixed income market volatility); *see also infra* note 151 and accompanying text.

[100] Press coverage has detailed steps some funds and their advisers have taken to manage liquidity in light of changing market conditions as well. *See, e.g.,* Jessica Toonkel, *Fund Boards, Management Go on High Alert Around Bond Liquidity,* Reuters (Nov. 24, 2014), *available at http://www.reuters.com/article/2014/11/24/us-funds-bondholders-alert-idUSKCN0J80AD20141124* (reporting that investment advisers ''have been testing their funds against various market scenarios, building cushions of cash, shorter-duration bonds and other liquid securities, and regularly discussing risks with their boards''); Katy Burne, *Bond Funds Loan Up on Cash,* The Wall Street Journal (Nov. 30, 2014), *available at http://www.wsj.com/articles/bond-funds-load-up-on-cash-1417394534* (discussing cash buffers and use of certain derivatives to manage liquidity concerns); Cordell Eddings, *Bond Liquidity Risk in $3.5 Trillion Funds Defused by Cash,* Bloomberg (Aug. 18, 2014), *available at http://www.bloomberg.com/news/articles/2014-08-17/bond-liquidity-risk-in-3-5-trillion-funds-defused-by-cash-pile* (discussing cash holdings in U.S. fixed income funds that are at historically significant levels).

[101] *See, e.g.,* Nuveen FSOC Notice Comment Letter, *supra* note 45, at 12 (''We stress test a fund's ability to meet redemptions over a one-month period in a badly stressed market by hypothetically assuming a large increase in net redemptions, cash outflows for derivatives cash collateral and cash outlay requirements imposed by various leverage structures, and comparing the level of cash needed to meet that hypothetical scenario against the amount of cash the fund could reasonably expect to raise from various sources (including selling assets in a hypothetically stressed market or drawing on a credit facility) in that same time frame.''); ICI FSOC Notice Comment Letter, *supra* note 16, at 24 (stating that some asset managers conduct forms of stress testing to determine the impact of certain changes on portfolio liquidity).

[102] *See, e.g.,* BlackRock FSOC Notice Comment Letter, at 6 (stating that among several overarching principles that provide the foundation for a prudent market liquidity risk management framework for collective investment vehicles is having ''a risk management function that is independent from portfolio management, with direct reporting lines to senior leadership and a regular role in communication with the asset manager's board of directors'').

proposed framework is meant to address.[103]

Overall, our staff outreach has increased our understanding of some of the valuable liquidity risk management practices employed by some firms as a matter of prudent risk management. This outreach also has shown us the great diversity in liquidity risk management practices that raises concerns regarding various funds' ability to meet their redemption obligations and minimize the effects of dilution under certain conditions. Collectively, these observations have informed our understanding of the need for an enhanced minimum baseline requirement for fund management of liquidity risk.

E. Rulemaking Proposal Overview

Against this background, today we are proposing a multi-layered set of reforms designed to promote effective liquidity risk management throughout the open-end fund industry and thereby reduce the risk that funds will not be able to meet redemption obligations and mitigate potential dilution of the interests of fund shareholders in accordance with section 22(e) of, and rule 22c–1 under, the Investment Company Act. The proposed amendments also seek to enhance disclosure regarding fund liquidity and redemption practices. In addition, these proposed reforms are intended to address the liquidity-related developments in the open-end fund industry discussed above and are a part of a broader set of initiatives to address the impact of open-end fund investment activities on investors and the financial markets, and the risks associated with the increasingly complex portfolio composition and operations of the asset management industry.[104]

First, we are proposing new rule 22e–4, which would require each registered open-end fund, including open-end ETFs but not including money market funds, to establish a liquidity risk management program. The proposed rule would require a fund's liquidity risk management program to incorporate certain specified elements. One primary element of this program is a new requirement for funds to classify and monitor the liquidity of portfolio assets, reflecting that liquidity may be viewed as falling on a spectrum rather than a binary conclusion that an asset is either ''liquid'' or ''illiquid.'' Another principal feature is a new requirement that funds establish a minimum amount of their assets that would be held in cash and assets that the fund believes are convertible to cash within three business days at a price that does not materially affect the value of that asset immediately prior to the sale.[105] This proposed requirement is aimed at decreasing the likelihood that funds would be unable to meet their redemption obligations and promote effective liquidity risk management industry-wide. We also anticipate that the proposed program requirement would result in investor protection benefits, as improved liquidity risk management could decrease the chance that a fund could meet its redemption obligations only with material effects on the fund's NAV or changes to the fund's risk profile.

Even with improved liquidity risk management, circumstances could arise in which shareholder purchase and redemption activity could dilute the value of existing shareholders' interests in the fund. For this reason, we are also proposing amendments to rule 22c–1 under the Act to permit a fund (except a money market fund or ETF) to use ''swing pricing,'' the process of adjusting a fund's NAV to effectively pass on to purchasing or redeeming shareholders more of the costs stemming from their trading activity. Swing pricing could protect existing shareholders from dilution associated with such purchase and redemption activity and could be another tool to manage liquidity risks. Pooled investment vehicles in certain foreign jurisdictions currently use various forms of swing pricing to mitigate shareholder dilution associated with other shareholders' capital activity, and we believe swing pricing could be an effective tool to assist U.S. registered funds in mitigating potential shareholder dilution.

Finally, we are proposing disclosure- and reporting-related amendments to provide greater transparency with respect to funds' liquidity risks and risk management. Specifically, we are proposing amendments to Form N–1A to require disclosure regarding swing pricing, if applicable, and to improve disclosure regarding how funds meet redemptions of fund shares. We also are proposing amendments to proposed Form N–PORT and proposed Form N–CEN to provide detailed information, both to the Commission and the public, regarding a fund's liquidity-related holdings data and liquidity risk management practices. We note that while these disclosure- and reporting-related amendments are primarily applicable to mutual funds that are not money market funds, as well as ETFs, certain of the proposed amendments are applicable to money market funds as well.

We anticipate that these proposed requirements will facilitate the Commission's risk monitoring efforts by providing greater transparency regarding the liquidity characteristics of fund portfolio holdings, as well as to monitor and assess compliance with rule 22e–4 if adopted. While proposed Form N–PORT and proposed Form N–CEN are primarily designed to assist the Commission, we believe that the proposed requirements also would increase investor understanding of particular funds' liquidity-related risks and redemption policies, which in turn would assist investors in making investment choices that better match their risk tolerances.[106] We note that many investors, particularly institutional investors, as well as academic researchers, financial analysts, and economic research firms, could use the information regarding a fund's liquidity-related holdings data and liquidity risk management practices reported on Form N–PORT to evaluate fund portfolios.[107] Finally, we are

[103] *See infra* section III.C.4 for a discussion of the limitations of the 15% guideline.

[104] Such other initiatives include modernizing investment company reporting and disclosure, addressing the risks of derivatives use, and requiring large investment companies and investment advisers to engage in annual stress tests as required by section 165(i) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act''). *See* Chair Mary Jo White, Speech, *Remarks to the New York Times DealBook Opportunities for Tomorrow Conference* (Dec. 11, 2014), *available at http://www.sec.gov/News/Speech/Detail/Speech/1370543677722*; Investment Company Reporting Modernization, Investment Company Act Release No. 31610 (May 20, 2015) [80 FR 33590 (June 12, 2015)] (''Investment Company Reporting Modernization Release'').

[105] Proposed rule 22e–4(a)(8) defines ''Three-Day Liquid Asset'' to mean ''any cash held by a fund and any position of a fund in an asset (or portion of the fund's position in an asset) that the fund believes is convertible into cash within three business days at a price that does not materially affect the value of that asset immediately prior to sale. In determining whether a position or portion of a position in an asset is a three-day liquid asset, a fund must take into account the factors set forth in paragraph (b)(2)(ii) of this section, to the extent applicable.'' Proposed rule 22e–4(a)(9) defines ''Three-Day Liquid Asset Minimum'' to mean ''the percentage of the fund's net assets to be invested in three-day liquid assets,'' in accordance with rule 22e–4(b)(2)(iv)(A) and (C).

[106] *See, e.g.,* Comment Letter of Markit on the FSOC Notice (Mar. 25, 2015), at 2 (''we believe that liquidity and redemption risk contained in asset management products can be mitigated by providing risk managers or investors of pooled investment vehicles better information about the liquidity risk associated with pool investments so that they can price it more accurately. This could be done through, among other things, disclosures of the 'prudent valuation' (accounting for pricing uncertainty) of the fund's investments and the implementation of appropriate liquidity risk management policies and procedures'').

[107] *See infra* section IV.C.3.

proposing to require that ETFs report on proposed Form N–CEN information regarding any requirement to post collateral by authorized participants that are purchasing or redeeming shares. Such collateral requirements could affect authorized participants' capacity and willingness to serve as authorized participants for ETFs, and, in turn, the effective functioning of the ETF's arbitrage mechanism and the ETF shares trading at a market price that approximates the NAV of the ETF.

III. Discussion

A. Program Requirements and Scope of Proposed Rule 22e–4

Today we are proposing new rule 22e–4 under the Investment Company Act, which would require that each registered open-end management investment company, including open-end ETFs but not including money market funds,[108] establish a written liquidity risk management program. We expect that the proposed rule 22e–4 program requirements would reduce the risk that funds will be unable to timely meet their redemption obligations under section 22(e) of the Investment Company Act and other statutory and regulatory provisions,[109] mitigate potential investor dilution, and provide for more effective liquidity risk management among funds. We believe that this, in turn, would result in significant investor protection benefits and enhance the fair and orderly operation of the markets.[110]

1. Proposed Program Elements

Proposed rule 22e–4 would require each fund to adopt and implement a written liquidity risk management program that is designed to assess and manage the fund's liquidity risk.[111] Under the proposed rule, liquidity risk would be defined as the risk that a fund could not meet requests to redeem shares issued by the fund that are expected under normal conditions, or are reasonably foreseeable under stressed conditions, without materially affecting the fund's net asset value.[112] Proposed rule 22e–4 specifies that a fund's liquidity risk management program shall include the following required program elements: (i) classification, and ongoing review of the classification, of the liquidity of each of the fund's positions in a portfolio asset (or portions of a position in a particular asset); (ii) assessment and periodic review of the fund's liquidity risk; and (iii) management of the fund's liquidity risk, including the investment of a set minimum portion of net assets in assets that the fund believes are convertible to cash within three business days at a price that does not materially affect the value of that asset immediately prior to sale.[113] Proposed rule 22e–4 incorporates specific requirements for each of these program elements, and these requirements are discussed in detail below. A fund may, as it determines appropriate, expand its liquidity risk management procedures and related disclosure concerning liquidity risk beyond the required program elements, and should consider doing so whenever it would be necessary to ensure effective liquidity management. A fund would be required to set and invest a prescribed minimum portion of net assets in assets that are cash or that the fund believes are convertible to cash within three business days at a price that does not materially affect the value of that asset immediately prior to the sale, and also would be required to classify the liquidity of the fund's portfolio positions. In other respects, the proposed program requirements are more principles-based and would permit each fund to tailor its liquidity risk management program to the fund's particular risks and circumstances.

The requirements of proposed rule 22e–4, including the liquidity risk assessment requirements, are applicable to all open-end funds, which term is defined to include each separate series of a registered open-end investment company.[114] Therefore, each series of a fund would be responsible for developing a liquidity risk management program tailored to its own liquidity risk in order to comply with the proposed rule. We anticipate that liquidity risk could differ—sometimes significantly—among the series of an investment company, based on variations in each of the proposed liquidity risk assessment factors required to be considered. Under these circumstances, it would be appropriate for each series' liquidity risk management program to incorporate risk assessment and risk management elements that are distinct from other series' programs. However, to the extent that the series of an investment company are substantially similar in terms of cash flow patterns, investment strategy, portfolio liquidity, and the other factors a fund would be required to consider in assessing its liquidity risk,[115] it may be appropriate for each series to adopt the same or a similar liquidity risk management program.

Proposed rule 22e–4 includes board oversight provisions related to the liquidity risk management program requirement. Specifically, a fund's board would be required to approve the fund's liquidity risk management program, any material changes to the program, and the fund's designation of the fund's investment adviser or officers as responsible for administering the fund's liquidity risk management program (which cannot be solely portfolio managers of the fund).[116] A fund also would be required to disclose certain information about its liquidity risk and risk management in its registration statement,[117] as well as on proposed Forms N–CEN and N–PORT.[118]

2. Scope of Proposed Rule 22e–4 and Related Disclosure and Reporting Requirements

Proposed rule 22e–4, as well as the related disclosure and reporting requirements, would apply to all registered open-end funds (including

[108] Under proposed rule 22e–4(a)(5), ''fund'' means ''an open-end management investment company that is registered or required to register under section 8 of the Act (15 U.S.C. 80a–8) and includes a separate series of such an investment company, but does not include a registered open-end management investment company that is regulated as a money market fund under § 270.2a–7.''

[109] In addition to the seven-day redemption requirement in section 22(e), rule 15c6–1 under the Exchange Act also impacts the timing of open-end fund redemptions because the rule requires broker-dealers to settle securities transactions, including transactions in open-end fund shares, within three business days after the trade date. *See supra* note 21 and accompanying text. Furthermore, funds' redemption obligations are also governed by any disclosure to shareholders that a fund has made about the time within which it will meet redemption requests, as disclosures by open-end funds are subject to the antifraud provisions of the federal securities laws. *See supra* note 77 and accompanying text.

[110] *See infra* section IV.C.1.

[111] Proposed rule 22e–4(b)(1).

[112] Proposed rule 22e–4(a)(7). This definition is similar to the definition of ''liquidity risk'' that the Commission has used in other contexts, modified as appropriate to apply to the specific liquidity needs of investment companies. *See* Financial Responsibility Rules for Broker-Dealers, Exchange Act Release No. 70072 (July 30, 2013) [78 FR 51823 (Aug. 21, 2013)], at n.291 (''Generally, funding liquidity risk is the risk that a firm will not be able to meet cash demands as they become due and asset liquidity risk is the risk that an asset will not be able to be sold quickly at its market value.'').

This proposed definition contemplates that a fund consider both expected requests to redeem, as well as requests to redeem that may not be expected, but are reasonably foreseeable. *See infra* section III.C.

[113] Proposed rule 22e–4(b)(1), (2).

[114] *See* proposed rule 22e–4(a)(5).

[115] *See infra* section III.C.1.

[116] Proposed rule 22e–4(b)(3).

[117] Proposed Items 11(c)(7)–(8) of Form N–1A.

[118] Proposed Items B.7, C.7, and C.13 of proposed Form N–PORT; proposed Item 44 of proposed Form N–CEN.

open-end ETFs) other than money market funds. The liquidity risk management program required under proposed rule 22e–4 would reduce the risk that funds would be unable to meet shareholder redemptions in light of their statutory and regulatory requirements for meeting redemption requests, as well as any disclosure made to investors regarding payment of redemption proceeds, without materially affecting the fund's NAV.[119]

Although we recognize that various fund characteristics, such as a fund's investment strategy, ownership concentration, redemption policies, and other similar factors, could make a fund relatively more prone to liquidity risk,[120] we believe that all registered open-end funds (other than money market funds), not only those whose investment strategies create greater liquidity risk, should fall within the scope of proposed rule 22e–4. While we are not proposing different liquidity risk management program requirements for different types of funds, the proposed rule is designed to result in robust liquidity risk management programs whose scope, and related costs and burdens, are adequately tailored to manage the liquidity risk faced by a particular fund. The proposed rule requires each fund to assess its liquidity risk periodically, after consideration of certain enumerated factors, and to adopt policies and procedures for managing its liquidity risk based on this assessment.[121] For example, a fund whose ownership is relatively concentrated, and that has an investment strategy requiring it to hold a significant portion of unlisted securities that do not trade frequently, would likely establish a different liquidity risk management program than a fund whose portfolio assets consist mostly of exchange-traded securities with a very high average daily trading volume.[122]

We are not proposing to exclude any particular subset of open-end management investment companies other than money market funds from the scope of proposed rule 22e–4, because even funds with investment strategies that historically have entailed relatively little liquidity risk could experience liquidity stresses in certain environments. For example, although most equity securities are generally understood to be more liquid than fixed income securities, investments in certain types of equities involve some degree of liquidity risk.[123] Also, unexpected market events could cause the liquidity of assets that typically are more liquid to decrease.[124] Furthermore, different types of funds within the same broad investment strategy may demonstrate different levels of liquidity (and thus, presumably, different levels of liquidity risk).[125] We are also not proposing to provide different liquidity requirements for relatively small funds because, as discussed in the Economic Analysis section below, smaller funds tend to demonstrate relatively high flow volatility (and thus possibly greater liquidity risk).[126]

Like traditional open-end funds, the Commission believes that open-end ETFs could experience liquidity risk, and thus proposes to include open-end ETFs within the scope of rule 22e–4.[127] As discussed above, the liquidity of an ETF's portfolio securities is a factor that contributes to the effective functioning of the ETF's arbitrage mechanism and the ETF shares trading at a price that is at or close to the NAV of the ETF.[128] In addition, ETFs that permit authorized participants to redeem in cash, rather than in kind, and ETFs that typically redeem in cash, like traditional mutual funds, would need to ensure that they have sufficient portfolio liquidity (in conjunction with any other liquidity sources) to meet shareholder redemptions in cash.[129] And especially in times of declining market liquidity, the liquidity of an ETF may be limited by the liquidity of the market for the ETF's underlying securities.[130] As discussed below, we believe that the liquidity-related concerns relevant to ETFs structured as unit investment trusts (''UITs'') are different from those relevant to open-end ETFs, and thus we are proposing not to include ETFs structured as UITs within the scope of proposed rule 22e–4.[131]

The scope of proposed rule 22e–4 does not include closed-end investment companies (''closed-end funds''). Closed-end funds do not issue redeemable securities and are not subject to section 22(e) of the Investment Company Act.[132] Closed-end funds' liquidity needs are consequently different from those of open-end funds. This has been acknowledged previously by the Commission; for example, the 15% guideline is applicable only to open-end funds and not closed-end funds.[133] Closed-end funds that elect to repurchase their shares at periodic intervals under Investment Company Act rule 23c–3 (''closed-end interval funds'') are subject to certain liquidity standards in order to ensure that they can complete repurchase offers, and must adopt written procedures reasonably designed to ensure that their portfolio assets are sufficiently liquid to

[119] *See supra* notes 18–22 and accompanying text (discussing funds' redemption obligations under section 22(e) of the Investment Company Act (requiring funds to make payment to shareholders for securities tendered for redemption within seven days of their tender), as well as circumstances in which funds must satisfy redemption requests within a period shorter than seven days (because they are sold through broker dealers, which are subject to rule 15c6–1 under the Exchange Act (establishing a three-business day (T+3) settlement period for security trades effected by a broker or a dealer), and/or because they have disclosed to investors that they will meet redemption requests within a period shorter than seven days).

[120] *See infra* section III.C.1.

[121] Proposed rule 22e–4(b)(2)(iii)–(iv).

[122] *See infra* section III.C.1.

[123] For example, certain foreign securities (equities as well as fixed income securities) may entail very long settlement times and trading limitations. *See infra* note 197. Also, certain equity securities, such as microcap equity securities, trade relatively infrequently, which in turn could diminish their liquidity. *See* Securities and Exchange Commission, Office of Investor Education and Advocacy, ''Microcap Stock: A Guide for Investors'', *available at http://www.sec.gov/investor/pubs/microcapstock.htm.*

[124] For example, during the ''Flash Crash'' of October 15, 2014, one of the most volatile trading days since 2008, yield decreases on 10-year Treasuries resulted in certain fixed income market participants turning off automatic pricing on electronic trading platforms on account of fears that the market was moving too quickly for automatic prices to keep up with the market. This, in turn, slowed the pace of trading in U.S. Treasuries, temporarily decreasing their liquidity. *See, e.g.,* Joint Staff Report: The U.S. Treasury Market on October 15, 2014 (July 13, 2015), *available at http://www.treasury.gov/press-center/press-releases/Documents/Joint_Staff_Report_Treasury_10-15-2015.pdf* (''Flash Crash Staff Report'') (report of staff findings from the U.S. Department of the Treasury, the Board of Governors of the Federal Reserve System, the Federal Reserve Bank of New York, the U.S. Securities and Exchange Commission, and the U.S. Commodity Futures Trading Commission discussing in depth, among other things, the strains in liquidity conditions during the events of October 15).

[125] *See infra* note 627 and accompanying text.

[126] *See infra* note 727 and accompanying text.

[127] *See supra* notes 23–30 and accompanying text.

[128] *See supra* notes 25–29 and accompanying text. The Commission's 2015 Request for Comment on Exchange-Traded Products requests comment on the effectiveness and efficiency of the arbitrage mechanism for exchange-traded products (including ETFs) whose portfolio securities are relatively less liquid. *See* 2015 ETP Request for Comment, *supra* note 11, at Question #15.

[129] *See supra* note 30 and accompanying text. Based on the same consideration, we propose to include ETMFs within the scope of rule 22e–4. *See supra* note 31 and accompanying text.

[130] *See supra* note 24 and accompanying text.

[131] *See infra* note 144 and accompanying paragraph. We note that the vast majority of ETFs are organized as open-end funds. *See* ETF Proposing Release, *supra* note 9.

[132] *See* sections 22(e), 2(a)(32) (defining ''redeemable security'') and 5(a)(1)–(2) (defining ''open-end company'' and ''closed-end company'') of the Act.

[133] *See* Guidelines Release, *supra* note 4; *see also* Repurchase Offers by Closed-End Management Investment Companies, Investment Company Act Release No. 19399 (Apr. 7, 1993) [58 FR 19330 (Apr. 14, 1993)] (''Repurchase Offers Release''), at n.7 and accompanying text.

comply with their fundamental policies on repurchases.[134] However, other closed-end funds are subject to no explicit liquidity requirements under the 1940 Act.[135] Because closed-end funds, with the exception of closed-end interval funds, are not subject to specific statutory or regulatory liquidity requirements, we are not proposing to include closed-end funds within the scope of rule 22e–4. Although closed-end interval funds do have to comply with certain liquidity standards and therefore must manage their liquidity risk, we believe that the written liquidity procedures they are required to adopt under rule 23c–3(b)(10)(iii) are adequate given these funds' more limited liquidity needs. Also, because closed-end interval funds do not permit shareholders to redeem their shares each day, they may be better able to structure their portfolios to anticipate their liquidity needs than open-end funds. For these reasons, we are not including these funds within the proposed scope of rule 22e–4.

UITs, including ETFs structured as UITs, also would not be covered within the scope of proposed rule 22e–4. A UIT issues redeemable securities, like a traditional open-end fund, which represent undivided interests in an essentially fixed portfolio of securities.[136] As units of a UIT series[137] are redeemable, UITs are subject to the requirements of section 22(e).[138]

We are not proposing to include UITs within the scope of the proposed rule for a number of reasons. First, we understand based on staff analysis that approximately 75% of the assets held in UITs currently serve as separate account vehicles that are used to fund variable annuity and variable life insurance products.[139] These UITs essentially function as pass-through vehicles, investing principally in securities of one or more open-end investment companies, which as discussed above would be subject to the scope of proposed rule 22e–4.[140] Thus, we believe that the liquidity risk of these UITs would be even more limited if proposed rule 22e–4 were adopted, because their underlying holdings are funds that would be required to adopt their own liquidity risk management programs under the proposed rule.

Second, UITs are not actively managed, and their portfolios are not actively traded. A UIT buys a relatively fixed portfolio of securities, and generally holds them with little change for the life of the UIT.[141] A UIT does not have a board of directors, corporate officers, or an investment adviser to render advice during the life of the trust.[142] Accordingly, the provisions of proposed rule 22e–4, which require a fund's board to approve and oversee a liquidity risk management program and the fund's adviser or officers to administer the program, are thus inapposite to the management structure of a UIT.[143]

Finally, we also are not including UIT ETFs within the scope of proposed rule 22e–4 because UIT ETFs generally track established and widely recognized indices.[144] Moreover, they fully replicate their underlying indices including with respect to their basket assets. Therefore, we do not view a liquidity risk management program as necessary or beneficial for UIT ETFs.

We also propose to exclude from the scope of rule 22e–4 all money market funds subject to the requirements of rule 2a–7 under the Investment Company Act. Money market funds are subject to extensive requirements concerning the liquidity of their portfolio assets. As described below, these requirements are more stringent than the liquidity-related requirements applicable to funds that are not money market funds (and that would be applicable to funds that are not money market funds under proposed rule 22e–4), on account of the historical redemption patterns of money market fund investors and the assets held by money market funds.[145] Rule 2a–7 includes a general portfolio liquidity standard, which requires that each money market fund hold securities that are sufficiently liquid to meet reasonably foreseeable shareholder redemptions in light of its obligations under section 22(e) of the Act and any commitments the fund has made to shareholders.[146] Money market funds are also subject to a specific limitation on the acquisition of illiquid securities. Namely, a money market fund cannot acquire illiquid securities if, immediately after the acquisition, the fund would have invested more than 5% of its total assets in illiquid securities.[147] This limit on illiquid asset holdings is more stringent than the corollary 15% guideline for open-end funds that are not money market funds, which as discussed above, limits a fund's aggregate holdings of illiquid assets to 15% of the fund's net assets.[148] In addition to the 5% limit on money market funds' illiquid asset holdings, all taxable money market funds must invest at least 10% of their total assets in ''daily liquid assets,'' [149] and all money

[134] Specifically, rule 23c–3 requires that: (i) A specified percentage of the investment company's portfolio consists of assets that can be sold or disposed of in the ordinary course of business, at approximately the price at which the investment company has valued the investment, within the period within which the investment company pays repurchase proceeds; and (ii) the investment company's board of directors adopts written procedures reasonably designed, taking into account current market conditions and the company's investment objectives, to ensure that the company's portfolio assets are sufficiently liquid so that the company can comply with its fundamental policy on repurchases. *See* rule 23c–3(b)(10)(i), (iii).

Based on staff analysis, there were 26 closed-end interval funds, representing approximately $5.7 billion in assets, in 2014.

[135] *See* Interval Fund Proposing Release, *supra* note 83, at text following n.35 (''Closed-end companies are not subject to a liquidity standard.'').

[136] Securities and Exchange Commission, Office of Investor Education and Advocacy, Unit Investment Trusts (UITs), *available at http://www.sec.gov/answers/uit.htm* (''UIT Answers'').

[137] UITs typically consist of a number of consecutive series, with each series representing units in a specific, separate portfolio of securities. Unlike traditional open-end investment companies, UITs have no corporate management structure, and their portfolios are not managed.

[138] With respect to UITs that are not ETFs, and that do not serve as separate account vehicles that are used to fund variable annuity and variable life insurance products, sponsors have historically maintained a secondary market in UIT units, rather than having the series liquidate portfolio securities to meet redemptions, because a large number of redemptions could necessitate premature termination of the series. *See* Form N–7 for Registration of Unit Investment Trusts under the Securities Act of 1933 and the Investment Company Act of 1940, Investment Company Act Release No. 15612 (Mar. 9, 1987) [52 FR 8268 (Mar. 17, 1987)] (''Form N–7 Re-Proposing Release''), at text following n.1; *see also* UIT Answers, *supra* note 136.

At present, however, the majority of UIT assets are attributable to separate account vehicles that are used to fund variable annuity and variable life insurance products, and the sponsors of these UITs do not typically maintain a secondary market in UIT units. *See infra* note 139 and accompanying text.

[139] Based on data as of December 2014.

[140] Jeffrey K. Dellinger, The Handbook of Variable Income Annuities 448–450 (2006).

[141] *See* UIT Answers, *supra* note 136.

[142] *See id.* Because of this lack of management, some UIT trust documents provide that its administrator must redeem a pro rata share of the trust's holdings when an investor redeems from a UIT, subject to practical constraints such as securities with transfer restrictions.

[143] *See infra* section III.D.

[144] Based on information from Morningstar as of July 22, 2015, the following ETFs are structured as UITs, and each ETF tracks the index in its name unless otherwise noted: SPDR Dow Jones Industrial Average ETF Trust, SPDR S&P 500 ETF Trust, SPDR S&P Midcap 400 ETF Trust, Invesco Powershares QQQ Trust Series 1 (which tracks the NASDAQ 100 Index), and the Invesco BLDRS Index Funds Trust (which has ETFs tracking the BNY Mellon Asia 50 ADR Index, the BNY Mellon Developed Markets 100 ADR Index, the BNY Mellon Emerging Markets 50 ADR Index, and the BNY Mellon Europe Select ADR Index).

[145] *See infra* notes 722–725 and accompanying text.

[146] Rule 2a–7(d)(4).

[147] Rule 2a–7(d)(4)(i).

[148] *See supra* section II.D.2.

[149] Rule 2a–7(d)(4)(ii).

market funds must invest at least 30% of their total assets in ''weekly liquid assets.'' [150] There is no current or proposed corollary requirement for open-end funds that are not money market funds to invest certain portions of their assets in daily liquid assets or weekly liquid assets.

Money market funds are also subject to liquidity-related disclosure and reporting requirements.[151] These disclosure and reporting requirements do not currently extend to funds that are not money market funds, although under the proposed amendments to Form N–PORT, funds that are not money market funds would be required to report information about each portfolio asset's liquidity classification under rule 22e–4 and whether it is a 15% standard asset.[152]

Money market funds also have certain tools at their disposal to manage heavy redemptions that are not available to other open-end funds.[153] A money market fund is permitted to impose a liquidity fee on redemptions or temporarily suspend redemptions if its weekly liquid assets fall below 30% of its total assets and the fund's board determines that imposing a fee or gate is in the fund's best interests; if a fund's weekly liquid asset falls below 10% of total assets, the fund is required to impose a liquidity fee on redemptions unless the fund's board determines that imposing such a fee would not be in the fund's best interests.[154] Additionally, rule 22e–3 permits a money market fund to suspend redemptions and postpone payment of redemption proceeds in an orderly liquidation of the fund if, subject to other requirements, the fund's board makes certain findings.[155] Because money market funds are required to maintain a liquidity risk management program, we propose that these funds be excluded from the scope of rule 22e–4.

3. Request for Comment

While we request detailed comment on each of the specific elements of proposed rule 22e–4 below, here we request comment on the general program requirement of the proposed rule, as well as the extent to which the proposed program requirement would promote effective liquidity risk management.

- As proposed, rule 22e–4 would require that a fund's liquidity risk management program include certain general elements. Do commenters believe that the general elements of the program would enhance a fund's ability to assess and manage its liquidity risk? Are there any elements that should be excluded from the program requirement, or are there any additional elements that should be included in the program requirement? Should any of the proposed elements be modified? Do commenters believe that the program would enhance funds' management of liquidity risk better than they already do in practice? Do commenters believe that the program would materially strengthen a fund's ability to meet its redemption obligations and would materially reduce potential dilution? Should the rule focus not just on the liquidity of the fund's assets but also more specifically and prominently on its liabilities, such as derivatives obligations, that may affect the liquidity of the fund?
- Should the Commission be more prescriptive in requiring a fund to adopt certain specific policies and procedures for classifying and monitoring the liquidity of portfolio assets, assessing and periodically reviewing liquidity risk, and/or managing the fund's liquidity risk, beyond the proposed requirements of rule 22e–4? If so, what other procedures should the Commission require? Are there operational challenges associated with any of the other procedures the Commission could require? To what extent do funds currently have policies and procedures resembling the proposed program requirements? Have funds' current policies and procedures proven effective at managing liquidity risk, and how have they evolved in recent years? Are these policies and procedures primarily overseen by a fund's chief compliance officer, chief risk officer (if any), or someone else?

We also request comment on the scope of proposed rule 22e–4.

- Do commenters agree that all open-end funds, including open-end ETFs but excluding money market funds, should be subject to the program requirement of the proposed rule? If not, why not? Do commenters agree that the proposed program requirement gives enough flexibility for a fund to adopt a program whose scope, and related costs and benefits, are adequately tailored for that fund to manage its actual and potential liquidity risk?
- Should certain funds or types of funds be excluded from the proposed program requirement, or subject to a different or less stringent requirement, because their investment strategies, ownership concentrations, redemption policies, or some other factor makes them less prone to liquidity risk? If so, which funds or types of funds, and why? Should smaller funds and smaller fund complexes be excluded from the proposed program requirement, or subject to a different or less stringent requirement? Why or why not? How should we distinguish between funds that should be subject to liquidity risk management program requirements and those that should not? Conversely, are there particular types of funds (or investment strategies) that are subject to heightened liquidity risk and should be subject to more prescriptive or stringent requirements under a liquidity risk management program or otherwise? If so, what types of funds should be considered to have higher liquidity risk and why? Can these types of funds be easily categorized or defined? What enhanced liquidity risk management program requirements should be considered for such funds and why? Are there any types of funds (or investment strategies) with such limited liquidity that we should consider limiting their ability to be structured as open-end funds?

[150] Rule 2a–7(d)(4)(iii).

[151] On the compliance date for the disclosure-related money market fund reforms adopted in 2014 (Apr. 14, 2016), money market funds will be required to disclose each day the percentage of their total assets invested in daily liquid assets and weekly liquid assets on their Web sites. *See* rule 2a–7(h)(10)(ii) (a money market fund must maintain a schedule, chart, graph, or other depiction on its Web site showing historical information about its investments in daily liquid assets and weekly liquid assets for the previous six months, and must update this historical information each business day, as of the end of the preceding business day). As of the compliance date, they also will be required to report information about the liquidity of their portfolio securities on Form N–MFP. *See* Form N–MFP Items C.21, C.22, and C.23.

[152] *See infra* section III.G.2; proposed Item C.7 of proposed Form N–PORT (requiring a fund to disclose whether a portfolio investment is a 15% Standard Asset); Form N–MFP Item 44 (requiring a money market fund to disclose whether each portfolio security is an illiquid security).

[153] *See infra* notes 722–725 and accompanying text for a discussion of why we are not proposing a liquidity fee regime similar to that for money market funds for other types of open-end management investment companies.

[154] *See* rule 2a–7(c)(2); *see also* 2014 Money Market Fund Reform Adopting Release, *supra* note 85, at section III.A. The compliance date for the amendments to rule 2a–7 related to liquidity fees and gates is October 14, 2016.

[155] *See* rule 22e–3(a) (permitting a money market fund to permanently suspend redemptions and liquidate if the fund's level of weekly liquid assets falls below 10% of its total assets or, in the case of a fund that is a government money market fund or a retail money market fund, the fund's board determines that the deviation between the fund's amortized cost price per share and its market-based NAV may result in material dilution or other unfair results to investors or existing shareholders); *see also* 2014 Money Market Fund Reform Adopting Release, *supra* note 85, at section III.A.4 (discussing amendments to rule 22e–3 adopted as part of the 2014 money market fund reforms); Division of Investment Management, 2014 Money Market Fund Reform Frequently Asked Questions (Aug. 4, 2015), *available at http://www.sec.gov/divisions/investment/guidance/2014-money-market-fund-reform-frequently-asked-questions.shtml.*

• Do commenters agree that open-end ETFs and ETMFs should be included? If not, why not? Do commenters believe that ETFs and/or ETMFs incur additional liquidity risk if they permit redeeming authorized participants to receive cash, rather than an in-kind basket of securities, in exchange for redeemed shares?

• Should any of the requirements of the proposed rule be modified for ETFs or ETMFs on account of the relief from section 22(e) some of these funds receive under their exemptive orders? Should any of the requirements apply differently when an ETF or an ETMF is organized as a class of an open-end fund or as a feeder fund in a master-feeder structure where other classes or feeder funds operate as traditional mutual funds?

Exemptive orders for ETF relief include provisions that govern the composition of portfolio deposits and redemption baskets. In general, portfolio deposits and redemption baskets must represent pro rata slices of the ETF's portfolio and must be the same for all purchasers and redeemers that transact with the ETF on the same day. In recent years, ETF sponsors have requested increased flexibility in determining the composition of portfolio deposits and redemption baskets.[156]

• We request comments on whether such flexibility would result in favorable or unfavorable changes in how ETFs manage the liquidity of their holdings. For example, would ETFs benefit from reduced cash drag? Would the flexibility enable or encourage ETFs to reduce the overall liquidity of their portfolios or to hold a greater amount of relatively illiquid assets? Does the existing 15% guideline adequately address any concerns regarding liquidity that could result from greater basket flexibility? Would the requirements we are proposing adequately address any concerns regarding liquidity that could result from greater basket flexibility? If not, could other requirements adequately address any concerns?

We request comment on the types of investment products that the Commission proposes not to include, or to specifically exclude, from the scope of proposed rule 22e–4.

• Do commenters agree that closed-end funds, including closed-end interval funds, should not be included within the scope of the proposed rule? Should we make any changes to the liquidity requirements for closed-end interval funds?

• Do commenters agree that UITs should not be included within the proposed rule's scope? Is there any subset of UITs that should be considered for inclusion, if only for some aspects of the rule? Is there a significant risk that UITs (or a certain subset of UITs) may not be able to meet redemption requests? With respect to UITs that are not ETFs, and that do not serve as separate account vehicles that are used to fund variable annuity and variable life insurance products, is it reasonable to expect that UIT sponsors would maintain a secondary market in UIT units to the same extent and in the same manner as they have historically?

• Alternatively, should we require UITs to meet certain minimum liquidity requirements at the time of deposit of the securities, such as requiring a UIT to maintain a prescribed minimum portion of its net assets in assets that it believes are convertible to cash within three business days at a price that does not materially affect the value of that asset immediately prior to the sale? Why or why not? What specific requirements of proposed rule 22e–4 should be modified for UITs to account for the facts that UITs are not actively managed, UITs' portfolios are not actively traded, and UITs do not have a board of directors, corporate officers, or an investment adviser to render advice during the life of the trust?

• Is it appropriate that we include ETFs organized as open-end funds but not ETFs organized as UITs within the rule? Should we exclude from the scope of the rule ETFs organized as open-end funds that, similar to UIT ETFs, fully track established and widely recognized indices? Why or why not? Do commenters believe that ETFs organized as open-end funds would reorganize as UITs in response to the rule? Why or why not?

• Do commenters agree that we should specifically exclude money market funds from the scope of proposed rule 22e–4? Is there any subset of money market funds that should be considered for inclusion, if only for some aspects of the rule?

B. Classifying the Liquidity of a Fund's Portfolio Positions Under Proposed Rule 22e–4

We have not updated the liquidity guidelines applicable to funds and fund portfolio assets in over two decades, and we believe that developments in the fund industry as well as staff observations of funds' current liquidity risk management practices warrant proposing requirements for classifying the liquidity of funds' portfolio positions.[157] We are aware based on staff experience that many fund managers engage in analysis of the liquidity of portfolio assets, beyond considering whether the fund's portfolio construction is consistent with the 15% guideline, and we believe that all open-end funds and their shareholders would benefit from a comprehensive review of the liquidity of funds' portfolio positions. Staff outreach has shown that funds today employ notably different procedures for assessing and classifying the liquidity of their portfolio assets.[158] Some funds have implemented procedures that analyze multiple aspects relating to an asset's liquidity, including relevant market, trading, and asset-specific factors, and monitor whether their initial liquidity determinations should be amended based on changed conditions. While the 15% guideline requires a binary determination of whether an asset is liquid or illiquid, funds with relatively comprehensive liquidity classification procedures tend to view the liquidity of their portfolio assets in terms of a more-liquid to less-liquid spectrum.[159] This ''spectrum''-based approach to liquidity can enhance a fund's ability to construct a portfolio whose liquidity profile is calibrated to reflect the fund's specific liquidity needs. The staff has observed, however, that other funds, including some with relatively less liquid strategies, use liquidity classification practices that are substantially less thorough, do not take relevant factors into account when evaluating portfolio assets' liquidity and do not incorporate ongoing liquidity monitoring. To the extent that these practices result in a fund holding assets that are insufficiently liquid to meet redemptions without materially

[156] *See, e.g.,* Comment Letter of Charles Schwab & Co., Inc. on the 2015 ETP Request for Comment (Aug. 17, 2015) (''At a minimum, we believe it is important that ETF managers have the ability to construct non-pro rata baskets, subject to compliance and board oversight to help identify and address instances where the use of such baskets may conflict with the interests of the ETF and its shareholders.'').

[157] *See supra* section II.D.

[158] *See* 2014 Fixed Income Guidance Update, *supra* note 62; *see also* BlackRock FSOC Notice Comment Letter, *supra* note 50, at 6 (stating that among several overarching principles that provide the foundation for a prudent market liquidity risk management framework for collective investment vehicles is ''[m]easuring or estimating (a) levels of liquid assets with recognition of tiers of liquidity, (b) liquidation time frames''); Invesco FSOC Notice Comment letter, *supra* note 35, at 11 (stating that their liquidity analysis includes classifying certain portfolio holdings in liquidity buckets across a liquidity spectrum, utilizing certain quantitative metrics and qualitative factors).

[159] *See, e.g.,* ICI FSOC Notice Comment Letter, *supra* note 16, at 23 (''While the SEC's 85 percent liquidity test requires binary determinations for each portfolio holding . . ., for broader liquidity management purposes fund managers think of portfolio holdings as falling along a liquidity continuum.'').

affecting the fund's NAV (assuming that the fund must sell portfolio assets to meet redemptions), we believe these practices could adversely affect fund investors—either by decreasing the price that redeeming shareholders will receive for their shares and the price of the shares held by non-redeeming investors, or if the fund sells its most liquid assets to meet redemptions, by potentially increasing the liquidity risk of the fund shares held by non-redeeming shareholders.

Due to the foregoing concerns, we are proposing new requirements for classifying and monitoring the liquidity of funds' portfolio positions. Under proposed rule 22e–4, a fund would be required to classify the liquidity of each of the fund's positions in a portfolio asset (or portions of a position in a particular asset) and review the liquidity classification of each of the fund's portfolio positions on an ongoing basis.[160] In classifying and reviewing the liquidity of portfolio positions, proposed rule 22e–4 would require a fund to consider the number of days within which a fund's position in a portfolio asset (or portions of a position in a particular asset) would be convertible to cash at a price that does not materially affect the value of that asset immediately prior to sale.[161] The proposed rule would require a fund to consider certain specified factors in classifying the liquidity of its portfolio positions.[162]

The proposed liquidity categorization process would be *in addition to* the existing 15% guideline (which would be retained, as discussed below [163]) and would require a fund to assess the liquidity of its portfolio positions individually, as well as the liquidity profile of the fund as a whole. A fund would be able to use this assessment, in turn, to establish procedures for managing its liquidity risk and to determine whether the liquidity of its portfolio reflects its liquidity needs for meeting shareholder redemptions, thus reducing potential dilution of non-redeeming shareholders.[164] As described above, we understand that, in practice, funds apply the 15% guideline to limit the funds' exposures to particular types of securities that generally cannot be sold or sold quickly.[165] Although the 15% guideline involves determining whether an asset can be sold or disposed of within seven days at approximately its stated value, it does not involve a fund considering whether it can actually receive the proceeds of any sale within seven days. The 15% guideline also does not involve a fund taking into account any market or other factors in considering an asset's liquidity,[166] or assessing whether the fund's position size in a particular asset affects the liquidity of that asset. In contrast, the proposed liquidity categorization approach incorporates each of these aspects, which, as discussed further below, we believe are critical to comprehensively assessing the liquidity of a fund's position in a particular portfolio asset.[167] We thus have come to consider the 15% guideline alone to be insufficient to limit a fund's liquidity risk given the fund's obligations to meet shareholder redemptions. We believe the principal benefit of the 15% guideline is to limit the ability of certain highly illiquid strategies, such as private equity, to operate in an open-end fund form.

1. Proposed Relative Liquidity Classification Categories

a. Proposed Classification Requirement

Proposed rule 22e–4(b)(2)(i) would require a fund to classify each of the fund's positions in a portfolio asset (or portions of a position in a particular asset) based on the relative liquidity of the position.[168] For purposes of proposed rule 22e–4, a fund would assess the relative liquidity of each portfolio position based on the number of days within which it is determined, using information obtained after reasonable inquiry, that the fund's position in an asset (or a portion of that asset) would be convertible to cash [169] at a price that does not materially affect the value of that asset immediately prior to sale. That is, the person who classifies the liquidity of each portfolio position [170] must determine—using information obtained after reasonable inquiry—the time period in which the fund would be able to sell the position, at a price that does not materially affect the value of that asset immediately prior to sale, and settle the sale (*i.e.*, receive cash for the sale of the asset). With respect to this determination, the term ''immediately prior to sale'' is meant to reflect that the fund must determine whether the sales price the fund would receive for the asset is reasonably expected to move the price of the asset in the market, independent of other market forces affecting the asset's value. The term ''immediately prior to sale'' is not meant to require a fund to anticipate and determine in advance the precise current market price or fair value of an asset at the moment before the fund would sell the asset. As discussed in more detail below, a fund would be required to consider certain specified market-based, trading, and asset specific factors in determining how long a particular portfolio position would take to convert to cash.[171]

In making this assessment, a fund could determine that different portions of a position in a particular asset could be converted to cash within different times. If a fund were to conclude, based on the liquidity classification factors required to be considered, that it would take the fund longer to convert its entire position in an asset to cash than it would to convert only a portion of that position to cash, it could determine, for example, that 50% of the position could be converted to cash within 1 day, but the remainder of the position could take up to 3 days to convert to cash. Staff outreach has shown that some funds currently consider the liquidity character of their portfolio holdings—particularly relatively large holdings—to be tiered in this manner, with a certain percentage of the holding deemed to be more liquid than the remainder of the holding. Proposed rule 22e–4 would thus specify that a fund would be

[160] Proposed rule 22e–4(b)(2)(i).

[161] *Id.; see also infra* section III.B.1.a.

[162] *See* proposed rule 22e–4(b)(2)(ii); *see also infra* sections III.B.1.a, III.B.2.

[163] *See infra* section III.C.4.

[164] *See generally infra* section III.C (discussing the proposed requirements associated with assessing and managing a fund's liquidity risk); *see also infra* section III.C.1 (discussing the factors a fund would be required to consider in assessing its liquidity risk, that is, the risk that a fund could not meet requests to redeem shares issued by the fund that are expected under normal conditions, or are reasonably foreseeable under stressed conditions, without materially affecting the fund's net asset value).

[165] *See supra* notes 94–97 and accompanying text.

[166] The Commission has, however, discussed factors that would be reasonable for a board of directors to take into account in assessing the liquidity of a rule 144A security (but which would not necessarily be determinative). *See supra* notes 96–97 and accompanying text.

[167] In section III.C.4 below, we discuss the interplay between the 15% guideline as proposed to be codified and the proposed requirement for a fund to invest a set minimum portion of its net assets in three-day liquid assets.

[168] As discussed in detail below, proposed rule 22e–4 would require a fund to assess and manage its liquidity risk, and these risk assessment and risk management requirements would be based in part on the proposed liquidity classification requirement set forth in proposed rule 22e–4(b)(2)(i) and described in this section. *See infra* sections III.C.1, III.C.3. We are also proposing to require that a fund disclose information regarding the liquidity classification of each of the fund's portfolio positions, as determined pursuant to proposed rule 22e–4(b)(2)(i). *See infra* section III.G.2.

[169] *See* proposed rule 22e–4(a)(3) (defining ''convertible to cash'' as ''the ability to be sold, with the sale settled'').

[170] *See infra* section III.D.3 (discussing designation of administrative responsibilities for the liquidity risk management program to the fund's adviser or officers).

[171] These factors are discussed in detail below. *See infra* section III.B.2.

required to adopt policies and procedures for classifying the liquidity of each of the fund's positions in a portfolio asset, *or portions of the fund's position in a particular asset.*[172] In this release, any reference to a fund classifying the liquidity of its position in a particular portfolio asset should be read to also include circumstances in which the fund would classify the liquidity of portions of a position in a particular asset.

Based on its determination of the number of days within which the fund could convert its position in an asset to cash under this standard, the fund would be required to classify each of its positions in a portfolio asset into one of six liquidity categories:

- Convertible to cash within *1 business day.*
- Convertible to cash within *2–3 business days.*
- Convertible to cash within *4–7 calendar days.*[173]
- Convertible to cash within *8–15 calendar days.*
- Convertible to cash within *16–30 calendar days.*
- Convertible to cash in *more than 30 calendar days.*

As discussed below, we anticipate that the proposed liquidity categorization approach would permit a fund to take a more nuanced approach to portfolio construction and liquidity risk management than an approach under which a fund would simply designate portfolio assets as liquid or illiquid. The proposed approach also would provide the framework for detailed reporting and disclosure about the liquidity of funds' portfolio assets in a structured data format, as the six liquidity categories described above would be incorporated into the fund's portfolio holdings reporting on proposed Form N–PORT.[174] In particular, the structured data format would increase the ability of Commission staff, investors, and other potential users to aggregate and analyze the data in a much less labor-intensive manner. This data, in turn, would assist Commission staff in monitoring risks and trends with respect to funds' portfolio liquidity (for example, observing whether portfolio liquidity increases or decreases in response to market events), and would also permit investors to better evaluate the liquidity profile of funds' portfolios and better assess the potential for returns and risks of a particular fund.[175] In addition, the proposed categorization requirement also would provide the foundation for the requirement for a fund to invest a prescribed minimum percentage of its net assets in ''three-day liquid assets'' (that is, any cash held by a fund and any position in an asset, or portion thereof, that the fund believes is convertible to cash within three business days at a price that does not materially affect the value of that asset immediately prior to sale).[176]

The proposed approach would require a fund to assess the liquidity of its entire position in a portfolio asset, or each portion of that position, as opposed to the liquidity of the normal trading lot for that asset. It has been argued that because a fund will not likely need to sell its entire position in a particular asset under normal market circumstances, liquidity determinations should be based on the sale of a single trading lot for that asset, except in unusual circumstances.[177] We agree that the fact that a fund may not be able to convert its entire position in an asset to cash at a price that does not materially affect the value of that asset immediately prior to sale should not, by itself, be dispositive of a portfolio asset's liquidity. Nevertheless, assessing liquidity only on the basis of the ability to sell and receive cash for a single trading lot of a portfolio asset ignores the fact that a fund needing to sell certain assets in order to meet redemptions would almost certainly need to sell greater than one trading lot of a particular asset. In addition, a fund may need to dispose of an entire position because of deteriorating credit quality or other portfolio management factors. Similarly, an index fund may need to sell an entire position in an asset if that asset falls out of the tracked index. The liquidity of the entire position size thus is relevant to the liquidity of the overall portfolio, a fund's ability to meet its stated investment strategy, and a fund's portfolio management.

The proposed categorization approach also is meant to promote more consistent liquidity classification practices within the fund industry. Proposed rule 22e–4 would require a fund to consider certain specified factors, to the extent applicable, with respect to each position in an asset (or similar asset(s), if data concerning a particular portfolio asset is not available to the fund). The proposed rule would specify that this consideration must include certain specified market, trading, and asset-specific factors (each discussed in more detail below), as applicable.[178] We believe that codifying these factors would contribute to more consistency in the quality and breadth of funds' analyses of their portfolio positions' liquidity, while recognizing that funds' portfolios, and the particular assets included within a portfolio, are diverse and that not every factor will be relevant to each liquidity determination. We recognize, and anticipate, that different funds could classify the liquidity of identical portfolio positions differently, depending on their analysis of the factors required to be considered under the proposed rule. There could be multiple appropriate reasons for this, including different information available to funds at different times, and fund-specific reasons for classifying the liquidity of a position in a particular way that are not equally applicable to another fund (for example, in the context of an asset used for hedging or risk mitigation purposes[179]).

Proposed rule 22e–4 does not specify that certain asset classes fall within particular liquidity categories, because we believe that individual funds would be more effective in assessing and reviewing their portfolio positions' liquidity based on an evaluation of market and asset-specific factors, than the Commission would be in determining asset classes' liquidity based on a categorical approach. While we recognize that permitting each fund to determine its own portfolio positions' liquidity would likely result in less consistency in funds' portfolio position liquidity classifications than specifying by rule which asset classes fall into certain liquidity categories, we believe that the proposed approach is preferable to an approach that involves Commission-imposed liquidity classifications of certain asset classes. We are concerned that an approach involving Commission-imposed liquidity classifications would likely result in certain assets' liquidity being overestimated and others' liquidity being underestimated, since we believe that a portfolio position's liquidity character depends on a range of interrelated factors (as discussed

[172] *See* proposed rule 22e–4(b)(2)(i) (emphasis added).

[173] *See infra* text following note 194 (discussing potential overlaps between the 2–3 business day and 4–7 calendar day liquidity classification categories).

[174] *See* proposed Item C.13 of proposed Form N–PORT; *see also infra* section III.G.2.

[175] *See infra* section III.G.2.

[176] *See* proposed rule 22e–4(a)(8); proposed rule 22e–4(b)(2)(iv)(A)–(C); *see also infra* section III.C.3.

[177] *See* Investment Company Institute, *Valuation and Liquidity Issues for Mutual Funds* (Feb. 1997) (''ICI Valuation and Liquidity Issues White Paper''), at 42.

[178] *See* proposed rule 22e–4(b)(2)(ii); *see also infra* section III.B.2.

[179] *See infra* section III.B.2.i.

below).[180] Also, we are concerned that Commission-imposed liquidity classifications would be overly rigid and would be difficult to adjust quickly to reflect changing market conditions.[181] Thus, we believe that this approach would be more likely to provide an inaccurate reflection of an asset's liquidity than the proposed classification approach.

Although we are not proposing an approach that presumes that certain asset classes fall within particular liquidity categories, we note that if a fund is an outlier with respect to its liquidity classifications, Commission staff would be able to identify such outlier classifications based on the fund's position-level liquidity disclosure on Form N–PORT and determine whether further inquiry is appropriate.[182] If Commission staff does determine to examine a fund's liquidity classifications based on the fund's Form N–PORT disclosure, it would be able to examine whether the fund considered the required factors in classifying the liquidity of its portfolio positions. Thus, while the actual liquidity classifications assigned to funds' portfolio positions could vary from fund to fund, the proposed approach provides a regulatory framework that should promote consistency in funds' liquidity classification practices.

The proposed approach to liquidity classification reflects our understanding that many funds evaluate assets' liquidity across a liquidity spectrum, as opposed to making a binary determination of whether an asset is liquid or illiquid. As discussed above, Commission staff outreach to funds has shown us that it is common for funds to treat portfolio assets as relatively liquid or illiquid compared to other portfolio assets, and some funds ''score'' the liquidity of their portfolio holdings based on a variety of factors, including the period of time it takes to convert the holdings to cash, similar to those that we are proposing. We also understand that some third-party service providers currently provide data and analyses assessing the relative liquidity of a fund's portfolio assets.[183]

A nuanced liquidity classification approach has practical benefits in terms of managing liquidity to meet anticipated redemptions. Because we understand based on staff outreach that many funds today consider very few, if any, of their portfolio assets to be holdings limited by the 15% guideline, we believe that the proposed spectrum-based approach to liquidity classification acknowledges the liquidity variation in funds' portfolio positions better than the current framework, in which a fund could consider its entire portfolio (or a significant portion of the portfolio) to be simply ''liquid.'' We believe that this approach would permit a fund to better plan how it would meet redemptions occurring in a day, a week, or some other period, by categorizing asset positions in terms of the respective times in which they could be converted to cash and constructing the fund's portfolio in order to manage its expected and reasonably foreseeable redemptions during these periods. The proposed liquidity classification approach also would enhance a fund's ability to adjust its portfolio composition in anticipation of, or in reaction to, adverse events, or to comply with its investment strategy or mandate.

The proposed approach would provide the framework for reporting and disclosure about the liquidity of funds' portfolio assets that would permit our staff to better monitor liquidity trends and funds' liquidity risk profiles, and also would help investors and other market participants assess funds' relative liquidity. As discussed below, we are proposing amendments to proposed Form N–PORT that would require a fund to indicate the liquidity classification of each of a fund's portfolio positions.[184] Funds are not currently required to disclose information about the liquidity of their portfolio assets, although Item C.7 of Form N–PORT, as proposed earlier this year, would require that each fund report whether each particular portfolio security is an ''illiquid asset'' and defines illiquid assets in terms of current Commission guidelines.[185] Requiring a fund to classify the liquidity of each portfolio position also would facilitate fulsome reporting of a fund's liquidity profile on Form N–PORT. As discussed below, we believe that the proposed N–PORT reporting requirements would permit enhanced Commission monitoring and oversight of the fund industry and would result in investor protection benefits, because we believe the proposed requirements would permit investors (particularly institutional investors), as well as academic researchers, financial analysts, and economic research firms, to use the liquidity-related data reported on Form N–PORT to evaluate fund portfolios and related risks.[186]

The time frames associated with the proposed liquidity categories reflect our understanding of some of the relevant periods that some funds currently consider in assessing the liquidity of a fund's portfolio assets.[187] There are many ways in which identifying portfolio positions that are convertible to cash in one business day or two-to-three business days could enhance a fund's ability to calibrate its liquidity profile in order to manage its expected and reasonably foreseeable redemptions during these periods.[188] For example, if a fund discloses that it will generally pay redemption proceeds within one business day after receiving a shareholder's redemption request (although it may delay payment for seven calendar days, as permitted by section 22(e) of the Investment

[180] *See infra* section III.B.2.

[181] *See, e.g.*, Flash Crash Staff Report, *supra* note 124 (noting that, while ''[t]he U.S. Treasury market is the deepest and most liquid government securities market in the world,'' liquidity conditions in the market for U.S. Treasury securities became ''significantly strained'' during the October 2015 ''Flash Crash'').

[182] *See infra* section III.G.2.

[183] *See infra* note 205 and accompanying paragraph.

[184] *See infra* section III.G.2.a.

[185] *See supra* note 118 and accompanying text; *see also infra* notes 563–565 and accompanying text.

[186] *See infra* sections III.G.2.a; IV.C.3.b.

[187] We note that Question 32 on Form PF requests information regarding the percentage of the reporting fund's portfolio capable of being liquidated within certain time frames. *See supra* note 70 for additional information about Form PF. However, the time frames associated with the liquidity categories in proposed rule 22e–4 are different from those incorporated in Form PF Question 32 on account of the different redemption obligations of registered funds versus private funds, as well as, relatedly, the different liquidity profile of registered funds' portfolio assets (generally) versus private funds' portfolio assets.

[188] With respect to the one-day and two-to-three-day liquidity categories, we are proposing to incorporate a convertible-to-cash time period that is based on business days instead of calendar days, in order to minimize unnecessary re-classifications of portfolio positions that could affect data analyses of a fund's Form N–PORT data reporting regarding these positions. If these two liquidity categories were based on calendar days instead of business days, a portfolio position reported on a Friday might be considered to be convertible to cash within three calendar days (because markets would not be open over the weekend), but the same portfolio position reported on a different weekday would be considered to be convertible to cash within one or two calendar days. This could cause a fund to have to re-classify portfolio positions based on the reporting date, and this re-classification could skew analyses that the Commission staff or other parties conduct using Form N–PORT data. Because the required classification is the most granular in shortest-term liquidity categories, we believe such reporting consistency is particularly important. However, after the one-day and two-to-three-day liquidity categories, we are proposing to switch to a calendar day framework both to tie to the seven calendar day requirement for meeting redemptions under section 22(e) of the Act and because the longer the timeframe is to convert the asset to cash, the more we recognize the timeframe is likely to be a less precise estimate and thus the additional precision from the business day categorization is less likely to be material to the classification.

Company Act), it would be required to identify portfolio assets that, if needed, could be converted to cash within one day. Many funds that do not pay redemption proceeds within a day of receiving a redemption request nevertheless may pay redemption proceeds within a time period shorter than the seven days required by section 22(e). For example, because rule 15c6–1 under the Exchange Act, which became effective in 1995, established three business days as the standard settlement period for securities trades effected by a broker-dealer, this rule effectively requires most funds to pay redemption proceeds within three business days after receiving a redemption request, because a broker or dealer will be involved in the redemption process.[189] Market participants also are exploring further reducing this settlement period from T+3 to T+2, and possibly eventually to T+1.[190] Likewise, even funds that do not disclose that they will pay redemption proceeds within periods shorter than seven days may find it useful to identify portfolio positions that may be converted to cash quickly (*i.e.*, within three business days or shorter) in order to meet unexpected or unusually high redemption requests, or to rebalance or otherwise adjust a portfolio's composition quickly.

Along with identifying positions that may be converted to cash within either one business day or two-to-three business days, we believe that identifying each ''less liquid asset''—that is, any position in an asset (or portion of a position in a particular asset) that is not a three-day liquid asset [191]—would enhance a fund's ability to determine the portion of the fund's portfolio that the fund may not be able to rely on selling to meet redemption requests within the three-day period required by rule 15c6–1 under the Exchange Act, or within some shorter period.[192] Among less liquid assets, some may be convertible to cash in just over three business days, others may not be convertible to cash for a year or more, and still others may fall in between these two extremes. To reflect this, we are proposing four categories of less liquid assets: Positions convertible to cash within four-to-seven calendar days, eight-to-fifteen calendar days, sixteen-to-thirty calendar days, and over-thirty calendar days.[193]

Determining whether a portfolio position is convertible to cash within four-to-seven calendar days would enhance a fund's ability to identify those positions that are not immediately or very quickly convertible to cash (*i.e.*, those positions convertible to cash within one, two, or three business days), but that nevertheless could be converted to cash in a time frame that would permit funds to pay redeeming shareholders within the seven-day period established by section 22(e). For example, for a fund that typically sells its most liquid assets to meet redemptions, the four-to-seven day liquidity category could assist the fund in constructing a second layer of portfolio liquidity to meet redemptions using liquidity within the fund even after it has sold or disposed of its most liquid assets.[194] We anticipate that funds could determine that a variety of securities within different asset classes could be converted to cash within four-to-seven calendar days, depending on facts and circumstances.

We understand that circumstances could arise in which the settlement period for a particular portfolio position could be viewed either as two-to-three business days or four-to-seven calendar days. For example, if a sale were to occur on a Thursday and be settled on a Monday, the settlement period could be viewed either as two business days or four calendar days. Because this could cause ambiguity for reporting purposes,[195] in situations in which the settlement period could be viewed either as two-to-three business days or four-to-seven calendar days, a fund should classify the portfolio position based on the shorter settlement period (*i.e.*, two-to-three business days, not four-to-seven calendar days).[196]

We believe that the eight-to-fifteen calendar day and sixteen-to-thirty calendar day categories of less liquid assets would distinguish a position that is convertible to cash in close to seven calendar days (*i.e.*, close to the required redemption period established by section 22(e)) from one that takes significantly longer (*i.e.*, close to a month) to convert to cash. For example, if a fund were to enter into a period of extended redemptions that it anticipates would last for multiple days, it could begin trying to liquidate eight-to-fifteen day assets in order to plan to meet redemptions that would occur more than a week in the future. The over-thirty calendar day category is meant to identify those portfolio positions that are the least liquid, including those that may have very extended settlement periods.

Assets with settlement periods longer than three business days would be considered less liquid assets. Assets also should be classified under the rule based on typical expected settlement periods for transactions in that asset in the particular jurisdiction, and not based on the prospect of gaining expedited settlement of the purchase or sale upon request. Transactions in certain types of securities have historically entailed lengthy settlement periods. For example, transactions in certain foreign securities,[197] agency mortgage-backed securities (other than secondary market trades),[198] and U.S.

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[189] *See* Securities Transactions Settlement Release, *supra* note 74. In 2004, the Commission issued a concept release seeking input on, among other things, the benefits and costs associated with implementing a settlement cycle for most broker-dealer transactions that is shorter than three days. Concept Release: Securities Transactions Settlement, Investment Company Act Release No. 26384 (Mar. 11, 2004) [69 FR 12922 (Mar. 18, 2004)] (''Securities Transactions Settlement Concept Release'').

Several comments from asset managers received in response to the FSOC Notice noted that, as a practical matter, the three-business-day settlement requirements of rule 15c6–1 effectively take most fund investments to a T+3 settlement timeline. *See, e.g.*, SIFMA IAA FSOC Notice Comment Letter, *supra* note 16, at n.34; Fidelity FSOC Notice Comment Letter, *supra* note 20, at n.20.

[190] *See supra* note 76 and accompanying text.

[191] *See* proposed rule 22e–4(a)(6).

[192] *See infra* notes 333–334 and accompanying text (discussing common reasons why a fund could be required to meet redemption requests within three business days, or within some shorter period).

[193] *See* proposed rule 22e–4(b)(2)(i)(C)–(F).

[194] *See supra* text accompanying and following note 37 (discussing the fact that a fund that sells its most liquid assets to meet redemptions minimizes the effect of the redemptions on short-term fund performance for redeeming and remaining investors, but may leave remaining investors in a potentially less liquid and riskier fund until the fund rebalances).

[195] *See infra* section III.G.2 (discussing proposed Form N–PORT reporting requirements).

[196] *See* proposed note to proposed rule 22e–4(b)(2)(i); *see also supra* note 188.

[197] *See, e.g.*, Comment Letter of the Global Foreign Exchange Division to the European Commission and the European Securities and Markets Authority re: Consistent Regulatory Treatment for Incidental Foreign Exchange (FX) Transactions Related to Foreign Securities Settlement—''FX Security Conversions'' (Mar. 25, 2014), *available at http://www.gfma.org/Initiatives/Foreign-Exchange-(FX)/GFMA-Submits-Comments-to-the-EC-and-the-ESMA-on-Consistent-Regulatory-Treatment-for-Incidental-Foreign-Exchange-Transactions/* (''Typically, the settlement cycle for most non-EUR denominated securities is trade date plus three days ('T+3'). Accordingly, the bank custodian or broker-dealer would enter into a FX transaction on a T+3 basis as well. In some securities markets, for example in South Africa, the settlement cycle can take up to seven days (T+7).'').

[198] *See, e.g.*, James Vickery & Joshua Wright, *TBA Trading and Liquidity in the Agency MBS Market*, 19 FRBNY Econ. Policy Review 1 (May 2013), *available at http://www.newyorkfed.org/research/epr/2013/1212vick.pdf* (noting that over ninety percent of agency mortgage-backed securities trading occurs in the to-be-announced (''TBA'') forward market, and that the trade date of a TBA trade will usually precede settlement by between two and sixty days).

bank loan participations [199] typically require settlement periods of more than three business days. An asset having a shorter settlement period could also be considered to be a less liquid asset, however, if a fund were to determine, based on the factors required to be assessed under the proposed rule, that it could not sell its position in the asset and settle the sale (at a price that does not materially affect the value of that asset immediately prior to sale) within three business days.

b. Request for Comment

We request comment on the proposed requirements for classifying the relative liquidity of a fund's portfolio positions.

- What procedures or practices do funds currently use to assess and classify the liquidity of portfolio assets? Have these procedures proven effective in the past? If not, under what circumstances were they ineffective, and why? Have funds modified their procedures for assessing and classifying liquidity in recent years to account for changes in market structure and the advent of new types of market participants? If so, how? Who at the fund and/or the adviser is tasked with assessing the liquidity of the funds' portfolio assets? Are any third-party service providers used in assessing portfolio assets' liquidity, and if so, how are such service providers used and what are the costs associated with their services? Would the proposed requirements require funds to make systems modifications and what costs would be associated with any potential system modifications? What would the associated costs and other burdens be for funds to assess and classify the liquidity of portfolio assets?
- Do commenters agree that it would be useful for a fund to consider portfolio positions' liquidity in terms of a spectrum instead of a binary determination that an asset is liquid or illiquid, and do funds currently consider the relative liquidity of portfolio assets by classifying assets (either explicitly or informally) into multiple liquidity categories? If so, what categories are used, and why? Alternatively, should we define the term ''illiquid assets?'' Why or why not? If so, how should we define it?
- Do funds currently consider the period in which a fund's position in an asset can be converted into cash (that is, sold, with the sale settled) in assessing and classifying the liquidity of portfolio assets? Do commenters agree that it would be useful for a fund to assess the liquidity of its entire position in a portfolio asset, or portions of a position in a particular asset, as opposed to the liquidity of a single trading lot of a portfolio asset held by the fund? Do funds currently consider the ability to sell varying portions of a fund's position in a portfolio asset (fractions of the position, as well as the entire position) in assessing that asset's liquidity?
- What assumptions, estimations, and judgments would funds need to make in order to determine liquidity classifications, and how would these assumptions, estimations, and judgments affect the comparability of reporting across funds? Are there concerns, such as proprietary or liability concerns, associated with reporting liquidity classifications based on such assumptions, estimations, and judgments?
- The proposed rule would require a fund to determine, using information obtained after reasonable inquiry, the number of days within which a fund's position in a portfolio asset (or portion of a position in a particular asset) would be convertible to cash at a price that does not materially affect the value of that asset immediately prior to sale. Do commenters believe that the terms ''information obtained using reasonably inquiry,'' ''at a price that does not materially affect the value of that asset,'' and ''immediately prior to sale'' are sufficiently clear? If not, how could they be made clearer?
- Do the proposed liquidity categories reflect the manner in which funds currently assess and categorize the liquidity of their portfolio holdings as part of their portfolio and risk management? Should we increase or decrease the number of liquidity categories to which a fund might assign a portfolio position? For example, should we combine the last three liquidity categories (convertible to cash within 8–15, 16–30, or in more than 30 calendar days) into one liquidity classification category (*e.g.,* ''convertible to cash in more than 7 calendar days'')? Why or why not? Should we add one or more liquidity categories outside of the more than 30 calendar day time period (*e.g.,* ''convertible to cash in more than 90 calendar days'')? Why or why not? Should we revise the time periods associated with any of the proposed liquidity categories? Alternatively, should we permit a fund to classify the liquidity of its portfolio securities based not on conversion-to-cash time periods specified by the Commission, but instead based on conversion-to-cash time periods that the fund determines to be appropriate (taking into account the fund's redemption obligations)? Would such an approach diminish comparability in funds' reporting of their liquidity assessment on proposed Form N–PORT, discussed below?
- Regarding the proposed liquidity categories that would be associated with less liquid assets, is there any reason why an asset with a settlement period longer than three business days should not be deemed to be a less liquid asset? What types of funds would be largely composed of assets that would be considered less liquid assets under proposed rule 22e–4?
- To what extent do commenters anticipate that assets in the eight-to-fifteen calendar days, sixteen-to-thirty calendar days, and over-thirty calendar days classification categories under the proposed rule overlap with assets that funds currently consider to be limited by the 15% guideline?
- Are the proposed liquidity categories appropriate for ETFs and ETMFs? Should ETFs and ETMFs that transact primarily in kind be permitted to have different liquidity categories? If so, what categories and why?
- Should smaller funds or funds pursuing particular types of investment strategies be permitted to have different liquidity categories? If so, how should we define those subsets of funds?
- Should we use business days or calendar days for all the liquidity classification categories, rather than using business days in the shorter categories, but calendar days for the longer categories? If we used calendar days for all the categories, how could we avoid changes in asset classification based on whether the asset was held near a weekend? In addition, if we used calendar days, how could we obtain information on which assets could be converted to cash within the three business day requirement in rule 15c6–1? If we used business days for all categories, how could we obtain information on which assets could be converted to cash within the seven calendar day (as opposed to business day) requirement for payment of redemption proceeds under section 22(e) of the Act?

2. Factors To Consider in Classifying the Liquidity of a Portfolio Position

Staff outreach to the fund industry has highlighted certain common factors

[199] *See, e.g.*, BlackRock, Viewpoint, Who Owns the Assets, *supra* note 79; Michael Mackenzie & Tracy Alloway, *Lengthy US loan settlements prompt liquidity fears*, Fin. Times (May 1, 2014) *available at http://www.ft.com/intl/cms/s/0/32181cb6-d096-11e3-9a81-00144feabdc0.html*; OppenheimerFunds FSOC Notice Comment Letter, *supra* note 79, at 3–4 (stating that ''loans still take longer to settle than other securities. Median settlement times for buy-side loan sales are 12 days'' and noting that an ''important tool in managing settlement times is the establishment of a credit line dedicated to bank loan funds.'').

that some funds use in evaluating portfolio assets' liquidity. Specifically, the most comprehensive liquidity analyses take into account relevant market-based, trading, and asset-specific factors in assessing a fund's ability to convert a position in a portfolio asset (or portions of a position in a particular asset) to cash at approximately its stated value during current market conditions. The Commission has previously provided examples of factors that would be reasonable for a board of directors to consider in assessing the liquidity of a rule 144A security,[200] and outreach has shown that certain funds reference these factors when considering the liquidity of all portfolio assets (not just rule 144A securities). Other funds, however, classify the liquidity of their portfolio assets using substantially less thorough practices (*e.g.,* assuming, without individualized analysis, that certain asset classes are always liquid or always illiquid). As discussed above, we believe that a nuanced classification approach may have practical benefits in improving how funds manage liquidity to meet anticipated redemptions.[201]

Proposed rule 22e–4(b)(2)(ii) would require a fund to take the following factors into account, to the extent applicable, when classifying the liquidity of each portfolio position in a particular asset:

- Existence of an active market for the asset, including whether the asset is listed on an exchange, as well as the number, diversity, and quality of market participants;
- Frequency of trades or quotes for the asset and average daily trading volume of the asset (regardless of whether the asset is a security traded on an exchange);
- Volatility of trading prices for the asset;
- Bid-ask spreads for the asset;
- Whether the asset has a relatively standardized and simple structure;
- For fixed income securities, maturity and date of issue;
- Restrictions on trading of the asset and limitations on transfer of the asset;
- The size of the fund's position in the asset relative to the asset's average daily trading volume and, as applicable, the number of units of the asset outstanding; and
- Relationship of the asset to another portfolio asset.

These factors are based on those certain investment advisers consider when systematically evaluating the liquidity of portfolio assets.[202] We are proposing to require that all funds take into account these factors, as applicable, to encourage effective liquidity assessment across the fund industry. This list is not meant to be exhaustive. We recognize that the specific factors appropriate for consideration could vary depending on the issuer and the particular asset, and therefore an evaluation of a particular portfolio position's liquidity could focus more heavily on certain factors and less on others. In evaluating the liquidity of its portfolio positions, a fund could also take into account other pertinent factors in addition to those set forth in proposed rule 22e–4(b)(2)(ii). However, a fund would be required to consider, as applicable, the proposed rule 22e–4(b)(2)(ii) factors as a minimum set of considerations to be used in classifying the liquidity of each portfolio position.

If a fund lacks pertinent information about a portfolio asset, the fund would be required to consider the proposed rule 22e–4(b)(2)(ii) factors as applied to similar assets (for purposes of this release, ''comparable assets'').[203] For example, if a fund has never before invested in a particular asset—particularly, an asset that does not trade frequently and for which market data is not generally available or is of low quality—the fund could estimate the time it would take to convert the asset to cash if better market data were available for comparable assets (for example, as applicable, assets that are similar in terms of duration, credit quality, bid-ask spread, and/or maturity). Under these circumstances, a fund would be required to evaluate all applicable 22e–4(b)(2)(ii) factors with respect to the comparable assets. If data concerning a portfolio asset (as opposed to the comparable assets) were to become available to a fund, we would expect that a fund would assess, as part of its ongoing review of the liquidity classifications assigned to each portfolio position, whether the liquidity classification given to the portfolio asset is appropriate in light of newly available data.[204]

We understand that some third-party service providers currently provide data and analyses assessing the relative liquidity of a fund's portfolio assets,[205] and we believe that a fund could also appropriately use this type of data to inform or supplement its consideration of the proposed liquidity classification factors. However, before doing so, a fund should consider having the person(s) at the fund or investment adviser tasked with administering the fund's liquidity risk management program review the quality of the data received from third parties, as well as the particular methodologies used and metrics analyzed by third parties, to determine whether this data would effectively inform or supplement the fund's consideration of the proposed liquidity classification factors. This review could include an assessment of whether modifications to an ''off-the–shelf'' product are necessary to accurately reflect the liquidity characteristics of the fund's portfolio holdings.

In the following sections, we discuss each of the proposed liquidity classification factors and provide guidance on specific issues associated with each of these factors that a fund may wish to consider in evaluating the liquidity of its portfolio positions.

a. Existence of Active Market, Including Whether the Asset Is Listed on an Exchange, and the Number, Diversity, and Quality of Market Participants

Under proposed rule 22e–4(b)(2)(ii)(A), a fund would be required to consider, to the extent applicable, the existence of an active market for the asset, including whether the asset is listed on an exchange, as well as the number, diversity, and quality of market participants.

The manner in which a fund may sell a particular portfolio asset, including whether an asset is listed on an exchange, can affect that asset's liquidity. While in general, being listed on a developed and recognized exchange increases an asset's liquidity,[206] the fact that an asset is

[200] *See supra* note 96 and accompanying text.

[201] *See supra* paragraphs accompanying note 178 and following note 183.

[202] *See, e.g.,* ICI FSOC Notice Comment Letter, *supra* note 16, at 23 (''Specific information that may contribute further to the manager's view of an asset's liquidity may include: (i) assessments of bid-ask spreads, volumes, depth of secondary market for the asset, information from pricing vendors, and other data; (ii) deliberations among portfolio managers and traders regarding valuation and liquidity; (iii) analysis of the capital structure and credit quality of the asset/holding; (iv) the ''newness'' of a bond issue (newer issues tend to be more liquid); and (v) liquidity data provided by third parties. Some fund managers assign ''liquidity scores'' to particular holdings based on these types of factors.'').

[203] *See* proposed rule 22e–4(b)(2)(ii).

[204] *See infra* section III.B.3.a.

[205] These third-party vendors may, for example, create liquidity scores for a fund's portfolio assets based on factors such as duration, rating, bid-ask spreads, and instrument maturity, and provide models that reflect how an asset's liquidity may be affected by different market conditions.

[206] *See, e.g.,* Basel Committee on Banking Supervision, *Basel III: The Liquidity Coverage Ratio and Liquidity Risk Monitoring Tools* (Jan. 2013), at part 1, section II.A.1, *available at http://www.bis.org/publ/bcbs238.pdf*; *see also* Nuveen

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exchange-traded does not necessarily mean that a fund would be able to convert that asset to cash within a relatively short period. For example, a small-cap equity stock might be listed on an exchange but trade quite infrequently, which would tend to decrease its relative liquidity. Conversely, certain securities that are traditionally traded in over-the-counter (''OTC'') markets, such as corporate bonds, could be considered more liquid if, for instance, they are frequently traded and there are generally a substantial number of bids to purchase the security. As an extreme example, short-term securities issued (or guaranteed as to principal and interest) by the U.S. government do not trade on exchanges, but are typically considered to be quite liquid.[207]

The means of trading a portfolio asset can affect its liquidity regardless of whether the asset is a security traded on an exchange. For example, whether an asset is traded in a bilateral transaction with a single dealer, or through an electronic auction mechanism whereby a trader can simultaneously contact multiple counterparties, can have different effects on that asset's liquidity.[208] The choice of trading mechanism may have different liquidity effects depending on the asset being traded and other market conditions, and therefore it is difficult to make general statements regarding the correlation between a particular trading mechanism and the liquidity of the asset being traded. However, a fund should consider past experience in using different trading mechanisms to sell a particular asset (or similar assets), when assessing the liquidity of a portfolio position in that asset.

In addition, there are multiple considerations that a fund could assess in evaluating the diversity and quality of market participants for a particular asset. A fund may wish to consider the number of market makers on both the buying and selling sides of transactions. A fund also may consider the quality of market participants who purchase and sell units of a particular portfolio asset, and may wish to assess, in particular: The market participant's capitalization; the reliability of the market participant's trading platform(s); and the market participant's experience and reputation transacting in various types of assets. We believe that the diversity and quality of market participants are meaningful in assessing a portfolio position's liquidity because the most liquid assets tend to have active sale or repurchase markets at all times with diverse market participants.[209] The presence of multiple market makers may be a sign that a market is liquid.[210] Diversity of market participants, on both the buying and selling sides of transactions, is also an important factor for a fund to consider because it tends to reduce market concentration and may facilitate a market remaining liquid during periods of stress.[211]

b. Frequency of Trades or Quotes and Average Daily Trading Volume

Proposed rule 22e–4(b)(2)(ii)(B) would require a fund to consider the frequency of trades and quotes for a particular asset in evaluating the liquidity of a portfolio position in that asset, as well as the asset's average daily trading volume, regardless of whether the asset is a security traded on an exchange.

In general, the greater the frequency of trades for an asset (and, relatedly, the greater the frequency of bid and ask quotes for that asset), the more liquid that asset is. However, this is not a perfect or complete measure, and trade size also should be considered in assessing the relationship between trade frequency and liquidity. For example, 100 trades at $100 might or might not signify greater liquidity than 50 trades at $200, although they are likely to suggest better liquidity than one trade at $10,000.[212] In evaluating the frequency of trades (and bid and ask quotes) for an asset, a fund should generally consider, among other relevant factors, the number of dealers quoting prices for that asset, the number of other potential purchasers and sellers, and dealer undertakings to make a market in the asset.

High average trading volume also tends to be correlated with greater liquidity. In general, the greater the average daily trading volume for a particular portfolio asset, the deeper the market, and the more likely it is that a fund would be able to convert its position to cash at a price that does not materially affect the value of that asset immediately prior to sale.[213] A fund

FSOC Notice Comment Letter, *supra* note 45, at 9 (''While securities that trade on exchanges. . . . or in deep principal/over-the–counter (''OTC'') markets (*e.g.,* U.S. Treasuries) are generally liquid even in stressed markets, other securities that trade on an OTC basis. . . . have faced increasing liquidity challenges in normal markets and can be subject to insufficient quality bids in times of stress as market makers pull back their capital. This can make it not only more difficult to sell these securities, but also to accurately value those assets that are retained.'').

[207] *See* rule 15c3–1(c)(2)(vi)(A)(*1*) under the Exchange Act (describing securities haircuts for securities issued or guaranteed as to principal or interest by the United States or any agency thereof); *see also* Liquidity Coverage Ratio: Liquidity Risk Measurement Standards (Sept. 9, 2014) [79 FR 61440 (Oct. 10, 2014)] (''Liquidity Coverage Ratio Release'') (in liquidity coverage ratio rule adopted by the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation, ''Level 1 Liquid Assets'' are described as securities issued or unconditionally guaranteed as to timely payment of principal and interest by the U.S. Department of the Treasury, and liquid and readily-marketable securities issued or unconditionally guaranteed as to the timely payment of principal and interest by any other U.S. government agency (provided that its obligations are fully and explicitly guaranteed by the full faith and credit of the U.S. government)). *But see* Flash Crash Staff Report, *supra* note 124 (noting that, while ''[t]he U.S. Treasury market is the deepest and most liquid government securities market in the world,'' liquidity conditions in the market for U.S. Treasury securities became ''significantly strained'' during the October 2015 ''Flash Crash'').

[208] *See, e.g.,* Terrence Hendershott & Ananth Madhavan, *Click or Call? Auction versus Search in the Over-the-Counter Market* (Mar. 19, 2012), *available at http://people.stern.nyu.edu/jhasbrou/SternMicroMtg/SternMicroMtg2012/Accepted/ClickOrCall13.pdf.*

[209] *See, e.g.,* Abdourahmane Sarr & Tonny Lybek, *Measuring Liquidity in Financial Markets,* IMF Working Paper (Dec. 2002), *available at http://www.imf.org/external/pubs/ft/wp/2002/wp02232.pdf* (''Liquid markets tend to exhibit five characteristics: (i) tightness (ii) immediacy, (iii) depth, (iv) breadth, and (v) resiliency.'').

[210] *See, e.g.,* Sunil Wahal, *Entry, Exit, Market Makers, and the Bid-Ask Spread,* 10 Rev. of Fin. Stud. 871 (1997), *available at http://www.acsu.buffalo.edu/~keechung/MGF743/Readings/H1.pdf* (''Large–scale entry (exit) is associated with substantial declines (increases) in quoted end-of-day inside spreads, even after controlling for the effects of changes in volume and volatility. The spread changes are larger in magnitude for issues with few market makers; however, even for issues with a large number of market makers, substantial changes in quoted spreads take place.'').

[211] *See, e.g.,* Amir Rubin, *Ownership Level, Ownership Concentration, and Liquidity,* 10 J. Fin. Markets 219 (Aug. 2007), *available at http://www.sfu.ca/~arubin/JFM_2006074.pdf* (''We examine the link between the liquidity of a firm's stock and its ownership structure, specifically, how much of the firm's stock is owned by insiders and institutions, and how concentrated is their ownership. We find that the liquidity-ownership relation is mostly driven by institutional ownership rather than insider ownership. Importantly, liquidity is positively related to total institutional holdings but negatively related to institutional block holdings.'').

[212] *See* Erik Banks, *Liquidity Risk: Managing Funding and Asset Risk* (2nd ed. 2013), at 169.

[213] *See id.* at 168; *see also* MarketWatch, *Fitch: Bond Trade Frequency Strongly Linked to Issue Size* (Jan. 29, 2015), *available at http://www.marketwatch.com/story/fitch-bond-trade–frequency-strongly-linked-to-issue-size-2015-01-29* (discussing Fitch Ratings study findings showing that smaller investment-grade corporate bond issues, under $500 million, trade materially less frequently than larger issue bonds); Fidelity FSOC Notice Comment Letter, *supra* note 20, at 21 (''Liquidity management is linked to portfolio managers' attention to market risks indicated by . . . shrinking transaction volumes which exacerbate the impact cost for additional trading'').

We note that double–counting of trades is a potential issue to consider when assessing average trading volume. Double–counting occurs because of differences between dealer and auction markets. In a dealer market, trades are ''double–counted'' because the dealer buys from person A and then sells to person B. In an auction market, person A and B trade directly. *See, e.g.,* Anne M. Anderson

may wish to particularly consider the number of days a particular asset has shown zero trading volume during the prior month, year, or other relevant period, as this could indicate particularly limited liquidity. High trading volume is not always indicative of available liquidity for a particular asset, however. For example, high trading volumes might be associated with high selling pressure on the asset and trades at that time may have a high price impact.[214]

Assets that are components of widely followed market indices tend to have relatively high trading volume, and therefore relatively high liquidity compared to other assets. If a security is included in such an index, market participants are likely to invest in the security in order to replicate the index. This, in turn, will increase demand and trading volume for the security, therefore increasing the security's liquidity compared to securities not in such an index.[215] Additionally, index components are selected, with a goal of promoting replicability of the index, based on multiple factors including liquidity screens, which in turn may be based on an asset's trading volume.[216] A security's inclusion in a widely followed market index therefore suggests relatively high trading volume, and thus a greater level of liquidity relative to similar securities that were not chosen to be part of such an index (*e.g.,* a high-yield corporate bond included in a widely followed market index would likely be more liquid than an otherwise similar high-yield corporate bond that is not a component of such an index).

c. Volatility of Trading Prices

Under proposed rule 22e–4(b)(2)(ii)(C), a fund would be required to consider the volatility of trading prices for a particular portfolio asset when evaluating the liquidity of a position in that asset. In general, there is an inverse relationship between liquidity and volatility,[217] as lack of liquidity in a particular asset tends to amplify price volatility for that asset.[218] Additionally, Commission staff understands that certain funds and fund groups have historically experienced liquidity disruptions during periods of extreme market volatility, such as the June 2013 ''taper tantrum.''[219] For these reasons, we believe that trading price volatility is potentially a valuable metric to consider in determining an asset's liquidity.

d. Bid-Ask Spreads

Bid-ask spreads—the difference between bid and offer prices for a particular asset—have historically been viewed as a useful measure for assessing the liquidity of assets that trade in the OTC markets.[220] A fund would thus be required, under proposed rule 22e–4(b)(2)(ii)(D), to consider a portfolio asset's bid-ask spreads in evaluating the liquidity of a position in that asset. The bid-ask spread of a particular fixed income asset is related to the riskiness of that asset, as well as the length of time that a broker-dealer believes it will have to hold the asset before selling it.[221] In general, high bid-ask spreads for a particular asset correlate with a lack of liquidity in that asset. For example, when liquidity was significantly constricted during the 2007–2009 financial crisis, bid-ask spreads on U.S. investment grade bonds were notably elevated.[222] However, bid-ask spreads alone do not necessarily provide a comprehensive understanding of an asset's liquidity. For instance, bid-ask spreads are often constrained by the increments in which prices are quoted.[223]

& Edward A. Dyl, *Trading Volume: NASDAQ and the NYSE,* 63 Fin. Analysts J. 79 (May/June 2007), *available at http://www.cfapubs.org/doi/abs/10.2469/faj.v63.n3.4693.*

[214] *See, e.g.,* Jennifer Huang & Jiang Wang, *Liquidity and Market Crashes,* 22 Rev. of Fin. Stud. 2607 (2009), *available at http://rfs.oxfordjournals.org/content/22/7/2607.full* (discussing how there can be high selling pressure (and high volume) along with low liquidity and how this can create market crashes); Mark Carlson, *A Brief History of the 1987 Stock Market Crash with a Discussion of the Federal Reserve Response,* Federal Reserve Board Working Paper 2007–13 (Nov. 2006), *available at http://www.federalreserve.gov/pubs/feds/2007/200713/200713pap.pdf* (discussing how the 1987 stock market crash had both high volume and low liquidity).

[215] *See, e.g.,* Shantaram P. Hegde & John B. McDermott, *The Liquidity Effects of Revisions to the S&P 500 Index: An Empirical Analysis,* 6 J. Fin. Markets 413 (2003) (''Using a recent sample of S&P 500 additions, we find a sustained increase in the liquidity of the added stocks.'').

[216] *See, e.g.,* Stock Index Liquidity Screen patent application (Owner: Frank Russell Company) (Mar. 19, 2009), *available at http://appft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&p=1&u=%2Fnetahtml%2FPTO%2Fsearch-bool.html&r=1&f=G&l=50&co1=AND&d=PG01&s1=%22stock+index+liquidity+screen%22&OS=*''stock+index+liquidity+screen''&RS=''stock+index+liquidity+screen'' (describing various methods that index providers use to identify securities with inadequate liquidity and exclude them from indices).

[217] *See, e.g.,* Tarun Chordia, Asani Sarkar & Avanidhar Subrahmanyam, *An Empirical Analysis of Stock and Bond Market Liquidity,* Federal Reserve Bank of New York Staff Reports, no. 164 (Mar. 2003), *available at http://www.newyorkfed.org/research/staff_reports/sr164.pdf* (finding that unexpected liquidity and volatility shocks are positively and significantly correlated across stock and bond markets).

[218] *See, e.g.,* Prachi Deuskar, *Extrapolative Expectation: Implications for Volatility and Liquidity* (Aug. 2007), *available at https://business.illinois.edu/pdeuskar/Deuskar_Extrapolative_Liquidity_Volatility.pdf* (''Illiquidity amplifies supply shocks, increasing realized volatility of prices, which feeds into subsequent volatility forecasts.''); *see also* Fidelity FSOC Notice Comment Letter, *supra* note 20, at 21 (''Liquidity management is linked to portfolio managers' attention to market risks indicated by . . . increasing market- and security-specific volatility.'').

[219] In May 2013, Ben Bernanke, then Chairman of the Federal Reserve Board, announced that the Federal Reserve may start scaling back its asset purchase program—in which the Federal Reserve purchased approximately $85 billion worth of bonds and mortgage-backed securities each month—sooner than investors expected. This caused interests rates on fixed income products to spike, and bond prices to fall dramatically. This market dislocation came to be known as the ''taper tantrum.'' *See* Condon & Kearns, *Fed Worried About Triggering Another 'Taper Tantrum,'* BloombergBusiness (Oct. 8, 2014), *available at http://www.bloomberg.com/news/articles/2014–10–08/fed-worried-about-triggering-another-taper-tantrum-.*

[220] *See, e.g.,* Michael J. Fleming, *Measuring Treasury Market Liquidity,* Federal Reserve Bank of New York Policy Review (Sept. 2003), *available at http://www.newyorkfed.org/research/epr/03v09n3/0309flem.pdf* (providing a literature review of studies analyzing bid-ask spreads in relation to Treasury market liquidity); *see also* Fidelity FSOC Notice Comment Letter, *supra* note 20, at 21 (''Liquidity management is linked to portfolio managers' attention to market risks indicated by. . .heightened market impact costs (as indicated by widening bid/ask spreads)'').

[221] *See* MarketAxess, *The MarketAxess Bid-Ask Spread Index (BASIJ*™: A More Informed Picture of Market Liquidity in the U.S. Corporate Bond Market (2013), *available at http://www.marketaxess.com/pdfs/research/marketaxess-bid-ask-spread-index-BASI.pdf* (discussing methodology for developing an index that tracks bid-ask spreads of U.S. corporate bonds).

[222] *See, e.g.,* BlackRock Investment Institute, *Got Liquidity?* (Sept. 2012), *available at http://www.blackrock.com/investing/literature/whitepaper/got-liquidity-us-version.pdf*, at p.7; *see also* Oppenheimer, *Diminished Liquidity in the Corporate Bond Market: Implications for Fixed Income Investors* (Mar. 16, 2015), *available at https://www.opco.com/redirect/bond-liquidity-report-3–15.aspx*, at p.1.

[223] *See, e.g.,* Michael A. Goldstein & Kenneth A. Kavajecz, *Eighths, Sixteenths, and Market Depth: Changes in Tick Size and Liquidity Provision on the NYSE,* 56 J. Fin. Econ. 125 (2000), *available at http://www.acsu.buffalo.edu/~keechung/MGF743/Readings/G5.pdf* (''Using limit order data provided by the NYSE, we investigate the impact of reducing the minimum tick size on the liquidity of the market. While both spreads and depths (quoted and on the limit order book) declined after the NYSE's change from eighths to sixteenths, depth declined throughout the entire limit order book as well. The combined effect of smaller spreads and reduced cumulative limit order book depth has made liquidity demanders trading small orders better off; however, traders who submitted larger orders in lower volume stocks did not benefit, especially if those stocks were low priced.''); Hendrik Bessembinder, *Tick Size, Spreads, and Liquidity: An Analysis of Nasdaq Securities Trading Near Ten Dollars,* 9 J. of Fin. Intermediation 213 (July 2000), *available at http://www.acsu.buffalo.edu/~keechung/MGF743/Readings/G4.pdf* (''There is no evidence of a reduction in liquidity with the smaller tick size. The largest spread reductions occur for stocks whose market makers avoid odd-eighth quotes. This finding provides support for

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e. Standardization and Simplicity of Structure

Proposed rule 22e–4(b)(2)(ii)(E) would require a fund to consider whether a portfolio asset has a relatively standardized and simple structure in evaluating the liquidity of a position in that asset. Assets that trade OTC with terms set at issuance such as sizes, maturities, coupons, and payment dates tend to be relatively more liquid compared to similarly situated assets without standardized terms. The issue of standardization is particularly significant with respect to the corporate bond market, since corporate issuers commonly have large numbers of bonds outstanding, and trading can be fragmented among that universe of bonds. For example, while each of the top ten largest issuers in the United States had one common equity security outstanding as of April 2014, these issuers collectively had more than 9,000 bonds outstanding.[224] Conversely, some types of OTC-traded securities exhibit a relatively high level of standardization, such as government and agency bonds, futures contracts, and certain swap contracts. Central clearing of certain OTC-traded securities, which generally requires the terms of these securities to be highly standardized, has been associated with an increase in these assets' liquidity, as measured by factors such as the bid-ask spreads for these assets and the number of dealers providing quotes for these assets.[225] While standardization of a particular security contract alone is not indicative of that security's liquidity, standardization can increase liquidity by simplifying the ability to quote and trade securities, enhancing operational efficiency to execute and settle trades, and improving secondary market transparency.

f. Maturity and Date of Issue

With respect to fixed income assets, proposed rule 22e–4(b)(2)(ii)(F) would require a fund to consider the maturity of a particular asset, as well as when the asset was issued, in assessing the liquidity of the fund's position in that asset. In general, a fixed income asset trades most frequently in the time directly following issuance, and its trading volume decreases in the asset's remaining time to maturity.[226] Thus ''on-the–run'' securities (that is, bonds or notes of a particular maturity that were most recently issued) tend to trade significantly more frequently than their ''off-the–run'' counterparts (that is, bonds or notes issued before the most recently issued bond or note of a particular maturity).[227] Because high trading volume generally suggests relatively higher liquidity,[228] a fixed income asset's date of issuance and maturity (which in turn are generally correlated with the trading volume of a fixed income asset) together are important liquidity indicators. We understand, based on staff outreach and industry knowledge, that remaining time to maturity is a key factor that fixed income funds commonly consider in assessing the liquidity of their portfolio positions.

g. Restrictions on Trading and Limitations on Transfer

Proposed rule 22e–4(b)(2)(ii)(G) would require a fund to consider any restrictions on trading a particular asset, and limitations on transfers of that asset, in evaluating the liquidity of a portfolio position in that asset. We previously stated that the liquidity of rule 144A securities is ''a question of fact for the board of directors [of the fund] to determine based upon the trading markets for the specific security.''[229] We also stated that a fund's board may find it reasonable to consider certain factors when evaluating the liquidity of a rule 144A security, including: (i) the frequency of trades and quotes for the security; (ii) the number of dealers willing to purchase or sell the security and the number of other potential purchasers; (iii) dealer undertakings to make a market in the security; and (iv) the nature of the security and the nature of the marketplace trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).[230] These guidance factors are consistent with certain of the proposed rule 22e–4(b)(2)(ii) factors,[231] and a fund is required to consider the proposed rule

models implying that changes in the tick size can affect equilibrium spreads on a dealer market and indicates that the relation between tick size and market quality is more complex than the imposition of a constraint on minimum spread widths.'').

[224] *See* BlackRock, Viewpoint, *Corporate Bond Market Structure: The Time for Reform Is Now* (Sept. 2014), at p.7, *available at http://www.blackrock.com/corporate/en-ae/literature/whitepaper/viewpoint-corporate-bond-market-structure-september-2014.pdf.*

[225] *See, e.g.,* Yee Cheng Loon & Zhaodong (Ken) Zhong, *The impact of central clearing on counterparty risk, liquidity, and trading: Evidence from the credit default swap market,* 112 J. of Fin. Econ. 91 (Apr. 2014), *available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2176561* (analyzing the impact of central clearing on credit default swaps and finding that cleared reference entities experience an improvement in both liquidity and trading activity relative to noncleared entities); Joshua Slive, Jonathan Witmer & Elizabeth Woodman, *Liquidity and Central Clearing: Evidence from the CDS Market,* Bank of Canada Working Paper 2012–38 (Dec. 2012), *available at http://www.bankofcanada.ca/wp-content/uploads/2012/12/wp2012-38.pdf* (analyzing ''the relationship between liquidity and central clearing using information on credit default swap clearing at ICE Trust and ICE Clear Europe,'' and finding that ''the introduction of central clearing is associated with a slight increase in the liquidity of a contract'' (but noting that the effects of central clearing on liquidity must be viewed in light of the fact that the central counterparty chooses the most liquid contracts for central clearing, consistent with liquidity characteristics being important in determining the safety and efficiency of clearing)). *But see* Manmohan Singh, *Collateral, Netting and Systemic Risk in the OTC Derivatives Market,* IMF Working Paper 10/99 (Apr. 1, 2010), *available at https://www.imf.org/external/pubs/cat/longres.cfm?sk=23741.0* (arguing that large increases in collateral posted for the centrally cleared trades negatively affect market liquidity given that most large banks will be reluctant to offload their positions to central counterparties).

[226] *See, e.g.,* Sugato Chakravarty & Asani Sarkar, *Liquidity in U.S. Fixed Income Markets: A Comparison of the Bid-Ask Spread in Corporate, Government and Municipal Bond Markets,* Federal Reserve Board of New York Staff Report No. 73 (Mar. 1999), *available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=163139.*

[227] The on-the–run phenomenon refers to the fact that, in fixed income markets, securities with nearly identical cash flows trade at different yields and with different liquidity. In particular, most recently issued (*i.e.,* on-the–run) government bonds of a certain maturity are generally more liquid than previously issued (*i.e.,* off-the–run or old) bonds maturing on similar dates. *See, e.g.,* Paolo Pasquariello & Clara Vega, *The on-the-run liquidity phenomenon,* 92 J. of Fin. Econ. 1 (Apr. 2009), *available at http://webuser.bus.umich.edu/ppasquar/onoffftherun.pdf* (analyzing the liquidity differentials of on-the-run and off-the-run U.S. Treasury bonds and finding, among other things, that on-the-run and off-the-run liquidity differentials are economically and statistically significant—showing that on-the-run bonds tend to be more liquid than their off-the-run counterparts—even after controlling for certain intrinsic characteristics of the bonds); Michael Barclay, Terrence Hendershott & Kenneth Kotz, *Automation versus Intermediation: Evidence from Treasuries Going Off the Run,* 61 **J. FIN.** 2395 (Oct. 2006), *available at http://faculty.haas.berkeley.edu/hender/on-off.pdf* (discussing how ''when Treasury securities go 'off the run' their trading volume drops by more than 90%'').

[228] *See supra* section III.B.2.b.

[229] *See* Rule 144A Release, *supra* note 86. As discussed below, the Commission has stated that an investment company's board of directors may delegate day-to-day responsibility for such determinations to the investment company's investment adviser, provided that the board retains sufficient oversight. *See infra* section III.D.3; *see also* Rule 144A Release at n.61.

[230] *See* Rule 144A Release, *supra* note 86, at text following n.62.

[231] ''The frequency of trades and quotes for the security'' is consistent with proposed rule 22e–4(b)(2)(ii)(B). ''The number of dealers willing to purchase or sell the security and the number of other potential purchasers'' and ''dealer undertakings to make a market in the security,'' are reflected in proposed rule 22e–4(b)(2)(ii)(A). ''The nature of the security and the nature of the marketplace trades'' is a very general factor, and we believe that many of the proposed rule 22e–4(b)(2)(ii) factors (in particular, those reflected in proposed rule 22e–4(b)(2)(ii)(A), (B), (C), (D), (E), (F), (G), and (H)) indicate the nature of the security and the nature of marketplace trades.

22e–4(b)(2)(ii) factors in evaluating the liquidity of a 144A security.

Regardless of whether a portfolio asset is a restricted security, it may nevertheless be subject to other limitations on transfer. For example, for securities that are traded in certain foreign markets, government approval may be required for the repatriation of investment income, capital, or the proceeds of sales of securities by foreign investors.[232] Portfolio assets furthermore may be subject to certain contractual limitations on transfer.[233] Securities subject to transfer limitations in general are less liquid than securities without such limitations.

h. Size of Position in an Asset Relative to the Asset's Average Daily Trading Volume and, as Applicable, Number of Units of the Asset Outstanding

Under proposed rule 22e–4, a fund's liquidity analysis regarding a particular portfolio asset would be required to take into consideration the ability to sell and receive cash for the entire position (or, as applicable, portions of a position in a particular asset), not only its ability to convert a single trading lot of that asset to cash.[234] Because the size of a fund's portfolio position in a particular asset is a key element in determining a fund's ability to convert the entire position (or portions of a position in a particular asset) to cash, the proposed rule would require a fund assessing the liquidity of a portfolio asset to consider the size of the fund's position in that asset.[235] Staff outreach has shown that many funds currently consider this factor in evaluating the liquidity of their portfolio positions. A fund would be required to consider the size of its position in a particular portfolio asset relative to the asset's average daily trading volume and, as applicable, the number of units of the asset outstanding.[236] Small-capitalization securities are generally less liquid than large-capitalization securities[237] and, as discussed above, securities with lower trading volume are generally less liquid than securities whose trading volume is higher.[238] The size of a fund's position in a particular portfolio asset could augment the effects of these two liquidity factors. For example, if a fund holds a significant position in a small-capitalization security, this could indicate that its position is relatively illiquid.[239] Likewise, holding a large position in a thinly traded security diminishes the possibility that a fund would be able to convert a significant portion of that position to cash in order to meet redemptions. In considering the number of units of an asset that are currently outstanding, a fund may wish to take into account the extent to which units of an asset may be technically outstanding, but cannot be purchased by a member of the public (*e.g.,* shares of a company that the company has repurchased from the public, but not cancelled because the company plans to later reissue the shares, for example to cover employee stock grants). Because units of an asset that cannot be purchased by a member of the public are not able to be actively traded, this consideration could be relevant to a fund's assessment of how the size of a portfolio position relative to the number of outstanding units may affect that position's liquidity.

When a fund is evaluating the size of its position in a particular asset as a factor in assessing that position's liquidity, it would be required to consider the extent to which the timing of disposing of the position could create any market value impact.[240] Selling a large position in a particular asset into the market over a short time period could entail a negative price impact on the asset, which in turn could cause losses to the fund and its shareholders. Therefore, this consideration is relevant to determining the period in which a fund would be able to convert a particular portfolio position (or portion thereof) to cash, without affecting the value of that asset by virtue of the transaction.

i. Relationship of Asset to Another Portfolio Asset

Under proposed rule 22e–4(b)(2)(ii)(I), a fund would be required to consider, in assessing the liquidity of a position in a particular portfolio asset, whether the fund invests in the asset because it is connected with an investment in another portfolio asset. This may arise in connection with a derivatives transaction, or if the fund uses an asset for hedging or risk mitigation purposes.

When funds enter into certain transactions that implicate section 18 of the Investment Company Act, they generally will maintain in a segregated account certain liquid assets in order to ''cover'' the fund's obligation under the transactions. We applied this framework to certain financing transactions in Investment Company Act Release No. 10666 (''Release 10666''), issued in 1979,[241] and also understand that funds today apply this framework to certain derivatives, based on the guidance we provided in Release 10666 and on no-action letters issued by our staff.[242] We explained in Release 10666 that ''[a] segregated account freezes certain assets of the investment company and renders

[232] *See, e.g.,* HSBC, *Emerging Markets FX: Regulatory understanding a priority,* HSBC's Emerging Markets Currency Guide 2012 (Dec. 2011), *available at http://www.hsbcnet.com/gbm/attachments/rise–of-the–rmb/currency-guide–2012.pdf?WT.ac=CIBM_gbm_pro_rmbrise_pbx01_On*; *see also* Liquidity Coverage Ratio Release, *supra* note 207, at section II.B.3.iv (discouraging banking entities from holding a disproportionate amount of their eligible highly qualified liquid assets in locations outside the United States where unforeseen impediments may prevent timely repatriation of such assets during a liquidity crisis).

[233] *See, e.g.,* Stephen H. Bier, Julien Bourgeois & Joseph McClain, *Mutual Funds and Loan Investments,* The Investment Lawyer (Mar. 2015), at 2, *available at http://www.dechert.com/files/Uploads/Documents/FSG/Mutual%20Funds%20and%20Loan%20Investments%20-%20The%20Investment%20Lawyer.pdf* (''[M]any loans and assignment trades remain bespoke transactions that require consents from borrowers or key syndicate members, and loan documents are still negotiated written documents that require human review. As a result. . .the mechanics of loan trades and certain trade settlement times cause funds to carefully monitor liquidity considerations surrounding loan investments . . . . [In making such determinations, funds] typically consider factors common to general liquidity determinations, as well as factors specific to the loan markets, which can include: (i) the legal limitations on the transferability or sale of a loan including the requirement to obtain consents from borrowers or syndicate agents and members prior to assignment; (ii) the existence of a trading market for the loans and the estimated depth of the market; (iii) the frequency of trades or quotes for the loan; (iv) the estimated length of the settlement period; and (v) the borrower's health.'').

[234] *See* proposed rule 22e–4(b)(2)(i); *supra* paragraph accompanying note 177.

[235] *See* proposed rule 22e–4(b)(2)(ii)(H).

[236] Proposed rule 22e–4(b)(2)(ii)(H).

[237] *See, e.g.,* DERA Study, *supra* note 39, at p. 27; *cf. also* Amy K. Edwards, Lawrence E. Harris & Michael S. Piwowar, *Corporate Bond Market Transaction Costs and Transparency,* 62 J. Fin. 1421, 1444 (June 2007) (''Large issues have significantly lower transaction costs than do small issues.'').

[238] *See supra* section III.B.2.b.

[239] *See, e.g.,* Marshall E. Blume & Donald B. Keim, *Institutional Investors and Stock Market Liquidity: Trends and Relationships* (Aug. 21, 2012), *available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2147757* (examining the relation between illiquidity and two measures of institutional stock ownership—the percentage of a stock owned by institutions and the number of institutions that own the stock—and finding that the number of institutions that own and trade a stock is more important than the percentage of institutional ownership in explaining the cross-sectional variability of illiquidity (''an increase in the number of institutional holders of a stock decreases the average number of shares of the stock held by individual institutions and, thereby, reduces the potential size of a trade and its accompanying liquidity-induced impact'')).

[240] Proposed rule 22e–4(b)(2)(ii)(H).

[241] Securities Trading Practices of Registered Investment Companies, Investment Company Act Release No. 10666 (Apr. 18, 1979) [44 FR 25128 (Apr. 27, 1979)] (''Release 10666'').

[242] *See generally* Use of Derivatives by Investment Companies Under the Investment Company Act of 1940, Investment Company Act Release No. 29776 (Aug. 31, 2011) [76 FR 55237 (Sept. 7, 2011)] (''Investment Company Derivatives Use Concept Release'') (providing background information on the application of section 18 to derivatives and certain other transactions).

such assets unavailable for sale or other disposition.''[243] We also stated in Release 10666 that only liquid assets should be placed in a segregated account. Thus, although we expect that assets used by a fund to cover derivatives and other transactions would be liquid when considered in isolation, when evaluating their liquidity for purposes of the proposed rule, the fund would have to consider that they are being used to cover other transactions and, consistent with our position in Release 10666, are ''frozen'' and ''unavailable for sale or other disposition.'' Because these assets are only available for sale to meet redemptions once the related derivatives position is disposed of or unwound, a fund should classify the liquidity of these segregated assets using the liquidity of the derivative instruments they are covering. Release 10666 notes that segregated assets may be ''replaced by other appropriate non-segregated assets of equal value,'' and when they are so replaced, formerly segregated assets would no longer be considered unavailable for sale or other disposition.[244] When a formerly segregated asset is no longer segregated, a fund generally should assess, as part of its ongoing review of the liquidity classifications assigned to each portfolio position, whether the liquidity classification given to the portfolio asset when it was segregated continues to be appropriate.[245]

A fund may purchase an asset in connection with its holding of another asset for other reasons, such as hedging. For example, a fund might purchase a debt security denominated in a foreign currency and attempt to hedge the currency risks associated with the debt security by entering into a currency future. When evaluating the liquidity of the currency future, the fund should consider the way the currency future is being used in the fund's portfolio. In situations where a fund purchases a more liquid asset in connection with a less liquid asset, and it plans to transact in the more liquid asset only in connection with the less liquid asset, then the liquidity of the two assets is linked by the fund and, in this case, the fund should consider the liquidity classification of the foreign debt security when determining the liquidity of the currency future.

j. Request for Comment

We request comment on the proposed factors that a fund would be required to consider, as applicable, in classifying the liquidity of each portfolio position in a particular asset.

- What factors do funds currently use to assess and classify the liquidity of portfolio assets, and do the proposed factors reflect factors that funds already consider when evaluating portfolio assets' liquidity? Do commenters agree that requiring a fund to consider certain factors would encourage effective liquidity assessment across the fund industry? Would considering certain factors improve funds' ability to meet their redemption obligations and to reduce potential dilution of non-redeeming shareholders? Would classification generally enhance funds' liquidity risk management, including funds' ability to meet their redemption obligations and to reduce potential dilution of non-redeeming shareholders?
- Should any of the proposed factors not be required to be considered by a fund in making liquidity determinations? Should any of the proposed factors be modified? Are there any additional factors, besides the proposed factors, that a fund should be required to consider in evaluating the liquidity of a portfolio position in a particular asset? Should the proposed rule text be modified to explicitly exempt certain types of funds from considering certain factors? Or are there additional factors, besides the proposed factors, that should be required to be considered by certain types of funds? Should funds be required to consider correlations between asset classes more generally, outside the derivatives and hedging contexts? Should certain factors be given more weight than others? Should proposed rule 22e–4 explicitly require a fund to classify the liquidity of a position (or portions of a position in a particular asset) used to cover a derivative position using the same liquidity classification category as it assigned to the derivative? Should the Commission provide additional guidance regarding the circumstances in which a fund should consider the liquidity of a particular portfolio asset in relation to the liquidity of another asset? What types of operational challenges would arise in connection with considering the liquidity of a particular portfolio asset in relation to the liquidity of another asset?
- Instead of codifying the factors as part of proposed rule 22e–4, should the Commission solely provide guidance as to what would be appropriate for a fund to consider in assessing its portfolio assets' liquidity? Why or why not? Would the failure to codify the factors diminish how consistently they are applied across the industry?
- Would a more principles-based approach, in lieu of codified factors or guidance, be more appropriate? For example, would it be less costly to implement and allow more flexible use of factors that might be more pertinent in analyzing the liquidity of a particular asset? Or would a more principles-based approach not materially advance portfolio asset liquidity assessments beyond those conducted today under the 15% guidelines, and thus be subject to similar limitations as discussed above as a stand-alone method for liquidity assessment?
- To the extent that a fund lacks pertinent information about a particular portfolio asset, should the fund be required to consider the proposed rule 22e–4(b)(2)(ii) factors with respect to appropriate comparable assets? What characteristics of the portfolio asset and the comparable asset would a fund generally compare in determining the weight to ascribe to the comparable asset's liquidity in evaluating the portfolio asset's liquidity?
- Should ETFs and ETMFs be governed by the same, a subset of, or different factors? If so, which factors and why?

We seek comment on the Commission's guidance regarding each of the proposed factors.

- Besides the guidance, are there any other specific issues associated with any of the proposed factors that a fund may wish to consider in evaluating the liquidity of a portfolio position in a particular asset?
- Do commenters generally agree with the guidance that we have proposed regarding the ways that each of the proposed factors could indicate relative liquidity or illiquidity of a portfolio asset? Should we add a note to rule 22e–4 indicating that the release includes additional guidance regarding the proposed factors?

3. Ongoing Review of the Liquidity of a Fund's Portfolio Positions

a. Proposed Ongoing Review Requirement

Proposed rule 22e–4(b)(2)(i) would require a fund to review the liquidity classification of each of the fund's portfolio positions on an ongoing basis. As appropriate, a fund could determine to revise its liquidity classification of a portfolio position based on this ongoing

[243] *See also* Dear Chief Financial Officer Letter from Lawrence A. Friend, Chief Accountant, Division of Investment Management (Nov. 7, 1997) (staff letter taking the position that a fund could segregate assets by designating such assets on its books, rather than establishing a segregated account at its custodian).

[244] *See* Release 10666, *supra* note 241.

[245] *See infra* section III.B.3.a.

review requirement. The Commission has previously stated that it ''expects funds to monitor portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained.''[246] Some have interpreted this statement to mean that the Commission does not intend for a fund to reassess the liquidity status of *individual* securities on an ongoing basis, but instead to monitor whether a fund *portfolio's* overall liquidity profile is appropriate in light of its redemption obligations under section 22(e).[247] We agree that a fund should monitor the liquidity of its portfolio holistically, in light of shareholder flows, to determine the fund's capacity to meet its redemption obligations.[248] However, decreased liquidity of individual portfolio components can directly affect the ability of a fund to meet its redemption obligations, or to meet obligations in a manner that does not dilute the interests of non-redeeming shareholders.[249] We thus believe that requiring a fund to review position-level liquidity classifications made under proposed rule 22e–4 on an ongoing basis would reduce the risk that the fund will be unable to meet its redemption obligations and reduce potential dilution of shareholders' interests.

As discussed above, Commission staff understands, based on outreach to the fund industry and information provided by industry participants, that different funds employ varying approaches to monitoring the liquidity of individual assets and positions. We understand that some funds may not normally review the liquidity of individual portfolio assets on a continuing basis after they are acquired. On the other hand, our staff learned through outreach efforts across the fund industry that certain funds periodically reassess the liquidity of each portfolio security based on market-wide developments, as well as events affecting particular securities or asset classes.[250]

Pursuant to the proposed ongoing review requirement, each fund would be required to consider the rule 22e–4(b)(2)(ii) factors, as applicable, in reviewing its portfolio positions' liquidity on an ongoing basis.[251] However, beyond this, rule 22e–4 does not include prescribed review procedures, nor does it incorporate specific developments that a fund must monitor. A fund may wish to determine the frequency of its ongoing review of portfolio positions' liquidity classifications based in part on the liquidity of its portfolio holdings, as well as the timing of its portfolio acquisitions and turnover, in order to evaluate whether its portfolio acquisitions are in compliance with the three-day liquid asset minimum requirement.[252] For example, a fund whose portfolio assets' liquidity could depend significantly on current market conditions should generally review the liquidity classifications of its portfolio assets relatively often (up to daily, or even hourly, depending on facts and circumstances). On the other end of the spectrum, it may be appropriate for a fund whose portfolio holdings' liquidity tends to be more stable (for example, a large-cap equity fund) to consider reviewing the liquidity classifications of its portfolio assets less frequently.[253]

In adopting ongoing review policies and procedures, a fund generally should include policies and procedures for identifying market-wide developments, as well as security- and asset-class-specific developments, that could demonstrate a need to change the liquidity classification of a portfolio position. For instance, relevant market-wide developments could include changes in interest rates or other macroeconomic events, market-wide volatility, market-wide flow changes, dealer inventory or capacity changes, and extraordinary events such as natural disasters or political upheaval.[254] Security- and asset-class specific developments that a fund may wish to consider include corporate events (such as bankruptcy, default, or delisting, as well as reputational events) and regulatory changes affecting certain asset classes. Any of these developments could cause changes, for example, in the frequency of trades or quotes for a particular asset, as well as changes to that asset's trading volume, price volatility, and bid-ask spreads.

b. Request for Comment

We request comment on the proposed ongoing review requirement.

- How do funds currently monitor the liquidity of portfolio assets, and how frequently do they do so? To what extent do funds anticipate that the ongoing review procedures that would be required under proposed rule 22e–4 would replicate the procedures funds currently use to monitor whether portfolio assets are limited by the 15% guideline? Are current processes largely automated? Do funds believe that systems could be used to automate the monitoring that would be required under proposed rule 22e–4? What trade-offs or risks does automated monitoring pose vis-à-vis manual monitoring, and how do firms currently manage those risks? Are there circumstances in which automated monitoring is inappropriate, and, if so, why?
- Is the ongoing review requirement, as proposed, sufficiently clear? Are there certain approaches to ongoing review that we should require and/or on which we should provide guidance? Should we specify a minimum time period for funds to review their liquidity classifications under proposed rule 22e–4? Should we require that a fund monitor for certain specified developments or events, and/or expand our guidance on the market-wide and security- and asset-class-specific developments that a fund could consider?

C. Assessing and Managing a Fund's Liquidity Risk

We believe that assessing and managing liquidity risk in a comprehensive manner is critical to a fund's ability to honor redemption requests within the seven-day period required under section 22(e) of the Investment Company Act, as well as within any shorter time period disclosed in the fund's prospectus or advertising materials or required for purposes of rule 15c6–1. Proposed rule 22e–4(a)(7) would define liquidity risk as the risk that the fund could not meet requests to redeem shares issued by the fund that are expected under normal conditions, or are reasonably foreseeable under stressed conditions, without materially affecting the fund's net asset value. This proposed definition contemplates that a fund consider both expected requests to redeem (*e.g.,* shareholder flows relating to seasonality or shareholder tax considerations), as well as requests to redeem that may not be expected, but are reasonably

[246] Guidelines Release, *supra* note 4, at section II.

[247] *See* ICI Valuation and Liquidity Issues White Paper, *supra* note 177, at 45.

[248] *See* Guidelines Release, *supra* note 4, at section II. (stating, with respect to the Commission's expectation that a fund would monitor its portfolio liquidity, ''For example, an equity fund that begins to experience a net outflow of assets because investors increasingly shift their moneys from equity to income funds should consider reducing its holdings of illiquid securities in an orderly fashion in order to maintain liquidity.'').

[249] *See, e.g.,* Heartland Release, *supra* note 47.

[250] *See also, e.g.,* ICI FSOC Notice Comment Letter, *supra* note 16, at 23–25 (''A mutual fund manager's liquidity management practices typically will include active monitoring of the liquidity profile of individual portfolio holdings.'').

[251] *See* proposed rule 22e–4(b)(2)(i)–(ii).

[252] *See infra* section III.C.3 (discussion of three-day liquid asset minimum requirement).

[253] We note that at a minimum, a fund would review its liquidity classification at least monthly in order to accurately report this information on proposed Form N–PORT.

[254] *See, e.g.,* 2014 Fixed Income Guidance Update, *supra* note 62.

foreseeable under stressed conditions (*e.g.,* shareholder outflows related to stressed market conditions or increased volatility, or outflows that are reasonable to expect in light of a reputational event affecting the fund or the departure of a fund's portfolio manager).[255]

A fund's liquidity risk depends on a variety of factors, including, among others, its cash flows, investment strategy, portfolio liquidity, use of borrowings and derivatives, cash (and cash equivalents) on hand, and borrowing arrangements.[256] Staff outreach has shown that funds consider these types of factors in assessing their liquidity risk, and some funds conduct stress tests (incorporating these factors) to analyze various redemption scenarios to determine whether the fund has sufficient liquid assets to cover different levels of redemptions.[257] Likewise, we understand that a fund may employ many different policies and procedures for managing its liquidity risk, including adjusting portfolio composition to withstand potential liquidity stresses, maintaining bank lines of credit or other borrowing arrangements, requesting notification from large shareholders about possible upcoming redemptions, and other similar risk management techniques. In addition, some fund complexes have established a dedicated risk management function, with independent risk oversight. Other funds, however, employ substantially less comprehensive liquidity risk assessment and management practices and procedures. These funds, for example, may have little coordination between the compliance personnel who monitor the fund's adherence to the 15% guideline, and the portfolio and risk management personnel who assess the liquidity profile of portfolio assets. Staff outreach has shown that it is fairly common for a fund not to have adopted a specific liquidity risk management program, but instead to rely primarily on the portfolio management process to consider liquidity risk when making portfolio management decisions. While a fund's portfolio management function has access to a great deal of information relevant to the liquidity of the fund's portfolio assets, and thus pertinent to the fund's liquidity risk, portfolio managers may have competing interests that could potentially impede effective liquidity risk management. For example, depending on the circumstances, a fund's portfolio manager could be reluctant to invest a portion of the fund's assets in highly liquid assets, which may be appropriate for liquidity risk management purposes, but that the manager believes could cause a fund's performance to lag compared to similar funds or the fund's benchmark.[258] In sum, our staff has found that the comprehensiveness as well as the independence of funds' liquidity risk management vary significantly.

Because we are concerned with funds' ability to meet their redemption obligations and to mitigate shareholder dilution associated with redemptions, we are proposing new requirements for assessing and managing funds' liquidity risk. Proposed rule 22e–4(b)(2)(iii) would require a fund to assess and periodically review its liquidity risk, taking into account certain factors. Proposed rule 22e–4(b)(2)(iv) would require a fund to manage its liquidity risk based on this assessment, including: (i) Requiring the fund to determine (and periodically review) a minimum percentage of the fund's net assets that must be invested in three-day liquid assets (the fund's ''three-day liquid asset minimum''); [259] (ii) prohibiting a fund from acquiring any less liquid asset if the fund would have invested less than its three-day liquid asset minimum in three-day liquid assets; [260] and (iii) prohibiting a fund from acquiring any 15% standard asset if the fund would have invested more than 15% of its net assets in 15% standard assets.[261]

We are proposing these new requirements with the goal of providing funds with the flexibility to adopt policies and procedures that would be most appropriate to assess and manage their liquidity risk, while at the same time reducing the risk that funds will be unable to meet redemption obligations, minimizing dilution, and elevating the overall quality of liquidity risk assessment and management across the fund industry. Given that a fund's liquidity risk arises from the interaction of multiple discrete and overlapping factors, we believe that the most effective liquidity risk management programs would be multi-faceted and customized to reflect the sources of the fund's liquidity risk. The requirements that we are proposing are therefore intended to be largely principles-based and would permit a fund to tailor its risk assessment and management procedures to respond to the fund's particular risks and circumstances. On the other hand, we also believe that requiring each fund to consider, as a baseline, a standard set of factors for assessing liquidity risk, requiring each fund to keep a minimum portion of net assets in cash and assets that the fund believes are convertible to cash within three business days without materially affecting the value of the asset (which minimum each fund would determine based on standard factors), and limiting a fund's holdings of 15% standard assets would create an overall framework that we believe would assist the development of effective and thorough liquidity risk assessment and management across the fund industry, thereby strengthening the ability of funds to meet redemption obligations

[255] *See, e.g., infra* section IV.C.1.e (discussing why we do not believe that a general stress testing requirement would be an adequate substitute for the proposed three-day liquid asset requirement).

[256] *See infra* section III.C.1; *see also* Nuveen FSOC Notice Comment Letter, *supra* note 45, at 10–11 (stating that mutual funds that could have liquidity challenges in difficult markets include those that invest not only in less liquid asset classes, but also those with larger investor concentrations, with fund flows particularly sensitive to changes in the returns of the markets in which they invest, that hold a large amount of a single issuance or a high percentage of its average daily trading volume, with meaningful use of effective leverage, and that invest in assets that do not have contractual settlement periods and tend to settle over longer periods than ordinary securities).

[257] *See supra* text following note 100; *see also supra* note 104 (discussing Commission initiative to require large investment companies and investment advisers to engage in annual stress tests as required by section 165(i) of the Dodd-Frank Act); BlackRock FSOC Notice Comment Letter, *supra* note 50, at 6 (stating that among several overarching principles that provide the foundation for a prudent market liquidity risk management framework for collective investment vehicles is estimating ''potential fund redemptions based on (a) historical behavior under normal as well as under adverse market conditions, and (b) monitoring investor profiles and related redemption behaviors to help identify potential liquidity needs, recognizing the differences between institutional and retail investors, large and small investors, categories of assets (*e.g.,* retirement versus non-retirement assets), and the platforms on which funds are sold (*e.g.,* self-directed versus through an intermediary''); AII FSOC Notice Comment Letter, *supra* note 50, at 15 (''investment advisers to mutual funds continually review a broad series of metrics to evaluate the current adequacy of the fund's liquidity position. These include historic data regarding redemption request levels, stressing the historic redemption levels, assessing levels of liquidity of categories of assets held by the fund based on industry standards, assessing current and expected market conditions of the types of asset held by the fund and then assessing liquidity in those various market conditions.'').

[258] *But see* Mikhail Simutin, *Cash Holdings and Mutual Fund Performance,* 18 Rev. of Fin. 1425 (2013) (''Simutin'') (''Cash holdings of equity mutual funds impose a drag on fund performance but also allow managers to make quick investments in attractive stocks and satisfy outflows without costly fire sales. This article shows that actively managed equity funds with high abnormal cash—that is, with cash holdings in excess of the level predicted by fund attributes—outperform their low abnormal cash peers by over 2% per year.'').

[259] Proposed rule 22e–4(b)(2)(iv)(A)–(B).

[260] Proposed rule 22e–4(b)(2)(iv)(C).

[261] Proposed rule 22e–4(b)(2)(iv)(D). In addition, proposed rule 22e–4(b)(2)(iv)(E) would require a fund to establish policies and procedures regarding redemptions in kind, to the extent that the fund engages in or reserves the right to engage in redemptions in kind.

and mitigating dilution of the interests of fund shareholders.

1. Assessing a Fund's Liquidity Risk

Proposed rule 22e–4 envisions a two-pronged liquidity risk assessment and risk management process, whereby a fund would be required to assess its liquidity risk, based on certain specified factors, and then develop a liquidity risk management program tailored to the fund's liquidity risk.[262] Here we discuss the liquidity risk assessment portion of this process. The requirements we are proposing for the fund's management of the risks identified by this assessment are discussed in a later section of the release.[263] Proposed rule 22e–4(b)(2)(iii) would require each fund to assess the fund's liquidity risk, considering certain specified factors that are discussed in more detail below. We compiled these factors based, in part, on staff outreach to funds and third-party service providers who assess liquidity risk on behalf of funds. To the extent that funds currently conduct liquidity stress tests, we understand that these stress tests commonly incorporate many of the proposed factors (or functionally similar factors).[264] The proposed liquidity risk factors also incorporate considerations that we believe have historically contributed to liquidity risk in open-end funds.[265]

The proposed rule would require each fund to take the following factors into account, as applicable, in assessing the fund's liquidity risk:

- Short-term and long-term cash flow projections, taking into account the following considerations:
  - Size, frequency, and volatility of historical purchases and redemptions of fund shares during normal and stressed periods;
  - The fund's redemption policies;
  - The fund's shareholder ownership concentration;
  - The fund's distribution channels; and
  - The degree of certainty associated with the fund's short-term and long-term cash flow projections
- The fund's investment strategy and liquidity of portfolio assets;
- Use of borrowings and derivatives for investment purposes; and
- Holdings of cash and cash equivalents, as well as borrowing arrangements and other funding sources.

This list is not meant to be exhaustive. In assessing its liquidity risk, a fund may take into account considerations in addition to the factors set forth in proposed rule 22e–4(b)(2)(iii). For example, if a fund elects to conduct stress testing[266] to determine whether it has sufficient liquid assets to cover different levels of redemptions, a fund should consider incorporating the results of this stress testing into its liquidity risk assessment. However, a fund would be required to consider, as applicable, the proposed rule 22e–4(b)(2)(iii) factors as a minimum set of considerations to be used in assessing its liquidity risk. For this reason, a fund that elects to conduct stress tests may wish to review the factors and parameters it uses to construct scenario analyses concerning the adequacy of the fund's portfolio liquidity, and update these factors and parameters to reflect the proposed liquidity risk assessment factors. We believe that stress tests that incorporate the proposed factors, though not required, could be particularly useful to a fund in assessing its liquidity risk.

We recognize that some of the proposed factors may not be applicable in assessing the liquidity risk of certain funds or types of funds. For example, we recognize that certain considerations that the proposed rule would require a fund to consider in assessing its cash flow projections (*e.g.,* shareholder ownership concentration, and the fund's distribution channels) would generally be more applicable to mutual funds than to ETFs. To the extent that a proposed factor is not applicable to a particular fund, the fund would not be required to consider that factor in assessing its liquidity risk.

Below we provide guidance on specific issues associated with each of the proposed liquidity risk assessment factors. We also request comment below with respect to each of the proposed factors, as well as guidance regarding each factor.

a. Cash Flow Projections

A fund's cash flow (the amount of cash flowing either into or out of the fund) is important in determining whether the fund will have sufficient cash to satisfy redemption requests.[267] Cash flow projections thus directly affect a fund's liquidity risk.[268] As discussed below, we believe that several factors influence the extent to which a fund's cash flow profile could indicate or contribute to the fund's liquidity risk. Proposed rule 22e–4(b)(2)(iii)(A) thus would require a fund to consider these factors when evaluating its liquidity risk. In general, we believe that the better a fund's portfolio and risk managers are able to predict the fund's net flows, the better they will be able to measure and manage the fund's liquidity risk.[269] Predictability about whether periods of market stress or declines in fund performance generally lead to increased redemptions of fund shares is particularly significant, as careful liquidity risk management during these periods could prevent the need to sell less-liquid portfolio assets under unfavorable circumstances, which in turn could create significant negative price pressure on the assets and, to the extent the fund continues to hold a portion of those assets, decrease the value of the assets still held by the fund at least temporarily.[270]

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[262] To the extent that liquidity risk differs among each series of an investment company, each series would be required to adopt a liquidity risk management program whose liquidity risk assessment and management elements are distinct from other series' programs. *See supra* paragraph accompanying notes 114–115.

[263] *See infra* sections III.C.3–III.C.5.

[264] *See supra* notes 101, 257 and accompanying text.

[265] *See* Guidelines Release, *supra* note 4 (noting that funds should consider cash flows into specific investment strategies in determining whether the fund is maintaining an adequate level of liquidity).

[266] *See supra* notes 101, 257 and accompanying text.

[267] *See, e.g.,* Invesco FSOC Notice Comment Letter, *supra* note 35, at 11(''Cash inflows from sources such as gross subscriptions (including reinvested dividends on fund shares), dividend and interest payments on portfolio securities and maturities of debt securities held in portfolios do help manage fund level liquidity and are taken into account by portfolio managers as part of their liquidity management.''); ICI FSOC Notice Comment Letter, *supra* note 16, at 18 (''Managing liquidity as part of overall portfolio management is a dynamic process requiring fund managers to make daily adjustments to accommodate cash inflows and outflows. . . Portfolio managers and traders typically receive data on cash flows at least daily and thus have a strong sense of whether additional actions (including the sale of portfolio holdings) would be needed to meet redemption requests or otherwise adjust a fund's liquidity profile.'').

[268] Proposed rule 22e–4(a)(7).

[269] *See, e.g.,* Gordon J. Alexander, Gjergi Cici & Scott Gibson, *Does Motivation Matter When Assessing Trade Performance? An Analysis of Mutual Funds,* 20 Rev. of Fin. Stud. 125 (Jan. 2007) (noting that unexpected investor flows may force managers to rebalance their portfolios to control liquidity, and that these liquidity-related trades should underperform trades motivated by valuation beliefs).

[270] *See, e.g., supra* note 54 and accompanying paragraph; Coval & Stafford, *supra* note 51 (noting that fire sales can be anticipated based on past flows and returns); Peter Fortune, *Mutual Funds, Part I: Reshaping the American Financial System,* New England Econ. Rev. (July/Aug. 1997), at 66–67, (''Fortune''), *available at http://www.bostonfed.org/economic/neer/neer1997/neer497d.htm* (positing that funds with insufficient liquidity to meet redemption requests following a significant decline in stock prices will need to sell securities in a declining market, making the funds more sensitive to price fluctuations); 1987 Market Crash Report, *supra* note 54, at III–16—III–26, IV–1—IV–8 (discussing mutual fund selling behavior during the October 1987 stock market crash, and in particular the selling of three mutual fund companies, whose heavy selling of assets to meet significant redemptions ''accounted for approximately one quarter of all trading on the NYSE for the first 30

Continued

A fund would be required to consider the size, frequency, and volatility of historical purchases and redemptions of fund shares, during both normal and stressed periods, when considering its cash flow projections.[271] A fund whose inflows generally correspond to its outflows in terms of timing, size, frequency, and response to market events will likely be able to use cash received from purchases to pay redeeming shareholders, which decreases the fund's liquidity risk. Funds whose net flows are relatively less volatile in terms of size and frequency will likely entail less liquidity risk than similar funds with more volatile net flows, because funds with less flow volatility can better plan how to meet fund redemptions and thus will be less likely to need to sell portfolio assets in a manner that creates a market impact in order to pay redeeming shareholders.[272] A fund should generally review historical purchases and redemptions of fund shares across a variety of market conditions in order to determine how the fund's flows may differ during stressed and normal periods (keeping in mind that historical experience may not necessarily be indicative of future outcomes, depending on changes in market conditions and the fund's particular circumstances). In particular, if outflows are greater, more frequent, or more volatile during stressed periods, this could exacerbate the fund's liquidity risk.[273] A fund may find it instructive to understand when its highest, lowest, most frequent, and most volatile purchases and redemptions occurred within various time horizons, such as the past one, five, ten, and twenty years (as applicable, considering the fund's operating history). In addition to considering its own historical flow data, a fund, particularly a fund without a substantial operating history, may wish to consider purchase and redemption activity in funds with similar investment strategies. Consideration of similar funds' purchases and redemptions could show whether the fund's historical flows are typical or aberrant compared to those seen in similar funds and assist new funds in predicting flow patterns.

A fund may wish to evaluate whether the size, frequency, and volatility of its shareholder flows follow any discernable pattern. For example, patterns in shareholder flows have been observed relating to seasonality,[274] shareholder tax considerations,[275] fund advertising,[276] and changes in fund performance ratings provided by third-party rating agencies.[277] A fund's investment strategy also could contribute to its shareholder flows: for instance, we understand that certain investors tend to trade in and out of ETFs with index-based strategies frequently because they invest in these ETFs for hedging and/or short-term trading purposes.[278] Furthermore, a fund may wish to take into account its assets in assessing historical flow data, since smaller funds may experience greater flow volatility.[279]

While historical redemption patterns are an important factor in assessing cash flows, a fund should be cognizant of the limitations of using past flow history to assess future cash flow needs. Therefore, a fund would be required to take into account other factors when considering cash flow projections, including its redemption policies.[280] Specifically, we believe a fund should generally consider the disclosures in its prospectus or advertising materials regarding the time period in which it will pay redemption proceeds (or endeavor to pay redemption proceeds),[281] and whether its redemption policies vary based on the distribution channels the fund employs. A fund whose policies require it to pay redeeming shareholders on a next-day basis could find itself with fewer options for managing high levels of redemptions than a fund that is bound only by the redemption timing requirements of rule 15c6–1. To illustrate, when a fund that pays redemption proceeds within one day receives a large redemption request and a fund that pays redemption proceeds within three business days pursuant to the timing requirements of rule 15c6–1

minutes that the Exchange was open'' on October 19, 1987 and that such selling had ''a significant impact on the downward direction of the market'').

[271] Proposed rule 22e–4(b)(2)(iii)(A)*(1).*

[272] *See, e.g.,* Thomas M. Idzorek, James X. Xiong & Roger G. Ibbotson, *The Liquidity Style of Mutual Funds,* 68 Fin. Analysts J. 38 (2012), at n.4, *available at http://corporate.morningstar.com/us/documents/MethodologyDocuments/ResearchPapers/LiquidityStyleOfMutualFunds.pdf* (noting that funds with less volatile fund flows can afford to hold more illiquid stocks because they can accommodate redemptions with the liquid portion of their portfolios).

[273] *See, e.g., supra* note 270.

[274] *See, e.g.,* Mark J Kamstra, et al., *Seasonal Asset Allocation: Evidence from Mutual Fund Flows* (Dec. 2013), *available at http://www.bus.umich.edu/ConferenceFiles/2014-Mitsui-Finance-Symposium/files/Kramer_Seasonal_Asset_Allocation.pdf* (''[W]e find that aggregate investor flow data reveals a preference for U.S. money market and government bond mutual funds in the autumn, and equity funds in the spring, controlling for the influence of seasonality in past performance, advertising, liquidity needs, and capital gains overhang on fund flow. This movement of large amounts of money between fund categories is correlated with a proxy for variation in risk aversion across the seasons, consistent with households' revealed preferences for safer investments in the fall, and riskier investments in the spring.''); Hyung-Suk Choi, *Seasonality in Mutual Fund Flows,* 31 J. of Applied Bus. Research 715 (Mar./Apr. 2015), *available at http://www.cluteinstitute.com/ojs/index.php/JABR/article/viewFile/9162/9156* (''January is the month when equity funds experience the largest net cash flows and December is the month with the smallest cash flows.'').

[275] *See, e.g.,* Woodrow T. Johnson & James M. Poterba, *Taxes and Mutual Fund Inflows around Distribution Dates,* NBER Working Paper 13884 (Mar. 2006, rev'd Mar. 2008), *available at http://economics.mit.edu/files/2512* (''Johnson & Poterba'') (finding a ''modest'' decline in inflows into mutual funds by taxable investors prior to a capital gains distribution date); Brad M. Barger & Terrance Odean, *Are Individual Investors Tax Savvy? Evidence from Retail and Discount Brokerage Accounts,* 88 J. of Pub. Econ. 419 (Jan. 2004), *available at http://faculty.haas.berkeley.edu/odean/papers%20current%20versions/areindividualinvestorstaxsavvy_2003.pdf* (observing tax losses being related at greater rates than gains only in the month of December).

[276] *See, e.g.,* Murat Aydogdu & Jay W. Wellman, *The Effects of Advertising on Mutual Fund Flows: Results from a New Database,* Financial Management (Fall 2011), *available at http://onlinelibrary.wiley.com/doi/10.1111/j.1755-053X.2011.01161.x/epdf* (finding significant differences in the effectiveness of mutual fund advertising to attract inflows *(e.g.,* smaller funds received significant inflows due to advertising, while ''flagship'' funds did not attract inflows as a result of their advertisements)).

[277] *See, e.g.,* Diane Del Guercio & Paula A. Tkac, *Star Power: The Effect of Morningstar Ratings on Mutual Fund Flow,* 43 J. of Fin. and Quantitative Analysis 907 (Dec. 2008), *available at http://www.jstor.org/stable/27647379?seq=1#page_scan_tab_contents* (finding that certain changes in performance ratings (rather than changes in the underlying fund performance) have a substantial influence on retail investors inflows into and outflows from mutual funds).

[278] *See, e.g.,* 2015 ICI Fact Book, *supra* note 3, at 13 (''Investment managers, including mutual funds and pension funds, use ETFs to manage liquidity—helping them manage their investor flows and remain fully invested in the market. Asset managers also use ETFs as part of their investment strategies, including as a hedge against their exposure to equity markets.''); *see also* Izhak Ben-David, Francesco A. Franzoni & Rabih Moussawi, *Do ETFs Increase Volatility?,* NBER Working Paper No. 20071, at 12, *available at http://www.nber.org/papers/w20071.pdf* (''Theoretical support for this conjecture comes from Amihud and Mendelson (1986) and Constantinides (1986), who propose that investors with shorter holding periods self-select into assets with lower trading costs. Atkins and Dyl (1997) find support for this conjecture by showing that securities with lower bid-ask spread have higher trading volume. These theories and empirical evidence suggest that, due to the low trading costs of ETFs, a new clientele of high-frequency investors can materialize around the newly created securities. This clientele would not trade the less-liquid underlying assets if ETFs were not present.'').

[279] *See infra* notes 726 and 727.

[280] Proposed rule 22e–4(b)(2)(iii)(A)*(2).*

[281] *See* Item 6(b) of Form N–1A (requiring a fund to briefly identify the procedures for redeeming shares); proposed amendments to Item 11 of Form N–1A (requiring funds to disclose the number of days in which a fund will pay redemption proceeds to redeeming shareholders, and explain if the number of days differs by distribution channel); *infra* section III.G.1.a (discussing proposed amendments to Item 11 of Form N–1A).

receives a redemption request of the same size, the first fund must satisfy the full request within one day, whereas the second fund has more time to space out the sale of portfolio assets in order to satisfy the redemption request. Even though the shareholder flows of the first and second fund are identical, the redemption policies of the first fund magnify its liquidity risks by requiring that the fund pay redemptions quickly.[282] An ETF that typically pays redemption proceeds in kind should generally also consider that it has reserved the right to transact with authorized participants in cash, the circumstances in which it anticipates that it would pay redemption proceeds in cash, and how these policies impact its cash flow projections.

A mutual fund also would be required to consider its shareholder ownership concentration as a factor affecting its cash flow projections.[283] If a mutual fund's shares are concentrated in a relatively small group of shareholders, one shareholder's redemptions of fund shares could result in considerable cash outflows from the fund.[284] This in turn could increase the mutual fund's liquidity risk if the fund does not have procedures in place to manage large redemptions, particularly if the fund were to encounter unexpected redemptions from a large shareholder. For these reasons, we believe a mutual fund should consider the extent to which its shareholder concentration affects its liquidity risk, particularly taking into account other factors that could magnify shareholder concentration-related liquidity risk (*e.g.,* if a fund has an investment strategy that attracts shareholders who trade based on short-term price movements, shareholders could be more likely to redeem precipitously, and resulting unexpected redemptions by a shareholder with a large ownership stake could cause significant liquidity stresses to the fund).

There are multiple ways that a mutual fund's distribution channels could affect its cash flows (including the predictability of the fund's cash flows), and the proposed rule would require a mutual fund to consider this factor in evaluating its cash flows and related liquidity risk.[285] First, a mutual fund's redemption practices could depend on its distribution channels. For example, mutual funds that are sold through broker-dealers will have to meet redemption requests within three business days, because rule 15c6–1 under the Exchange Act establishes a T+3 settlement period for securities trades effected by a broker or dealer. Second, to the extent that mutual fund shares are held through omnibus accounts, it could be difficult for a mutual fund to be fully aware of the composition of the underlying investor base,[286] including investor characteristics that could affect the mutual fund's short-term and long-term flows (*e.g.,* whether ownership in the mutual fund is relatively concentrated,[287] and whether the mutual fund's underlying investors share any common investment goals affecting redemption frequency and timing). Finally, a mutual fund's distribution channels could affect its cash flow predictions insofar as certain distribution channels are generally correlated with particular purchase and redemption patterns. For instance, investors in mutual funds distributed through a retirement plan channel or other planned savings channel (*e.g.,* funds underlying a 529 plan) [288] may be more likely to be long-term investors who do not trade based on short-term price movements, and their purchase and redemption patterns thus may be relatively predictable compared to those of other investors. Investors in mutual funds distributed through certain channels also may have similar purchase and redemption characteristics relating to their financial and tax-related needs. For example, taxable investors who are considering purchasing mutual fund shares around capital gains distribution dates have an incentive to delay their purchases until after the distribution, but non-taxable shareholders (such as those who invest through IRAs and other tax-deferred accounts) face no such incentive for delaying purchases.[289]

Finally, a fund would be required to consider the degree of certainty surrounding its short-term and long-term cash flow projections.[290] A fund could consider the length of its operating history (including the fund's experience during points of market instability, illiquidity, or volatility), any observed purchase and redemption patterns, and the applicable other factors set forth in proposed rule 22e–4(b)(2)(iii)(A) in determining the level of certainty the fund has regarding its cash flows. A fund may find it instructive to employ ranges in considering cash flow projections and their relationship to liquidity risk. For instance, a fund that could reasonably project that its cash flows will fall within a relatively narrow range could more precisely assess its liquidity risk than a fund that could reasonably project a broader range of projected cash flows. If a fund has implemented policies to encourage certain shareholders (*e.g.,* large shareholders, or certain types of shareholders such as institutional shareholders) to provide advance notification of their intent to redeem a significant number of shares of the fund, this could increase the degree of certainty surrounding its cash flow projections.[291]

b. Investment Strategy and Liquidity of Portfolio Assets

Under proposed rule 22e–4, a fund's procedures for assessing its liquidity risk must take into account the effects that the fund's investment strategy and the liquidity of its portfolio assets could have on the fund's liquidity risk.[292] A fund's investment strategy could increase or decrease the fund's liquidity risk in various ways. For example, whether a fund is actively or passively managed could have ramifications on the fund's liquidity. On one hand, a fund with a passive investment strategy could have less liquidity risk relative to an actively managed fund that invests in a similar portfolio, to the extent that the portfolio of the passively managed fund is built around a widely followed market index (securities that are

[282] *See supra* note 270.

[283] Proposed rule 22e–4(b)(2)(iii)(A)*(3).*

[284] We note that a relatively concentrated fund shareholder base may make it easier for funds to communicate with those shareholders about their anticipated future redemptions, and thus plan liquidity demands. However, those shareholders are under no legal obligation to forewarn the fund of their redemptions and so, particularly in times of stress, may not do so.

[285] Proposed rule 22e–4(b)(2)(iii)(A)*(4).*

[286] *See, e.g.,* Board of the IOSCO, *Principles of Liquidity Risk Management for Collective Investment Schemes* (Mar. 2013), at 5, *available at http://www.iosco.org/library/pubdocs/pdf/IOSCOPD405.pdf* (''The responsible entity should consider liquidity aspects related to its proposed distribution channels.'').

[287] *See supra* notes 283–284 and accompanying text.

[288] A 529 plan is a tax-advantaged plan designed to encourage saving for future college costs that is sponsored by a state, state agency, or educational institution and is authorized by section 529 of the Internal Revenue Code.

[289] *See* Johnson & Poterba, *supra* note 275; *see also supra* note 274 and accompanying text (discussing seasonality in mutual fund flows).

[290] Proposed rule 22e–4(b)(2)(iii)(A)*(5).*

[291] We understand, based on staff outreach, that advance notification procedures are a relatively common liquidity risk management tool that funds currently employ. *See also* Invesco FSOC Notice Comment Letter, *supra* note 35, at 11 (noting that Invesco has advance notification arrangements regarding anticipated redemptions above certain levels in place with certain distribution partners).

[292] Proposed rule 22e–4(b)(2)(iii)(B).

components of such an index are generally more liquid than securities that are not).[293] An index-tracking fund also may be more likely to sell a ''strip'' of the portfolio (*i.e.,* a cross-section or representative selection of the fund's portfolio assets) to meet net redemptions, which minimizes the outcome that the fund would sell its most liquid assets first, in order to continue to closely track the applicable benchmark. On the other hand, index-based strategies could exhibit increased liquidity risk during periods when an index is being reconstituted, if the index reconstitution results in multiple funds simultaneously attempting to get into or out of the same portfolio position.[294] Index-based strategies also could experience increased liquidity risk when the assets in the index become less liquid due to market events, because the fund's manager will have less discretion to move the fund's strategy away from the index's assets. In addition, index-based strategies that track less-liquid market indices may exhibit more liquidity risk than passively managed funds built around widely-followed market indices.[295]

The extent to which a fund's portfolio is diversified (or, relatedly, a fund's concentration in certain types of portfolio assets) could have ramifications on the fund's potential liquidity risk as well. A fund's status as a diversified investment company under the Investment Company Act,[296] its status as a regulated investment company under Subchapter M of the Internal Revenue Code,[297] and its principal investment strategies as disclosed in its prospectus all could affect the fund's liquidity risk.[298] For example, a fund constrained by various diversification requirements that needs to sell portfolio securities in order to meet redemption requests could be limited by its diversification obligations in determining which portfolio securities it will sell. Such a fund might need to unwind certain portfolio positions under unfavorable circumstances. A fund whose investment strategy requires it to invest a certain percentage of its assets in a particular asset class, industry segment, or securities associated with a particular geographic region could encounter similar limitations, if selling certain portfolio securities would cause the fund to not be in compliance with its investment strategies. On the other hand, a fund with a relatively more-diversified portfolio needing to sell portfolio assets to build liquidity would possibly be able to select assets for sale based on whether the markets for those assets are favorable. A relatively less-diversified fund may have fewer options (*i.e.,* because the markets for its portfolio assets are uniform or correlated) and could thus be compelled to transact in unfavorable markets. Such fund also may need to trade larger dollar amounts of each asset, which may increase the price impact of the trades.

In addition to diversification or concentration issues, a fund's portfolio management decisions that are meant, in part, to decrease an undesirable tax impact on the fund could affect the fund's liquidity risk. For example, a fund whose portfolio includes foreign securities might manage its portfolio to avoid securities transaction taxes imposed by other jurisdictions.[299] Similarly, a fund could be managed using an active tax loss harvesting strategy to opportunistically realize losses that may be used to offset future gains.[300] The sale of certain portfolio assets to meet liquidity needs might adversely affect these, and comparable, management practices. Consequently, a fund whose tax management strategy makes its portfolio managers unwilling to sell certain portfolio assets in order to meet redemptions could face increased liquidity risk compared to a similarly situated fund, because it could have fewer desirable options to generate cash to pay redemptions (and thus could have increased risk that it would need to sell portfolio assets under unfavorable circumstances in order to meet redemptions) than another, similar fund.

While we believe consideration of a fund's investment strategy is an important factor in assessing a fund's liquidity risk, we caution that different types of funds within the same broad investment strategy may demonstrate different levels of liquidity (and thus, presumably, different levels of liquidity risk).[301] The liquidity of a fund's portfolio assets directly affects the amount of liquidity risk associated with the fund. A fund should consider the portions of the fund's net assets that are invested in each of the six liquidity categories set forth in proposed rule 22e–4(b)(2)(i). All else being equal, funds with relatively greater portions of their assets invested in less liquid assets would tend to have greater liquidity risk than funds holding relatively fewer less liquid assets.

c. Use of Borrowings and Derivatives for Investment Purposes

Proposed rule 22e–4 would require a fund to take into account the potential effects of the use of borrowings and derivatives for investment purposes (for example, to enhance returns) on its liquidity risk.[302] Funds may borrow from a bank under section 18 of the Investment Company Act. In addition to the asset coverage limitations imposed by section 18,[303] any such borrowing would be subject to the terms agreed between a fund and the bank, including terms relating to the maturity date of the borrowing and any circumstances under which the borrowing may be required to be repaid. In addition, as noted above, funds that borrow for investment purposes, for example through financing transactions such as reverse repurchase agreements and short sales, generally do so in reliance on the guidance we provided in Release 10666, under which funds cover their obligations under such transactions by segregating certain liquid assets.[304] Segregated assets are considered to be unavailable for sale or disposition, including for redemptions, unless replaced by other appropriate non-segregated assets of equal value.[305] This means that a fund that receives significant redemption requests may

[293] *See supra* paragraph accompanying notes 215–216.

[294] *See, e.g.,* Antti Petajisto, *The Index Premium and Its Hidden Cost for Index Funds,* 18 J. of Empirical Fin. 271, 288 (2011), *available at http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.372.3301&rep=rep1&type=pdf* (''The annual index turnover cost from 1990 to 2005 is about 21–28 bp for the S&P 500 and 38–77 bp for the Russell 2000. This is the cost of mechanically tracking the index rather than holding an essentially similar index-neutral portfolio.'').

[295] *See also* Jonathan Wheatley & Joel Lewin, *Emerging Market ETFs: Solving the Liquidity Problem or Storing it Up?,* Financial Times (Apr. 20, 2015), *available at http://www.ft.com/cms/s/0/43c52f1e-e75e-11e4-a01c-00144feab7de.html* (discussing ETFs built around emerging market corporate bond indexes).

[296] *See* section 5(b)(1) of the Investment Company Act.

[297] 26 U.S.C. 851. To qualify as a regulated investment company, a fund must meet several diversification requirements at the close of each fiscal quarter of the taxable year. *See id.*

[298] *See* Items 4(a), 9 of Form N–1A.

[299] *See, e.g.,* Karl Habermeier & Andrei Kirilenko, *Securities Transaction Taxes and Financial Markets,* IMF Working Paper (May 2001), *available at http://www.imf.org/external/pubs/ft/wp/2001/wp0151.pdf* (discussing, among other things, the effects of transaction taxes on liquidity).

[300] *See, e.g.,* Scott J. Donaldson & Francis M. Kinniry Jr., *Tax-Efficient Equity Investing: Solutions for Maximizing After-Tax Returns,* Vanguard Investment Counseling & Research (2008), *available at https://personal.vanguard.com/pdf/flgtei.pdf.*

[301] *See infra* note 627 and accompanying text.

[302] Proposed rule 22e–4(b)(2)(iii)(C). Although the use of borrowings and derivatives is a distinct factor under proposed rule 22e–4(b)(2)(iii), a fund should also consider the potential impact of borrowings and derivatives in its assessment of other factors set forth in proposed rule 22e–4(b)(2)(iii), such as the fund's cash flow projections and its investment strategy and liquidity of portfolio assets.

[303] *See infra* note 321.

[304] *See supra* section III.B.2.i.

[305] *See* Release 10666, *supra* note 241.

need to unwind a portion of its financing transactions in order make more liquid assets available for sale to fulfill such requests. Furthermore, if a fund seeks to unwind its financing transactions in a declining market, it may need to dispose of a greater amount of its more liquid holdings in order to repay its borrowings, thereby reducing the amount of liquid assets it has available to meet redemptions. Consequently, a fund's assessment of its liquidity risk should include an evaluation of the nature and extent of its borrowings and the potential impact of borrowings on the fund's overall liquidity profile.

The use of derivatives, such as futures, forwards, swaps and written options, may also affect a fund's liquidity risk. Funds use derivatives for a wide range of purposes, including hedging or risk mitigation, but also to obtain leverage or investment exposures.[306] As noted above, funds that use derivatives under which they have an obligation to pay typically do so in reliance on the guidance we provided in Release 10666 and in related no-action letters issued by our staff, and therefore segregate liquid assets in respect of their obligations under derivatives transactions.[307] Derivatives may therefore raise concerns that are similar to those discussed above in the context of borrowings. Funds also may be required to dispose of assets in order to post required margins with respect to their short sale transactions. In addition, some derivatives transactions—particularly those that are complex or entered into OTC—may be less liquid, have longer settlement periods, or be more difficult to price than other types of investments, which potentially increases the amount of time required to unwind such transactions.

Even highly liquid derivatives may present liquidity risk for some funds. For example, some funds use derivatives for cash and liquidity management purposes. A large-cap equity fund with a temporary cash position may purchase equity index futures that have lower transaction costs, shorter settlement periods and greater liquidity than a direct investment in equity securities, in order to obtain a degree of exposure to large-cap equities. While ''equitizing'' its temporary cash position in this manner may mitigate the potential performance lag associated with a cash holding, it also exposes the fund to market risk.[308] Accordingly, a fund's assessment of liquidity risk should take into account the manner and extent of its derivatives use and the structure and terms of its derivatives transactions.

In addition to the liquidity of the derivatives positions themselves, assessing liquidity risk generally may include an evaluation of the potential liquidity demands that may be imposed on the fund in connection with its use of derivatives, including any variation margin or collateral calls the fund may be required to meet.[309] To the extent the fund is required to make payments to a derivatives counterparty, those assets would not be available to meet shareholder redemptions.

d. Holdings of Cash and Cash Equivalents, as Well as Borrowing Arrangements and Other Funding Sources

Proposed rule 22e–4 would require a fund to consider its cash and cash equivalent holdings, as well as its borrowing arrangements and other funding sources, in assessing its liquidity risk.[310] Current U.S. generally accepted accounting principles define cash equivalents as short-term, highly liquid investments that are readily convertible to known amounts of cash and that are so near their maturity that they present insignificant risk of changes in value because of changes in interest rates.[311] Examples of items commonly considered to be cash equivalents include certain Treasury bills, agency securities, bank deposits, commercial paper, and shares of money market funds.[312] Cash and cash equivalents are extremely liquid (in that they either are cash, or could be easily and nearly immediately converted to known amounts of cash without a loss in value), and significant holdings of these instruments generally decrease a fund's liquidity risk because the fund could use them to meet redemption requests without materially affecting the fund's NAV.[313]

Entering into borrowing arrangements and agreements with other potential funding sources also could affect a fund's liquidity risk, as they could assist the fund in paying redeeming shareholders without the need to sell portfolio securities under circumstances that could impair the fund's NAV.[314] For example, in the past several decades, it has become increasingly common for fixed income funds to establish lines of credit with commercial banks.[315] When considering the extent to which a bank credit facility could affect a fund's liquidity risk, we believe a fund may find it instructive to evaluate the terms of the credit facility (*e.g.,* associated fees, the borrowing rate, and the time frame for repaying borrowed funds), the amount of the credit facility, whether the credit facility is committed or uncommitted,[316] and the financial health of the institution(s) providing the facility (especially to the extent that the fund also holds bonds or other securities issued by such institution(s), as a decrease in these securities' liquidity—caused, for example, by increased volatility of their trading prices—could contribute to an increased need to borrow from the institution). If a credit facility is shared among multiple funds within a fund family, a fund may wish to consider that the ability of that facility to mitigate the

[306] *See generally* Investment Company Derivatives Use Concept Release, *supra* note 242, at 13–17.

[307] *See supra* section III.B.2.i.

[308] Investment Company Derivatives Use Concept Release, *supra* note 242, at n.46 and accompanying text.

[309] *See* In re OppenheimerFunds, Inc., et al., Investment Company Act Release No. 30099 (June 6, 2012) (''OppenheimerFunds Release'') (settled action) (alleging the adviser made misleading statements regarding two fixed income mutual funds that suffered significant losses during the 2008 financial crisis primarily due to their use of total return swaps to obtain exposure to commercial mortgage-backed securities and noting that the funds ''had to raise cash for anticipated [total return swap] contract payments by selling depressed bonds into an increasingly illiquid market.'').

[310] Proposed rule 22e–4(b)(2)(iii)(D).

[311] FASB Accounting Standards Codification paragraph 305–10–20l.

[312] *See* 2014 Money Market Fund Reform Adopting Release, *supra* note 85, at sections III.A.7 and III.B.6 (clarifying that the reforms to the regulation of money market funds adopted by the Commission in 2014 should not preclude an investment in a money market fund from being classified as a cash equivalent under U.S. GAAP under normal circumstances); Form PF: Glossary of Terms (defining ''cash and cash equivalents'').

[313] However, a substantial investment in cash and cash equivalents could decrease a fund's total return and/or cause a fund to diverge from its investment strategy, and thus a fund may wish to calibrate its holdings of these instruments to manage the fund's liquidity risk while taking these concerns into consideration. *But see* Simutin, *supra* note 258 (observing that actively managed equity funds with cash holdings in excess of the level predicted by fund attributes outperform their low abnormal cash peers by over 2% per year).

[314] *See supra* note 35 (noting that most funds do not frequently draw on their lines of credit).

[315] *See, e.g.,* Miles Weiss, *BlackRock Leads Funds Raising Credit Lines Amid Review,* Bloomberg (Jan. 21, 2015), *available at http://www.bloomberg.com/news/articles/2015-01-21/blackrock-leads-funds-raising-credit-lines-amid-review* (discussing an uptick in demand by funds for bank lines of credit); *see also* Fortune, *supra* note 270, at 64 (noting that lines of credit with banks were rarely available to funds prior to the mid-1980s); *infra* section III.C.5.a (Commission guidance on use of borrowing arrangements and other funding sources as a liquidity risk management control).

[316] A committed line of credit represents a bank's obligation, in exchange for a fee, to make a loan to a fund subject to specified conditions. A bank can also provide an uncommitted or standby line of credit, in which the bank indicates a willingness, but no obligation, to lend to a fund. *See* Fortune, *supra* note 270, at 47.

liquidity risk of one fund within the family hinges in part on the degree of liquidity risk associated with the other funds sharing the facility. A fund also may wish to consider any negative impact on the fund resulting from borrowing funds for liquidity risk management purposes, as opposed to managing liquidity through the fund's portfolio construction. For example, borrowing funds to pay redeeming shareholders (for example, to avoid making sales of assets into distressed markets) could be beneficial to redeeming shareholders but could ultimately disadvantage non-redeeming shareholders who would effectively bear the costs of borrowing.[317] In assessing the effects of the fund's borrowing arrangements on the fund's liquidity risk, a fund may find it useful to assess the purposes for which the fund has historically borrowed funds to pay redemption proceeds. Finally, if a fund holds bonds or other securities issued by a bank, the fund may wish to consider whether entering into a borrowing arrangement with the same bank that issued such securities increases correlated exposure to the bank.

A fund also could engage in interfund lending within a family of funds if the fund has obtained exemptive relief from the Commission permitting the arrangement.[318] When considering the extent to which an interfund lending arrangement could affect a fund's liquidity risk, we believe a fund may find it instructive to evaluate the terms of the arrangement (*e.g.,* the lending rate and the time frame for repaying borrowed funds), as well as any conditions required under exemptive relief, including limitations on the circumstances in which interfund lending may be used. For example, it is common for exemptive orders to permit interfund lending in circumstances in which there is a timing mismatch between when a fund is required to pay redeeming shareholders and when any asset sales that the fund has executed in order to pay redemptions will settle (*e.g.,* a fund may be required to pay redeeming shareholders within three business days, but the portfolio transactions the fund has executed in order to pay these shareholders may not settle for seven days). A fund can reasonably predict that it will repay borrowed money relatively quickly and reliably under these circumstances. Therefore this type of borrowing would tend to be very low risk, and thus entail less liquidity risk,[319] than borrowing money to pay redemptions without already having secured a price at which the assets used to cover the borrowing will be sold.

Finally, a fund could generate liquidity through repurchase transactions, whereby the fund could agree to sell securities to another party at a specified price with a commitment to buy the securities back at a later date for another specified price. A repurchase agreement is structurally similar to a short-term loan, and thus a fund could use repurchase agreements to temporarily borrow cash to repay redeeming shareholders. A fund may find it instructive to consider how factors such as market conditions, supply and demand factors, whether the repurchase agreement is on a bilateral or tri-party basis, and counterparty credit risk could affect the ability of repurchase transactions to mitigate liquidity risk.

A fund's borrowing and other funding arrangements are subject to restrictions on affiliated transactions and leverage under the Investment Company Act and rules under the Act. For example, funds must obtain exemptive relief from the Commission before executing transactions that implicate section 17 of the Investment Company Act, which restricts transactions between an ''affiliated person of a registered investment company or an affiliated person of such affiliated person'' and that investment company.[320] Thus, as noted above, a fund must obtain exemptive relief before executing interfund lending arrangements. Additionally, funds' borrowing arrangements must be conducted in compliance with section 18 of the Investment Company Act, which limits a fund's ability to issue or sell ''senior securities.'' For instance, section 18(f) of the Investment Company Act limits funds to bank borrowing with 300% asset coverage.[321] The Commission and its staff have also taken the position that reverse repurchase agreements may involve the issuance of a senior security subject to the requirements of section 18 and, under certain circumstances, a fund could need to ''cover'' the senior security by maintaining ''segregated accounts.'' [322] These statutory and regulatory restrictions could constrain a fund's ability to use borrowing and other funding sources to meet redemption requests, and these limitations should be considered in assessing a fund's liquidity risk.

e. Request for Comment

We request comment on the proposed liquidity risk assessment requirement.

- Do commenters believe that the definition of ''liquidity risk'' in proposed rule 22e–4 is appropriate? Within the proposed definition, are the terms ''reasonably foreseeable'' and ''without materially affecting the fund's NAV'' clear? If not, how could the definition of ''liquidity risk,'' and terms within the proposed definition, be made more appropriate and/or clear?
- How do funds currently assess their liquidity risk? Who at the fund and/or the adviser is tasked with assessing the fund's liquidity risk? Who should be tasked with assessing the fund's liquidity risk? Should the proposed rule specify the officers or functional areas

[317] *See* Heartland Release, *supra* note 47.

[318] *See infra* note 320 and accompanying and following text.

[319] *See supra* section III.C.1.c (discussing circumstances in which a fund's use of leverage and derivatives could increase the fund's liquidity risk).

[320] *See* Investment Company Act sections 17(a) (prohibiting first- and second-tier affiliates of a fund from borrowing money or other property from, or selling or buying securities or other property to or from the fund, or any company that the fund controls; 17(b) (permitting the Commission to grant an exemptive order permitting transactions that would otherwise be prohibited under section 17(a) if certain conditions of fairness are met); *see also* Investment Company Act section 17(d) (making it unlawful for first- and second-tier affiliates of a fund, the fund's principal underwriters, and affiliated persons of the fund's principal underwriters, acting as principal, to effect any transaction in which the fund or a company controlled by the fund is a joint or a joint and several participant in contravention of Commission rules); rule 17d–1(a) under the Investment Company Act (prohibiting first- and second-tier affiliates of a fund, the fund's principal underwriters, and affiliated persons of the fund's principal underwriters, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or other joint arrangement or profit-sharing plan in which any such fund or company controlled by a fund is a participant unless an application regarding such enterprise, arrangement or plan has been filed with the Commission and has been granted).

[321] *See* Investment Company Act section 18(f) (prohibiting an open-end fund from issuing any senior security, except that a fund may borrow from any bank so long as immediately after the borrowing there is asset coverage of at least 300% for all borrowings of the fund).

[322] *See, e.g.,* Release 10666 *supra* note 241. In Release 10666, the Commission considered the application of section 18's restrictions on the issuance of senior securities to reverse repurchase agreements (among other types of agreements). The Commission concluded that such agreements may involve the issuance of senior securities subject to the prohibitions and asset coverage requirements of section 18. The Commission further stated that, although reverse repurchase agreements (among other types of agreements) are functionally equivalent to senior securities, these and similar arrangements nonetheless could be used by funds in a manner that would not warrant application of the section 18 restrictions. The Commission noted that in circumstances involving similar economic effects, such as short sales of securities by funds, Commission staff had determined that the issue of section 18 compliance would not be raised if funds ''cover'' senior securities by maintaining ''segregated accounts.'' The Commission also discussed the specific attributes of segregated accounts, board obligations, and other related matters in Release 10666.

that should be tasked with assessing a fund's liquidity risk?

We also request comment on each of the proposed factors that each fund would be required to consider in assessing its liquidity risk.

• What factors do funds currently use to assess their liquidity risk, and do the proposed factors reflect factors that funds (and/or the adviser, as applicable) already consider when evaluating liquidity risk? Should any of the proposed factors not be required to be considered by a fund in assessing its liquidity risk? Should any of the proposed factors be modified? Are there any additional factors, besides the proposed factors, that a fund should be required to consider in assessing liquidity risk? Should any of the proposed factors be given additional weight and, if so, under what circumstances?

• Instead of codifying the proposed factors as part of proposed rule 22e–4, should we provide guidance on factors that might be appropriate for a fund to consider in assessing its liquidity risk?

We seek comment on the Commission's guidance discussed above regarding each of the proposed factors.

• Besides the guidance, are there any other specific issues associated with any of the proposed factors that a fund may wish to consider in assessing the fund's liquidity risk? Do commenters generally agree with the guidance that the Commission has proposed regarding the ways in which each of the proposed factors could contribute to a fund's liquidity risk? Should the staff provide additional guidance about the factors? Should we add a note to rule 22e–4 indicating that the release includes additional guidance regarding the proposed factors?

• Are there any factors or procedures that would be of particular use to a fund without a substantial operating history in assessing liquidity risk? Would a new fund look to purchase and redemption activity in similar funds to predict its flow patterns?

2. Periodic Review of a Fund's Liquidity Risk

a. Proposed Liquidity Risk Review Requirement

Proposed rule 22e–4(b)(2)(iii) would require a fund to periodically review the fund's liquidity risk, taking into account each of the factors of proposed rule 22e–4(b)(2)(iii)(A)–(D) (discussed above in sections III.C.1.a–III.C.1.d). We believe that the periodic review of a fund's liquidity risk is necessary to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained. Like the proposed requirement to monitor the liquidity of portfolio assets,[323] the proposed liquidity risk review requirement would permit each fund to develop and adopt effective and individualized procedures to review the fund's liquidity risk, tailored as appropriate to reflect the fund's particular facts and circumstances. A fund would be required to consider each of the proposed rule 22e–4(b)(2)(iii)(A)–(D) factors in reviewing its liquidity risk. However, beyond this, rule 22e–4 does not include prescribed review procedures, nor does it specify the required risk review period or incorporate specific developments that a fund should consider as part of its review. A fund might generally consider whether its periodic review procedures should include procedures for evaluating regulatory, market-wide, and fund-specific developments affecting each of the proposed rule 22e–4(b)(2)(iii) risk factors. Because a fund's liquidity risk is directly related to the liquidity of the fund's portfolio assets (as reflected by proposed rule 22e–4(b)(2)(iii)(B), which requires consideration of the liquidity of a fund's portfolio assets as an element of the fund's liquidity risk assessment), a fund may wish to adopt liquidity risk review procedures that reference the fund's procedures for monitoring portfolio assets' liquidity. For example, a fund's liquidity risk review procedures could specify that certain circumstances giving rise to a revision of a portfolio asset's liquidity classification [324] could necessitate a review of the fund's liquidity risk.

b. Request for Comment

We request comment on the proposed liquidity risk review requirement.

• How do funds currently review liquidity risk? How often do funds currently review this risk? To what extent do funds anticipate that the periodic review procedures that would be required under proposed rule 22e–4 would replicate procedures funds currently use to periodically evaluate liquidity risks facing the fund?

• Are there certain review procedures that the Commission should require and/or on which the Commission should provide guidance? Should the Commission specify how frequently a fund must review its liquidity risk? Should funds review liquidity risk at least as frequently as they conduct ongoing liquidity reviews? Should the Commission expand its guidance on regulatory, market-wide, and fund-specific developments that a fund's review procedures should cover?

3. Portfolio Liquidity: Minimum Investments in Three-Day Liquid Assets

a. Proposed Three-Day Liquid Asset Minimum Requirement

Proposed rule 22e–4(b)(2)(iv)(A) would require each fund to determine the fund's ''three-day liquid asset minimum'' as part of its liquidity risk management program.[325] As proposed, the fund's three-day liquid asset minimum would be defined as the percentage of the fund's net assets to be invested in three-day liquid assets.[326] In determining its three-day liquid asset minimum, a fund would be required to consider the factors a fund would be required to consider in assessing its liquidity risk under proposed rule 22e–4(b)(2)(iii).[327] These factors include an assessment of short-term and long-term cash flow projections, taking into account certain specified considerations discussed further below; the investment strategy and liquidity of the fund's portfolio assets; the use of borrowings and derivatives for investment purposes (for example, to enhance returns),[328] and holdings of cash and cash equivalents, as well as borrowing arrangements and other funding sources. These factors are based, in part, on staff outreach to funds and third-party service providers that assess liquidity risk on behalf of funds, and they also incorporate considerations that we believe have historically contributed to liquidity risk in open-end funds.[329]

A fund's board would be required to approve the fund's three-day liquid asset minimum (including any changes to the fund's three-day liquid asset minimum),[330] and a fund would be required to maintain a written record of how the fund's three-day liquid asset minimum was determined (including an

[323] *See* proposed rule 22e–4(b)(2)(i).

[324] *See, e.g., supra* paragraph accompanying notes 251–254.

[325] Under proposed rule 22e–4(b)(2)(iv)(C), a fund would be prohibited from acquiring any less liquid asset if, immediately after the acquisition, the fund would have invested less than its three-day liquid asset minimum in three-day liquid assets.

[326] We propose to define three-day liquid asset as any cash held by a fund and any position of a fund in an asset (or portion of the fund's position in an asset) that the fund believes is convertible into cash within three business days at a price that does not materially affect the value of that asset immediately prior to sale. *See* proposed rule 22e–4(a)(8).

[327] *See* proposed rule 22e–4(b)(2)(iv)(A).

[328] *See* Investment Company Names Rule Release, *supra* note 36, at n.36 (''Whether a particular transaction is considered borrowing for investment purposes would depend on all facts and circumstances.'').

[329] *See supra* section III.C.1.

[330] *See* proposed rule 22e–4(b)(3)(i).

assessment of each of the factors proposed rule 22e–4 would require a fund to assess in making this determination).[331]

We are proposing the requirement for each fund to determine a three-day liquid asset minimum to increase the likelihood that the fund will hold adequate liquid assets to meet redemption requests without materially affecting the fund's NAV. Although the Commission has stated that open-end funds have a general responsibility to maintain an appropriate level of portfolio liquidity, no requirements under the federal securities laws or Commission rules specifically oblige open-end funds (with the exception of money market funds) to maintain a minimum level of portfolio liquidity.[332] We believe that codifying a three-day liquid asset minimum requirement would result in a portfolio liquidity standard that fosters consistency in funds' consideration of the factors relevant to their liquidity risk management, while simultaneously permitting flexibility in implementation, which we believe is appropriate in light of the significant diversity of holdings and strategies within the fund industry.

We believe setting the minimum amount of liquid assets in the fund based on three-day liquid assets is appropriate for a number of reasons. Most funds sell at least some of their shares through broker-dealers, and thus, as a practical matter, are required as a result of rule 15c6–1 under the Exchange Act to meet redemptions within three business days.[333] While some mutual funds disclose in their prospectuses that they will generally pay redemption proceeds on a next-business day basis and many others do so as a matter of practice,[334] we are not proposing that funds maintain a minimum amount of assets that may be converted to cash within one day, given the impact such a minimum could have on investment strategies. Staff outreach has shown that, for the funds that typically do target a minimum amount of liquidity in the fund, they typically target either cash and cash equivalents or assets similar to our definition of three-day liquid assets. Accordingly, targeting such a minimum appears to be a common practice for those funds that do establish a target.

Consistent with the time period referenced in section 22(e) of the Act, we considered requiring that a fund determine a minimum amount of liquid assets based on assets convertible to cash within seven calendar days at a price that does not materially affect the value of that asset immediately prior to sale (''seven-day liquid assets''). Determining a minimum amount of seven-day liquid assets would require that a fund have a certain amount of liquidity to meet redemptions within the seven-day period required under the Act. However, we were concerned that requiring a minimum amount of seven-day liquid assets would not as well match regulatory requirements and disclosures that require most funds to meet redemption requests in shorter time periods and market practices and investor expectations that effectively require all funds to meet redemption requests in shorter time periods. We thus believe that a three-day liquid asset minimum more effectively advances our goals of reducing the risk that funds will be unable to meet redemptions and mitigating dilution.

We anticipate that the proposed requirement for a fund to consider certain factors, including the factors required in assessing the fund's liquidity risk, in determining its three-day liquid asset minimum would promote investor protection by reducing the risk funds will be unable to meet their redemption obligations, mitigating dilution, and elevating the overall quality of liquidity risk management across the fund industry. The consideration of certain factors also would require every fund to consider multiple aspects of its history, policies, strategy, and operations that could give rise to liquidity risk.

When determining its three-day liquid asset minimum, a fund must consider short-term and long-term cash flow projections, taking into account the following factors, which we discussed previously in connection with the assessment of a fund's liquidity risk:[335]

1. the size, frequency, and volatility of historical purchases and redemptions of fund shares during normal and stressed periods;
2. the fund's redemption policies;
3. the fund's shareholder ownership concentration;
4. the fund's distribution channels; and
5. the degree of certainty associated with the fund's short-term and long-term cash flow projections.[336]

We believe consideration of cash flow projections is pivotal to setting an appropriate three-day liquid asset minimum. The primary goal of a minimum level of liquidity is to ensure that each fund is able to meet redemptions and to do so with minimal dilution of shareholders' interests. Doing so requires that the fund's adviser, to the best of its ability, understands potential levels of net redemptions and the causes and timing of those redemptions. To adequately make such projections, we believe a fund must consider the sub-factors described above. For example, it would be important to understand not just the magnitude of redemptions the fund tends to receive, but also how frequent redemptions of various sizes are and how volatile the fund's flows are. It also may be important to understand how the fund's redemption activity compares to funds with similar investment strategies, for example, to understand whether the fund may have unique liquidity risks (or lack liquidity risks) that may make past redemption experiences less predictive of future redemption risk. It would be essential that the fund formulate its cash flow projections after considering the factors in both normal and stressed periods—minimum liquidity would not likely advance the Commission's goal of reducing the risk that funds will be unable to meet redemptions and mitigating dilution if funds can only meet redemptions in stressed conditions through sales of portfolio assets that create dilution and significantly increase the fund's liquidity risk. In addition, a fund, though not required to do so, may wish to consider employing some form of stress testing[337] or consider specific historical redemption scenarios in determining its three-day liquid asset minimum.

In formulating the fund's cash flow projections, a fund also must consider the fund's redemption policies, shareholder ownership concentration, and distribution channels. These are

[331] *See* proposed rule 22e–4(c)(3) (each fund must maintain a written record of how the three-day liquid asset minimum, and any adjustments thereto, were determined, including assessment of the factors specified in proposed rule 22e–4(b)(2)(iii)(A)–(D), for a period of not less than five years (the first two years in an easily accessible place) following the determination of and each change to the three-day liquid asset minimum).

[332] *See supra* section II.D.1.

[333] *See, e.g.,* Fidelity FSOC Notice Comment Letter, *supra* note 20, at 6 (''As a practical matter, three-day settlement requirements under Exchange Act Rule 15c6–1 . . . effectively take most fund investments to a T+3 settlement timeline.'').

[334] *See id.* at 6 (''mutual funds normally process redemption requests by the next business day''); *see also* ICI FSOC Notice Comment Letter, *supra* note 16, at 17 (''For example, a mutual fund has by law up to seven days to pay proceeds to redeeming investors, although as a matter of practice funds typically pay proceeds within one to two days of a redemption request.'').

[335] *See supra* section III.C.1.a.

[336] *See* proposed rule 22e-4(b)(2)(iii)(A).

[337] *See supra* text following note 100; *see also supra* note 104 (discussing Commission initiative to require large investment companies and investment advisers to engage in annual stress tests as required by section 165(i) of the Dodd-Frank Act).

important structural features of a fund that can materially affect the risk of significant redemptions—and thus may cause a fund to set a higher three-day liquid asset minimum than one based on its redemption history alone. For example, a fund with a concentrated shareholder base has a high risk that only one or two shareholders deciding to redeem can cause the fund to sell a significant amount of assets, which depending on the liquidity of the fund's portfolio and how it meets those redemptions, can dilute remaining shareholders. Similarly, a fund whose redemption policy is to satisfy all redemptions on a next business day basis (T+1) or that is sold through distribution channels that historically attract investors with more volatile and/or unpredictable flows also should consider setting a higher three-day liquid asset minimum than a fund that—all else equal—does not face these risks. Finally, in setting a three-day liquid asset minimum it is critical that a fund consider the degree of certainty associated with the fund's short-term and long-term cash flow projections. Projections may only be as good as the extent and quality of information that informs them. For example, if a fund does not have great visibility into its shareholder base (*e.g.,* because the fund's shares are principally sold through intermediaries that do not provide shareholder transparency) or if a fund is uncertain about changing market conditions which are likely to materially affect the fund's level of net redemptions, it may make projections but be quite uncertain about those projections. In these circumstances, we would expect a fund to set its three-day liquid asset minimum to reflect this uncertainty, for example, by providing a cushion or multiple of its cash flow projections in the event realized net redemptions are significantly higher. A fund should have a three-day liquid asset minimum that will allow it to meet its net redemption projections.

In setting its three-day liquid asset minimum, a fund also must consider its investment strategy and the liquidity of portfolio assets. A finding of the DERA Study is that certain investment strategies typically have greater volatility of flows than other investment strategies. For example, the DERA Study indicates that the mean standard deviation of monthly net flows for alternative funds is 13.6% and for emerging market debt funds is 9.4%, but is only 2.7% for municipal bond funds and 4.9% for U.S. corporate bond funds.[338] Accordingly, all else equal, we generally would expect that an emerging market debt fund would have a higher three-day liquid asset minimum than a municipal bond fund. Similarly, the less liquid a fund's overall portfolio assets are, the more a fund may want to establish a higher three-day liquid asset minimum to avoid dilution when meeting investor redemptions.

A fund also must consider its use of borrowings and derivatives in setting its three-day liquid asset minimum. A leveraged fund has an increased risk that it will be unable to meet redemptions and an increased risk of investor dilution compared to an equivalent fund with no leverage. For example, a fund with leverage through bank borrowings may have to meet margin calls if a security the fund provided to the bank to secure the loan declines in value. Such margin calls can render highly liquid portfolio assets unavailable to meet investor redemptions, which can increase dilution and the risk the fund will be unable to meet redemptions. Similarly, a fund that has significant fixed obligations to derivatives counterparties (for example, from a total return swap or writing credit default swaps) must pay out on these obligations when due, even if it means selling the fund's more liquid, high quality assets to raise cash.[339] A fund with a leveraged strategy thus, all else equal, should have a higher three-day liquid asset minimum than a fund that does not.

Finally, a fund must consider its holdings of cash and cash equivalents, as well as borrowing arrangements and other funding sources when determining its three-day liquid asset minimum. Unencumbered cash and cash equivalents are assets that the fund can typically readily deploy, in normal and stressed conditions, to meet redemptions. A fund can have cash on hand to meet redemptions from cash held in the fund's portfolio, cash received from investor purchases of fund shares, interest payments and dividends on portfolio securities, or maturing bonds. Our staff observed that several fund complexes targeted a minimum amount of cash or cash equivalent holdings in the fund because they assumed such holdings would allow the fund to meet redemptions in a stressed period without realizing significant discounts to fair value when the asset was sold. Accordingly, higher cash and cash equivalent holdings may make a fund more comfortable that it can meet redemptions under stressed conditions with a lower three-day asset minimum than an equivalent fund whose three-day asset minimum was comprised primarily of non-cash equivalent assets. A fund also should consider whether it has a line of credit or other funding sources available to it to meet redemptions. As discussed further below, while we believe that liquidity risk management is best conducted primarily through portfolio construction, we recognize a line of credit can facilitate a fund's ability to meet unexpected redemptions.

Because each fund would be required to maintain a written record of how its three-day liquid asset minimum was determined, including an assessment of each of the factors discussed above,[340] our examination staff would be able to ascertain that funds are indeed considering the required factors. We expect that a board approving a fund's three-day liquid asset minimum would consider how the specified factors inform that minimum, and thus we believe that the proposed rule would cause fund boards to consider a comprehensive set of issues surrounding the fund's liquidity risk and risk management. Moreover, we believe that the board approval requirement associated with the three-day liquid asset minimum determination would add independent oversight over funds' liquidity risk management.

Although a fund would be permitted to determine its three-day liquid asset minimum under the analysis required by the proposed rule, we generally believe that it would be extremely difficult to conclude, based on the factors it would be required to consider, that a zero three-day liquid asset minimum would be appropriate. Under the proposed rule, a fund's three-day liquid asset minimum would be a control to manage the fund's liquidity risk, and as discussed above the fund's three-day liquid asset minimum would be required to be determined based on the consideration of certain specified factors.[341] We believe that it would be extremely difficult to conclude, based on factors such as the fund's cash flow projections and redemption policies, that zero holdings of three-day liquid assets would allow the fund to manage its liquidity risk (in conjunction with any other liquidity risk management policies and procedures the fund adopts as part of its liquidity risk management program).

By way of example, consider a bank loan fund with a ten-year track record. The fund has a history of volatile cash

[338] DERA Study, *supra* note 39, at Table 6.

[339] *See, e.g.,* OppenheimerFunds Release, *supra* note 309.

[340] *See supra* note 331.

[341] *See* proposed rule 22e–4(b)(iv)(A).

flows that it projects will continue, with periods of market stress and reduced performance leading to increased net redemptions, and its largest net redemption during a one-week period was five percent of the fund's net assets. The fund does not have a concentrated shareholder base and is sold through several broker-dealers. The fund has 98 percent of its net assets invested in bank loans and loan participations that do not settle within three business days, one percent of its net assets invested in corporate bonds (which under this example we are assuming qualify as three-day liquid assets) and one percent of its net assets in cash and cash equivalents. The fund does not borrow or use derivatives for investment purposes, but does have a committed credit line in place with a bank. It would appear that such a fund, after assessing the factors required to be considered, would have a difficult time concluding that its existing three-day liquid asset holdings would be an adequate minimum given the liquidity risks inherent in the fund's portfolio and its redemption history.

We considered establishing a floor for the three-day liquid asset minimum. For example, we considered requiring that a fund set its three-day liquid asset minimum after consideration of the factors described above, but in no event could the minimum be below a certain specified percentage of the fund's net assets or a certain multiple of its average or worst net redemptions. A uniform percentage three-day liquid asset minimum floor could be difficult, however, given the diverse range of funds to which it would apply and the range of net redemptions within different types of funds indicated by the DERA Study. If set relatively high, a uniform percentage floor risks requiring excessive liquidity in some funds given their portfolio characteristics, investor base, and flow projections, which may unnecessarily constrain the fund's returns and investment in certain assets frustrating investors' goals in choosing to invest in the fund. If set relatively low, it may encourage some funds to set low levels of three-day liquid asset minimums that would not effectively manage liquidity risk or mitigate dilution. A floor also could be set based on a fund's historical redemptions. However, such a floor would not be forward-looking—a fund should be setting its minimum liquidity based in large part on projections of expected future redemptions. Such an approach risks a fund setting its minimum liquidity too low, for example during a period of rapid inflows that are likely to soon reverse. Conversely, continuing with the same example, it risks setting minimum liquidity too high after those flows have in fact reversed.

Accordingly, we preliminarily believe our proposed approach appropriately balances these considerations by requiring that a rigorous set of factors be considered and documented, and the three-day liquid asset minimum approved by the fund's board, but otherwise allow the minimum to be tailored to the nature of the fund and its cash flow projections. It should allow funds with different investment strategies, and whose cash flow and liquidity needs vary notably from one fund to the next, to manage their individual levels of liquidity risk in a way that best serves their investors.[342] We recognize that funds' three-day liquid asset minimums would likely vary from one fund to the next (even within the same strategy), depending on the factors that each fund would be required to consider. But we believe that consideration and documentation of the required factors, board oversight, and public disclosure of the fund's three-day liquid asset minimum should constrain funds from setting an inappropriately low minimum in light of the fund's liquidity needs and risks.[343]

We also note that assets eligible for inclusion in each fund's three-day liquid asset minimum holdings could include a broad variety of securities, as well as cash and cash equivalents. While one fund may conclude that it is appropriate to hold a significant portion of its three-day liquid assets in cash and cash equivalents, another could decide it is appropriate to hold equity, debt, derivatives or asset-backed securities as the majority of its three-day liquid asset minimum holdings. We believe that the proposed three-day liquid asset minimum requirement would allow funds to continue to meet a wide variety of investors' investment needs by obliging funds to maintain appropriate liquidity in their portfolios, while permitting funds to remain substantially invested in portfolio assets that conform to their investment strategies.

The proposed three-day liquid asset minimum requirement reflects liquidity management strategies that we understand from staff outreach that some—but not all—funds use. Based on staff outreach, we understand that funds of different sizes, with varying investment strategies, manage their liquidity by maintaining specified portions of their portfolios in more liquid assets. Some funds invest a certain percentage of their assets in cash and cash equivalents; others invest in other types of more liquid portfolio securities corresponding with their investment strategies. To the extent that a fund already maintains a specified portion of its portfolio in more liquid assets, we anticipate that the proposed three-day liquid asset minimum requirement would formalize this risk management strategy, and augment it by requiring the fund to consider certain factors in determining the portion of assets that the fund will maintain in three-day liquid assets. More importantly, it would require the many funds that do not consider maintaining a minimum amount of liquidity, despite their obligations to meet redemptions within a certain time period, to do so.

b. Limiting Acquisition of Less Liquid Assets in Contravention of a Fund's Three-Day Liquid Asset Minimum

Under proposed rule 22e–4(b)(2)(iv)(C), a fund would not be permitted to acquire any less liquid asset if, immediately after the acquisition, the fund would have invested less than its three-day liquid asset minimum in three-day liquid assets.[344] This provision of proposed rule 22e–4 would thus limit the acquisition of less liquid assets if such acquisition would result in the fund holding a smaller percentage of its net assets in three-day liquid assets than the percentage representing its three-day liquid asset minimum. The provision would not, however, require a fund to constantly have invested a certain portion of its net assets in three-day liquid assets. For example, if a fund's investments in three-day liquid assets were to temporarily drop below the fund's three-day liquid asset minimum,

[342] *See, e.g.,* BlackRock FSOC Notice Comment Letter, *supra* note 50, at 6 (statement that among several overarching principles that provide the foundation for a prudent market liquidity risk management framework for collective investment vehicles is ''[r]equiring that individual funds have sufficient sources of market liquidity to meet anticipated redemptions under a range of scenarios, including changes in market risk factors (*e.g.,* interest rates) that may impact the value of portfolio securities and/or collateral and various levels of potential fund redemptions. This could be achieved by setting out principles for managing liquidity and redemption risk that should include maintaining sufficient levels of liquid assets, such as cash and liquid bonds as well as dedicated and shared loan facilities. The principles-based approach should provide appropriate flexibility to tailor practices to particular asset structures and fund redemption terms.'').

[343] *See infra* section III.D.1–2 (discussing board approval of the fund's three-day liquid asset minimum and any changes thereto), section III.G.2.c (discussing disclosure of a fund's three-day liquid asset minimum on proposed Form N–PORT).

[344] A fund's three-day liquid asset minimum would apply at the series level, not at the class level.

proposed rule 22e–4(b)(2)(iv)(C) would require the fund to acquire only three-day liquid assets until its investments in three-day liquid assets reach the fund's three-day liquid asset minimum, but the proposed rule would not require the fund to divest less liquid assets and reinvest the proceeds in three-day liquid assets.[345]

While we believe that fund shareholders' interests are generally best served when the percentage of a fund's assets invested in three-day liquid assets is at (or above) the fund's three-day liquid asset minimum,[346] we believe that requiring a fund to maintain this percentage at all times could adversely affect shareholders and could potentially negate the liquidity risk management benefits of the proposed three-day liquid asset minimum requirement. For instance, if a fund were forced to sell less liquid assets at an inopportune time in order to reinvest the proceeds in three-day liquid assets, the fund might need to sell the less liquid assets at prices that incorporate a significant discount to the assets' stated value, or even at fire sale prices. These forced sales could produce significant negative price pressure on those assets and decrease the value of the assets still held by the fund, thereby decreasing the value of fund shares held by remaining investors, and possibly creating a first-mover advantage that harms investors who choose not to redeem their shares as quickly as others.[347] Also, if a fund needed to rebalance its portfolio frequently to maintain a specified percentage of the fund's net assets invested in three-day liquid assets, this could produce unnecessary transaction costs adversely affecting the fund's NAV, and could cause a fund to sell portfolio assets when it is not advantageous to do so (*e.g.*, when an asset's price is low, or when sales of an asset would have an undesirable tax impact). For these reasons, we are proposing a requirement that limits the acquisition of less liquid assets when such acquisition would result in a fund investing less than its three-day liquid asset minimum in three-day liquid assets, but we are not proposing to require that funds always maintain a certain portion of their portfolio assets in three-day liquid assets.[348]

c. Periodic Review of a Fund's Three-Day Liquid Asset Minimum

Under proposed rule 22e–4(b)(2)(iv)(B), each fund would be required to periodically review the adequacy of the fund's three-day liquid asset minimum, and in conducting such review would be required to take into account the factors a fund would be required to consider in determining its three-day liquid asset minimum. We believe the factors used to determine a fund's three-day liquid asset minimum also provide an appropriate framework for reviewing the adequacy of a fund's three-day liquid asset minimum because, as discussed below, changes in the assessment of the factors could provide a basis for adjusting the three-day liquid asset minimum. A fund would be required to complete this review no less frequently than semi-annually,[349] but could establish a more frequent periodic review period, and in addition could review the three-day liquid asset minimum even more frequently on an ad-hoc basis as conditions demand.[350] As discussed below, the fund's investment adviser or officers administering the fund's liquidity risk management program would be required to submit written reports to the fund's board concerning the adequacy of the fund's liquidity risk management program, including the fund's three-day liquid asset minimum, and the effectiveness of its implementation. Board approval would be required for any changes to the fund's three-day liquid asset minimum.[351] Each fund would be required to maintain a copy of the written reports provided to the board, as well as a written record of the fund's assessment of the factors set forth in rule 22e–4(b)(2)(iii)(A) through (D) and the determination of the three-day liquid asset minimum, and any reviews and adjustments to the fund's three-day liquid asset minimum.[352]

Because we anticipate that a fund would rely significantly on its three-day liquid assets in meeting fund redemptions, we view the three-day liquid asset minimum determination as a cornerstone of a fund's liquidity risk management, and we believe it is important for a fund to periodically reassess whether its three-day liquid asset minimum effectively assists the fund in managing its liquidity risk. We envision the determination of a fund's three-day liquid asset minimum as a dynamic process, incorporating new or updated information into the fund's assessment of factors, reflecting shareholder-related, fund-management-oriented, or market changes that could affect the fund's ability to meet redemptions. A fund's three-day liquid asset minimum could become outdated for multiple reasons. For example, a fund's shareholder ownership concentration could change or market events could reveal that shareholder redemption patterns are different than anticipated under certain circumstances. Additionally, market events or national regulatory, monetary, and fiscal policies could affect the liquidity of a fund's portfolio assets. Any of these events, or similar events influencing a fund's cash flows, portfolio liquidity, or the other liquidity risk factors included in proposed rule 22e–4(b)(2)(iii), could alter the level of three-day liquid assets that a fund would determine appropriate to manage its liquidity risk.

Like the proposed requirements to perform an ongoing review of the liquidity of portfolio assets and to review periodically the fund's liquidity risk,[353] the proposed three-day liquid

[345] A fund's investments in three-day liquid assets could drop below the fund's three-day liquid asset minimum for a variety of reasons. For instance, the fund could sell its most liquid assets in order to obtain cash to meet redemption requests, thereby reducing its holdings of three-day liquid assets. Or, if the market value of a fund's three-day liquid assets falls relative to the market value of the fund's less liquid assets, the percentage of a fund's assets invested in three-day liquid assets could decrease. A fund's three-day liquid assets also could become less liquid if market conditions deteriorate.

[346] *See supra* text preceding and following note 332.

[347] *See infra* notes 690–698 and accompanying text.

[348] This proposed acquisition test (in contrast to a maintenance test) reflects approaches that Congress and the Commission have historically taken in other parts of the Investment Company Act and the rules thereunder. *See, e.g.*, Investment Company Act section 5(c) (a registered diversified company that at the time of its qualification meets the diversification requirements specified in Investment Company Act section 5(b)(1) shall not lose its status as a diversified company because of any subsequent discrepancy between the value of its various investments and the requirements of section 5(b)(1), so long as any such discrepancy existing immediately after its acquisition of any security or other property is neither wholly nor partly the result of such acquisition); rule 2a–7(d)(3) (portfolio diversification requirements of rule 2a–7 are determined at the time of portfolio securities' acquisition); rule 2a–7(d)(4)(i) (limit on a money market fund's acquisition of illiquid securities if, immediately after the acquisition, the money market fund would have invested more than 5% of its total assets in illiquid securities); rule 2a–7(d)(4)(ii)–(iii) (minimum daily liquidity requirement and minimum weekly liquidity requirement of rule 2a–7 are determined at the time of portfolio securities' acquisition).

[349] Proposed rule 22e–4(b)(2)(iv)(B).

[350] *See infra* paragraph following note 352.

[351] *See infra* section III.D (discussing the board's role in approving and overseeing a fund's liquidity risk management program); *see also* proposed rule 22e–4(b)(3)(i) and (ii). We note that a fund may hold more three-day liquid assets than required by the three-day liquid asset minimum. Thus, a fund may determine it is appropriate to increase its minimum holdings in three-day liquid assets without waiting for the next board meeting (or calling a special meeting) to formally approve an increase in the minimum.

[352] *See supra* note 331.

[353] *See supra* note 323 and accompanying text.

asset minimum review requirement would permit each fund to develop and adopt its own procedures for conducting this review, taking into account the fund's particular facts and circumstances. While each fund would be required to consider each of the proposed rule 22e–4(b)(2)(iii)(A)–(D) factors in periodically reviewing its three-day liquid asset minimum, rule 22e–4 would not otherwise include prescribed review procedures or incorporate specific developments that a fund should consider as part of its review. We believe that in developing comprehensive periodic review procedures, a fund should generally consider including procedures for evaluating regulatory, market-wide, and fund-specific developments affecting the fund's liquidity risk. A fund also may wish to adopt procedures specifying any circumstances that would prompt ad-hoc review of the fund's three-day liquid asset minimum in addition to the periodic review required by the proposed rule (as well as the process for conducting any ad-hoc reviews).

d. Request for Comment

We request comment on all aspects of the proposed three-day liquid asset minimum requirement.

- Do commenters agree that the proposed three-day liquid asset minimum requirement would improve a fund's ability to meet redemption requests without materially affecting the fund's NAV? Are we correct that not all funds today target holding a minimum amount of more liquid assets?
- Do commenters agree that the proposed requirement would promote investor protection by enhancing funds' ability to meet their redemption obligations, mitigating dilution, and elevating the overall quality (comprehensiveness as well as independence) of liquidity risk management across the industry? Would the proposed requirement assist fund boards in overseeing funds' ability to meet redemption obligations?
- Should we define the three-day liquid asset minimum as proposed? Should we define three-day liquid assets as proposed? If not, why not? Are there other definitions that would be better? If so, what are they? Should we preclude certain assets or types of assets from being considered three-day liquid assets? If so, which assets or asset types and why? For example, should we prohibit funds from classifying as three-day liquid assets any assets that are subject, directly or indirectly, to a guarantee, put, wrap, swap, or other liquidity enhancement from a third party? Alternatively, should we require specific disclosure regarding such assets? If so, what should be included in the disclosure? Should we require that the fund more stringently or frequently monitor the liquidity of three-day liquid assets?
- Would an alternate liquid asset holdings requirement (*e.g.*, a seven-day liquid asset minimum requirement, a one-day liquid asset minimum requirement, or a buffer of cash and cash equivalents or a combination of the above) better accomplish these goals, and if so, what should that alternate requirement be and why? Should funds that disclose that they will meet redemptions (or are otherwise required to meet redemptions) within less than three business days be required to have liquid asset minimum requirements that correspond to those shorter redemption windows (given that there may be liability under the antifraud provisions of the federal securities laws if a fund fails to meet redemptions within any shorter time disclosed in the fund's prospectus or advertising materials)? Conversely, should funds that disclose that under normal circumstances they expect to meet redemptions within a period that is longer than three business days (*e.g.*, within the seven days permitted under section 22(e)) be permitted to have liquid asset minimum requirements that correspond to those longer redemption windows? Which funds (and holding how much assets) are not subject to rule 15c6–1 under the Exchange Act? Would different minimum liquidity requirements for different open-end funds be confusing to investors?
- Instead of permitting each fund to determine the portion of liquid asset holdings that would most effectively enable it to manage its own liquidity risk, should the Commission instead mandate a standard level of required minimum liquid asset holdings across-the-board, or different levels depending on different investment strategies (or some other fund characteristic)? If so, at what level (*e.g.*, 1%, 5%, 10%), and what considerations would form the basis for the recommended level?
- Should the Commission set a floor below which a fund could not set its three-day liquid asset minimum? Should it do so only for funds that hold above a certain percentage of net assets in less liquid assets? If so, what percentage of less liquid assets should trigger the mandated floor on the three-day liquid asset minimum? What should the floor on the three-day liquid asset minimum be for such funds?
- In addition to specifying that a fund must determine its three-day liquid asset minimum, should the Commission also require a fund to limit its investment in a subset of less liquid assets held by a fund (*e.g.*, assets that can only be converted to cash in over 7 days, over 15 days, over 30 days, or over 90 days at a price that does not materially affect the value of that asset immediately prior to sale)? If so, what should this limit be? Should it be a set percentage of fund assets established by the Commission (*e.g.*, 5%, 10%, 20%, 30%), or should a fund be required to set its own limit, using the factors it would be required to consider in determining its three-day liquid asset minimum (or some other set of factors)? Should this limit apply to all funds, or only a subset of funds (*e.g.*, only funds with certain investment strategies, or whose three-day liquid asset minimums are below a certain threshold)? Would such a requirement be an effective substitute for the limit on 15% standard assets discussed below?
- Should we exclude certain funds from the proposed requirement to determine a three-day liquid asset minimum? For example, should a fund that only invests in three-day liquid assets be required to determine a three-day liquid asset minimum?
- Instead of a requirement that limits the acquisition of less liquid assets when such acquisition would result in a fund investing less than its required minimum in three-day liquid assets, would a requirement mandating that a fund always maintain a specified portion of its assets in three-day liquid assets better facilitate funds' liquidity risk management and promote investor protection? Should a fund be required to hold some minimum portion of assets in holdings that are likely to be liquid in stressed market environments? If so, what type of assets, at what level, and what considerations would form the basis for the recommended level?
- As noted above, the three-day liquid asset minimum would be tested each time the fund acquires new assets, and a fund would be permitted to fall below its three-day liquid asset minimum if it does so due to redemptions or market events. Once a fund falls below its three-day liquid asset minimum, any acquisition of new assets must be of three-day liquid assets until the fund is at or above its three-day liquid asset minimum. Should we limit the time period (*e.g.*, to 30 days, 60 days, or 90 days) in which a fund can be below its three-day liquid asset minimum so that a fund cannot persistently be below this level of liquidity? Would such an approach better promote investor protection? Would there be operational challenges

with this requirement? Should we limit the extent to which a fund can fall below its three-day liquid asset minimum? If so, what extent should be the limit?

• Should the board be required to approve the fund's three-day liquid asset minimum and any changes to the three-day liquid asset minimum? Why or why not?

We request comment on how the three-day liquid asset minimum requirement (or a similar requirement) could affect the management of a fund's liquidity risk, decrease the probability that the fund will be able to meet redemption obligations only through activities that could materially affect the fund's NAV or risk profile, and mitigate dilution.

• What range of levels of three-day liquid assets do commenters anticipate different funds would determine to be appropriate, based on the factors the proposed rule would require a fund to consider? What types of securities do commenters anticipate that different funds would determine are or are not appropriate as three-day liquid asset minimum holdings?

• How many funds today target a minimum level of more liquid assets? If some funds indeed aim to invest a certain portion of their assets in more liquid assets for purposes of liquidity risk management, what types of assets do funds hold for these purposes, and how do funds determine what portion of their net assets they intend to invest in these assets? What burdens and other difficulties, if any, would funds have in initially complying with the three-day liquid asset minimum requirement?

• What are the processes that commenters anticipate a fund would use for determining and reviewing its three-day liquid asset minimum under the proposed rule? Do commenters generally agree with the guidance that the Commission has provided regarding the processes a fund could use to determine and review its three-day liquid asset minimum? Should the minimum frequency of the fund's review of the adequacy of its three-day liquid asset minimum be shorter than semi-annually (such as quarterly) or longer (such as annually)?

• Should the Commission specify certain procedures that a fund must use in determining its three-day liquid asset minimum, such as requiring a fund to consider specific historical redemption scenarios? Should we require that the minimum not be less than, for example, a fund's highest historical level of net redemptions, its average level of net redemptions over some time period, or a multiple (*e.g.*, two times) of those levels?

We request comment on the proposed factors that each fund would be required to consider in determining and reviewing its three-day liquid asset minimum.

• To what extent do funds already consider the proposed factors when determining the portion of fund assets that should be invested in more liquid assets for purposes of liquidity risk management? Do commenters believe it is appropriate for a fund to consider the same set of factors in determining and reviewing its three-day liquid asset minimum as it considers in assessing and reviewing its liquidity risk? Are there other factors that would be preferable?

• Should any of the proposed factors not be required to be considered by a fund in determining and reviewing its three-day liquid asset minimum? Should any of the proposed factors be modified? Are there any additional factors, besides the proposed factors, that a fund should be required to consider?

• Instead of codifying the proposed factors as part of proposed rule 22e–4, should the Commission provide guidance on factors that may be appropriate for a fund to consider in determining and reviewing its three-day liquid asset minimum? Should the Commission provide additional guidance on the proposed factors?

4. Portfolio Liquidity: Limitation on Funds' Investments in 15% Standard Assets

a. 15% Standard Assets

Included in proposed rule 22e–4 is a limit on a fund's ability to acquire ''15% standard assets.'' Specifically, proposed rule 22e–4(b)(2)(iv)(D) would prohibit a fund from acquiring any 15% standard asset if, immediately after the acquisition, the fund would have invested more than 15% of its net assets in 15% standard assets. The provision would not require a fund to divest any holdings if 15% standard assets rise above 15% of its net assets.[354]

Under proposed rule 22e–4(a)(4), a 15% standard asset would be defined as any asset that may not be sold or disposed of in the ordinary course of business within seven calendar days at approximately the value ascribed to it by the fund.[355] For purposes of the proposed definition, a fund would not be required to take into account the size of the fund's position in the asset or the time period associated with receipt of proceeds of sale or disposition of the asset. We believe that assets included in the definition of 15% standard asset would be consistent with those currently classified as illiquid by funds under the 15% guideline, and that such a limit would be an important limitation on certain relatively illiquid holdings in funds' portfolios, such as private equity investments, securities acquired in an initial public offering, and real estate assets. As noted above, we believe that the 15% guideline has generally caused funds to limit their exposure to particular types of securities that cannot be sold within seven days and the proposed limit on 15% standard assets would continue to limit these exposures.

As discussed above, the Commission and staff have in the past provided guidance in connection with the 15% guideline.[356] We propose to withdraw this guidance because we believe this proposal provides a more comprehensive framework for funds to evaluate the liquidity of their assets. We request comment below on whether additional guidance is needed in connection with the definition of 15% standard asset.

We believe that the proposed limit on 15% standard assets and the proposed three-day liquid asset minimum each serve distinctly important, but interrelated, roles in managing liquidity risk. We therefore propose to require each fund to comply with the limit on 15% standard assets as well as the three-day liquid asset minimum requirement. While the three-day liquid

[354] A fund's investments in 15% standard assets could rise above 15% of the fund's net assets for a variety of reasons. For instance, the fund could sell its most liquid assets in order to obtain cash to meet redemption requests, thereby increasing its holdings of 15% standard assets relative to its total holdings. Or, if the market value of a fund's 15% standard assets rises relative to the market value of the fund's other assets, the percentage of a fund's assets invested in 15% standard assets could increase. Assets that are not 15% standard assets also could become 15% standard assets if market conditions deteriorate. *See supra* note 345 (discussing similar considerations with respect to a fund's holdings of three-day liquid assets).

[355] As discussed above, under the 15% guideline, a portfolio security or other asset is considered illiquid if it cannot ''be sold or disposed of in the ordinary course of business within seven days at approximately the value at which the mutual fund has valued the investment.'' *See supra* note 93. Rule 2a–7(a)(20) defines the term ''illiquid security'' to mean ''a security that cannot be sold or disposed of in the ordinary course of business within seven calendar days at approximately the value ascribed to it by the fund.'' We understand the terms ''approximately the value at which the . . . fund has valued the investment'' and ''approximately the value ascribed to it by the fund'' to have identical meanings. For the sake of consistency with the language of current rule 2a–7, the definition of 15% standard asset incorporates the ''approximately the value ascribed to it by the fund'' formulation.

[356] *See supra* section II.D.2.

asset minimum requirement would increase the likelihood that each fund holds adequate liquid assets to meet redemption requests without materially affecting the fund's NAV, the limit on 15% standard assets would increase the likelihood that a fund's portfolio is not concentrated in assets whose liquidity is limited and thus may serve as a limit on certain cases of fund illiquidity. While we considered requiring a different percentage-based ceiling on relatively illiquid holdings, we ultimately decided that proposing the 15% standard would effectively accomplish our intended goals while disrupting funds' existing practices to the least extent possible.

While this definition is similar to the definition of an asset that cannot be converted to cash within seven days under the proposed liquidity classification framework, we note several key differences between the definitions. When determining whether an asset may be sold or disposed of within seven calendar days for purposes of assessing whether the asset is a 15% standard asset, a fund need not consider whether it can receive the proceeds of such sale or disposition within the same seven-day time period. In contrast, the classification framework takes into consideration whether a fund could convert an asset to cash—that is, sell the asset and receive cash for the sale within this period. Also, the definition of 15% standard asset does not require a fund to consider any specific factors in determining the circumstances under which an asset may be sold or disposed of. The definition of less liquid asset, on the other hand, requires a fund to consider, as applicable, certain market, trading, and asset-specific factors set forth in proposed rule 22e–4(b)(2)(ii).[357] These factors include the size of a fund's position in a particular portfolio asset relative to the asset's average daily trading volume and (as applicable) the number of units of the asset outstanding, which a fund is not required to assess in determining whether an asset is a 15% standard asset.[358]

To provide an example of the distinctions between the proposed 15% standard and the proposed three-day liquid asset minimum, consider a fund that holds a very large block of a particular security ''X''. Because the fund holds a large block of the issue, it may determine, based on the liquidity classification factors required to be considered under the proposed rule, that it could convert a certain percentage (*e.g.*, 70%) of its position to cash in fewer than three business days, but that it would take more than three business days to convert the remainder of its position to cash. Under the proposed rule, 70% of the fund's position in security ''X'' would be considered three-day liquid assets, and the other 30% would be considered to be less liquid assets. The fund would take these classifications into account when considering whether the further acquisition of less liquid assets would cause the fund to not be in compliance with its three-day liquid asset minimum. However, even though 30% of the fund's position in security ''X'' would be considered to be less liquid assets, the fund's position in security ''X'' would *not* also be considered to be 15% standard assets. This is because, as discussed above, a fund is not required to assess position size in determining whether a particular portfolio asset is a 15% standard asset. Thus, if a fund can sell a standard size lot of its holdings in that position within seven days at approximately the value ascribed to it by the fund, the entire position would be deemed not to be a 15% standard asset.

Consider as well a scenario in which a fund holds shares of security ''Y,'' and the fund determines, based on the liquidity classification factors required to be considered under the proposed rule, that it can *sell* security ''Y'' within seven days at approximately the value ascribed to it by the fund, but whose sale(s) will not also *settle* until the tenth day. Security ''Y'' would fall into the 8–15 day liquidity classification category and would be considered a less liquid asset because it would not be able to be converted to cash within three business days. However, because the fund would be able to sell its shares of security ''Y'' within seven days at approximately the value ascribed to it by the fund, security ''Y'' would not be considered to be a 15% standard asset. This is because a fund is required to consider whether it would be able to sell an asset within seven days, but not also whether those asset sales would settle within this period, in determining whether a particular portfolio asset is a 15% standard asset.[359]

Conversely, consider a fund that holds shares of security ''Z,'' a privately placed security that the fund determines cannot be sold within seven days at approximately the value ascribed to it by the fund. Under the proposed rule, security ''Z'' would be considered a less liquid asset, because it would not be able to be converted to cash (that is, sold, with the sale settled) within three business days. Security ''Z'' also would be considered to be a 15% standard asset, because it would not be able to be sold within seven days at approximately the value ascribed to it by the fund. The fund would take these classifications into account when it is considering whether the further acquisition of less liquid assets or 15% standard assets would cause the fund to not be in compliance with its three-day liquid asset minimum *or* the 15% standard.

The scenarios depicted in the preceding paragraphs demonstrate that the same asset could be deemed to be a less liquid asset but *not* also deemed to be a 15% standard asset, and also illustrate the different roles that the proposed three-day liquid asset minimum and the 15% standard play in liquidity risk management. The proposed 15% standard would provide an across-the-board limitation on the acquisition of certain relatively illiquid holdings. The proposed definition of less liquid asset, on the other hand, is meant to identify those assets that would generally not be able to be converted to cash to meet redemption requests, and the proposed three-day liquid asset minimum is meant to tailor a fund's acquisition of these holdings to correspond with its particular liquidity needs. Thus, the proposed 15% standard acts as a cap on the amount of relatively illiquid assets that a fund may hold, while the proposed three-day liquid asset minimum acts as a floor on the amount of three-day liquid assets that a fund must hold.

b. Request for Comment

We request comment on the proposed 15% standard.

- Do commenters agree that the Commission should include the 15% standard in proposed rule 22e–4? Would the 15% standard enhance funds' ability to manage liquidity risk?
- Do commenters agree that the three-day liquid asset minimum requirement and the 15% standard serve distinct roles in managing liquidity risk? Is there a single alternative standard that would be an effective substitute for the three-day liquid asset minimum requirement and the 15% standard?
- Should the Commission instead adopt a different restriction on funds' investments in assets whose liquidity is extremely limited, and if so, what should this restriction be? For example, should we adopt a different percentage limit on funds' investments in 15% standard assets? Should we instead limit funds' investments in some other subset of assets with extremely limited liquidity, such as assets that can only be converted to cash in over 7 days, over

[357] Proposed rule 22e–4(a)(6).

[358] *See supra* section II.D.2.

[359] *See* proposed rule 22e–4(a)(4).

15 days, over 30 days, or over 90 days at a price that does not materially affect the value of that asset immediately prior to sale? If we did the latter, what should the limit be? Should it be a set percentage of fund assets established by the Commission (*e.g.,* 5%, 10%, 20%, 30%), or should a fund be required to set its own limit, using the factors it would be required to consider in determining its three-day liquid asset minimum (or some other set of factors)? Should this limit apply to all funds, or only a subset of funds (*e.g.,* only funds with certain investment strategies, or whose three-day liquid asset minimums are below a certain threshold)?

- As noted above, the 15% standard would be tested each time the fund acquires new assets, and a fund would be permitted to hold more than 15% of its net assets in 15% standard assets if it does so due to redemptions or market events. Once a fund rises above the 15% limit, any acquisition of new assets must be of non-15% standard assets until the fund is at or below the 15% standard. Would a requirement mandating that a fund divest excess 15% standard assets if its holdings of these assets rise above 15% of its net assets better facilitate funds' liquidity risk management and promote investor protection? Or should we limit the time period (*e.g.,* to 30 days, 60 days, or 90 days) in which a fund holds more than 15% of its net assets in 15% standard assets so that a fund cannot persistently be above the 15% standard? Alternatively, we note that certain Canadian mutual funds are subject to illiquid asset restrictions that provide that a fund: (i) Must not acquire illiquid assets if more than 10% of the fund's net assets would be made up of illiquid assets; (ii) must not have invested more than 15% of the fund's net assets in illiquid assets for a period of 90 days or more; and (iii) must, as quickly as is commercially reasonable, take all necessary steps to reduce the percentage of its net assets made up of illiquid assets to 15% or less if more than 15% of the fund's net assets is made up of illiquid assets.[360] Should we adopt similar requirements? Would such requirements better promote investor protection?
- Should the Commission modify the proposed definition of 15% standard assets to require that funds take into account the time period associated with receipt of proceeds of sale or disposition of an asset?
- Do commenters agree with the proposal to withdraw current guidance associated with the 15% guideline? Do commenters believe additional guidance is needed in connection with the proposed definition of 15% standard asset? If so, what guidance should the Commission provide?
- What assets do funds currently consider to be limited by the 15% guideline? Do commenters believe that assets that would meet the proposed definition of 15% standard asset are consistent with assets that funds currently classify as illiquid under the 15% guideline? If not, what types of assets would be classified differently?
- What are funds' current practices for determining whether a portfolio asset is limited by the 15% guideline, and what factors do funds currently use to make this determination? Who at the fund and/or the adviser is tasked with determining whether a portfolio asset is limited by the 15% guideline, and how often is each asset reviewed? Do funds expect to engage in the same practices for determining whether an asset is a 15% standard asset?
- Would it be beneficial to funds for the Commission to include as part of the rule certain types of securities whose acquisition would be limited by the 15% standard, or other factors for funds to consider in determining whether an asset is a 15% standard asset? Do commenters believe that confusion could arise between the definition of a 15% standard asset and the definition of a less liquid asset under the proposed rule, and if so, how could this confusion be reduced?
- Rule 2a–7 currently defines the term ''illiquid security'' to mean ''a security that cannot be sold or disposed of in the ordinary course of business within seven calendar days at approximately the value ascribed to it by the fund.''[361] Should we amend rule 2a–7 to clarify that ''illiquid security'' has the same definition as ''15% standard asset?''

5. Policies and Procedures Regarding Redemptions in Kind

a. Use of Redemptions in Kind

Along with ETFs, which commonly redeem shares in kind, many mutual funds reserve the right to redeem their shares in kind instead of in cash.[362] Mutual funds that reserve the right to redeem in kind may use in-kind redemptions to manage liquidity risk under exceptional circumstances.[363] A fund, for example, could choose to redeem in kind when faced with significant redemptions, because this would result in the redeeming shareholder (and not the fund and its remaining shareholders) bearing any liquidity costs associated with dispositions of portfolio assets. We understand that many funds also use in-kind redemptions if a large shareholder is redeeming to transition to a separately managed account with a similar investment strategy.

There are often logistical issues associated with paying in-kind redemptions, and this limits the availability of in-kind redemptions under many circumstances.[364] For instance, in-kind redemptions could entail complex operational issues that would be imposed on both the fund and on investors receiving portfolio securities.[365] Moreover, some shareholders are generally unable or unwilling to receive in-kind redemptions.[366] Some funds also have

[360] *See* Canadian Securities Administrators, National Instrument 81–102—Investment Funds at section 2.4.

[361] Rule 2a–7(a)(20).

[362] *See, e.g.,* Adoption of (1) Rule 18f–1 Under the Investment Company Act of 1940 to Permit Registered Open-End Investment Companies Which Have the Right to Redeem In Kind to Elect to Make Only Cash Redemptions and (2) Form N–18F–1, Investment Company Act Release No. 6561 (June 14, 1971) [36 FR 11919 (June 23, 1971)] (''Rule 18f–1 and Form N–18F–1 Adopting Release'') (stating that the definition of ''redeemable security'' in section 2(a)(32) of the Investment Company Act ''has traditionally been interpreted as giving the issuer the option of redeeming its securities in cash or in *kind.''*).

[363] *See* Karen Damato, *'Redemptions in Kind' Become Effective for Tax Management,* Wall Street Journal (Mar. 10, 1999), *available at http://www.wsj.com/articles/SB921028092685519084* (''Redemptions in kind' are typically viewed by fund managers as an emergency measure, a step they could take to meet massive redemptions in the midst of a market meltdown.'').

Besides using in-kind redemptions as an emergency measure to manage liquidity risk, funds may also use in-kind redemptions for other reasons. For example, funds may wish to redeem certain investors (particularly, large, institutional investors) in kind, because in-kind redemptions could have a lower tax impact on the fund than selling portfolio securities in order to pay redemptions in cash. This, in turn, could benefit the remaining shareholders in the fund. *See, e.g., id.* (''If a fund has to sell appreciated stocks to pay a redeeming shareholder, it realizes capital gains. Unless the fund has offsetting capital losses, those gains are distributed as taxable income to all remaining fund holders. By contrast, when funds distribute stocks from their portfolios, there is no tax event for the continuing holders.'').

[364] *See, e.g.,* Invesco FSOC Notice Comment Letter, *supra* note 35, at 11 (noting that while ''Invesco has on occasion exercised rights to redeem in kind, in practice such rights are exercised infrequently'').

[365] Money Market Fund Reform; Amendments to Form PF, Investment Company Act Release No. 30551 (June 5, 2013) [78 FR 36834 (June 19, 2013)] (''2013 Money Market Fund Reform Proposing Release''), at n.473.

[366] *See, e.g.,* Fortune, *supra* note 270, at 47 (''A fund redeeming in kind does so at the risk of its reputation and future business . . .''). In the context of money market funds, we requested comment on whether we should require

Continued

waived the right to redeem in kind with respect to certain relatively small redemption requests under rule 18f–1 under the Investment Company Act, which allows a fund to abide by different in-kind redemption policies for different shareholders without being deemed to create a class of senior securities prohibited by section 18(f)(1) of the Act.[367]

We believe that, as part of a fund's management of its liquidity risk, a fund that engages in or reserves the right to engage in in-kind redemptions should adopt and implement written policies and procedures regarding in-kind redemptions, and we have included this requirement in proposed rule 22e–4.[368] We expect these policies and procedures would address the process for redeeming in kind, as well as the circumstances under which the fund would consider redeeming in kind. Through staff outreach to funds, we understand that while many funds disclose that they have reserved the right to redeem in kind, most of these funds consider redemptions in kind to be a last resort or emergency measure, and many do not have policies or procedures in place that would govern in-kind redemptions. Because the management and personnel capacity of funds facing heavy redemptions and other liquidity stresses would likely be strained as funds attempt to manage these pressures, policies and procedures that dictate the fund's in-kind redemption procedures (which, as discussed above, could be quite complicated and could apply differently to different types of shareholders) would increase the likelihood that in-kind redemptions would be a feasible risk management tool.[369]

b. Requests for Comment

- Our understanding is that redemptions in kind are not used extensively outside ETFs. Is this assumption correct? Do funds that engage in redemptions in kind have policies and procedures regarding those redemptions? Are there steps that funds can take to make redemptions in kind easier to implement?
- Under rule 18f–1, any registered open-end fund that has the right to redeem in kind could file with the Commission a notification of election committing itself to pay in cash all requests for redemptions by any shareholder of record, limited in amount during any ninety-day period to the lesser of $250,000 or 1 percent of the net asset value of the fund at the beginning of the period.[370] Would re-visiting and eliminating funds' ability to limit in-kind redemptions clarify that the Investment Company Act permits funds to redeem shares in kind as well as in cash?

6. Discussion of Additional Liquidity Risk Management Tools

While proposed rule 22e–4 specifies that each fund would be required to adopt a liquidity risk management program incorporating certain specified elements, a fund's program could incorporate liquidity risk management tools beyond the requirements of the proposed rule. We understand that many funds currently engage in certain practices that would not be required by proposed rule 22e–4, but which could enhance funds' ability—in conjunction with the policies and procedures required to be adopted under the proposed rule—to manage liquidity risk. Specifically, we understand based on staff outreach that it is relatively common for funds to establish lines of credit to manage liquidity risk, and that funds may use borrowed money or draw on other funding sources to meet shareholder redemptions, typically during periods of significantly limited market liquidity. We also understand that it is relatively common for certain funds (particularly, funds with strategies involving investment in relatively less liquid portfolio securities) to invest in ETFs to enhance the liquidity of the fund's portfolio. Below we provide guidance funds may wish to consider in using these tools and their role in a fund's liquidity risk management program. We note that the liquidity risk management tools discussed below do not comprise an exhaustive list of liquidity risk management controls or procedures that a fund could consider implementing, nor are we currently proposing to mandate that a fund use these tools as part of its liquidity risk management program.

In addition, there are currently several tools that a fund could use, generally under emergency circumstances, to pay redeeming shareholders during periods in which the fund encounters limited liquidity. As discussed above, many funds reserve the right to redeem their shares in kind instead of in cash, although we understand that many funds that do so consider in-kind redemptions to be a last resort or emergency measure. As a separate emergency measure, money market funds (but not other funds) are currently permitted, under certain circumstances, to permanently suspend shareholder redemptions and liquidate the fund. Below we request comment on whether this tool would be useful and appropriate for the Commission to make available to funds besides money market funds.

a. Borrowing Arrangements and Other Funding Sources

As discussed above, entering into borrowing arrangements and agreements with other potential funding sources could strengthen a fund's management of liquidity risk, as they could be used to pay redeeming shareholders without the need to sell portfolio securities at significantly discounted prices. For example, a fund could establish a committed or uncommitted line of credit with a commercial bank, engage in interfund lending within a family of funds, or use repurchase transactions to generate liquidity.[371] Proposed rule

redemptions in kind for redemptions in excess of a certain size threshold, to ease liquidity strains on the fund and reduce the risks and unfairness posed by significant sudden redemptions. *See* Money Market Fund Reform; Proposed Rule, Investment Company Act Release No. 28807 (June 30, 2009) [74 FR 32688 (July 8, 2009)] (''2009 Money Market Fund Reform Proposing Release''), at section III.B. Commenters generally opposed this type of reform for a variety of reasons, all of which likely would apply equally to funds other than money market funds. For example, most commenters stated that in-kind redemptions would be technically unworkable due to complex valuation and operational issues that would be imposed on both the fund and on investors receiving the in-kind distribution. *See* 2013 Money Market Fund Reform Proposing Release, *supra* note 365, at section III.B.9.c.

[367] Under rule 18f–1, any registered open-end fund that has the right to redeem in kind could file with the Commission, on Form N–18F–1, a notification of election committing itself to pay in cash all requests for redemptions by any shareholder of record, limited in amount during any ninety-day period to the lesser of $250,000 or 1 percent of the net asset value of the fund at the beginning of the period. *See* Rule 18f–1 and Form N–18F–1 Adopting Release, *supra* note 362.

[368] See proposed rule 22e–4(b)(2)(iv)(E).

[369] *See infra* notes 552–554 and accompanying text.

[370] *See supra* note 362 and accompanying text.

[371] *See, e.g.,* SIFMA IAA FSOC Notice Comment Letter, *supra* note 16, at nn.73–75 (stating that 79% of SIFMA AMG survey respondents report having access to a line of credit to manage outflows from their mutual funds, that 64% have drawn on that line of credit at some point within the last five years, and that 8% of SIMFA AMG members surveyed state that they engage in interfund lending to address liquidity issues); BlackRock FSOC Notice Comment Letter, *supra* note 50, at 6 (statement that among several overarching principles that provide the foundation for a prudent market liquidity risk management framework for collective investment vehicles is identifying backup sources of liquidity such as temporary borrowings). *But see* Fidelity FSOC Notice Comment Letter, *supra* note 20, at 20 (''During the time period since its inception in 2001, the committed bank line of credit has never been used.''); Comment Letter of PIMCO on the FSOC Notice (Mar. 25, 2015), at Appendix–2 (''In practice, it is rare for funds to . . . draw on these lines of credit.''); Invesco FSOC Notice Comment Letter, *supra* note 35, at 12 (stating that it has a line

22e–4(b)(2)(iii)(D) would require a fund to consider its borrowing arrangements and other funding sources in assessing its liquidity risk, and above we provide guidance on particular aspects of these activities that could affect a fund's liquidity risk.[372] We anticipate that a fund could consider this guidance in assessing whether entering into borrowing or other funding arrangements would assist the fund in managing its liquidity risk, as well as determining the terms under which such arrangements would best help the fund to manage its liquidity risk. We also anticipate that this guidance could be used in reviewing existing borrowing arrangements and the use of other funding sources to assess whether these activities would continue to help the fund effectively manage its liquidity risk. In evaluating borrowing arrangements or other funding sources for purposes of managing liquidity risk, a fund should take into account restrictions on affiliated transactions and leverage under the Investment Company Act and rules under the Act.[373] A fund also may wish to consider any negative impact on the fund resulting from borrowing funds for liquidity risk management purposes, as opposed to managing liquidity through the fund's portfolio construction.[374]

b. Use of ETF Portfolio Holdings as a Liquidity Risk Management Tool

We understand that certain funds, particularly funds with investment strategies involving relatively less liquid portfolio securities (such as micro-cap equity funds, high-yield bond funds and bank loan funds), may invest a portion of their assets in ETFs with strategies similar to the fund's investment strategy because they view ETF shares as having characteristics that enhance the liquidity of the fund's portfolio.[375] Specifically, funds that invest in ETF shares have stated to Commission staff that they find that these shares are more readily tradable, are less expensive to trade, and have shorter settlement periods than other types of portfolio investments.[376] And unlike investments in cash, cash equivalents, and other highly liquid instruments, funds have suggested that investing in ETFs with the same (or a similar) strategy as the fund's investment strategy permits the fund to remain fully invested in assets that reflect the fund's investment concentrations, risks, and performance potential.

While we appreciate that ETFs' exchange-traded nature could make these instruments useful to funds in managing purchases and redemptions (for example, ETFs' settlement times could more closely reflect the time in which a fund has disclosed that it will typically redeem fund shares), funds should consider the extent to which relying substantially on ETFs to manage liquidity risk is appropriate. As discussed above, the liquidity of an ETF, particularly in times of declining market liquidity, may be limited by the liquidity of the market for the ETF's underlying securities.[377] Thus, shares of an ETF whose underlying securities are relatively less liquid (taking into account the factors discussed in proposed rule 22e–4(b)(2)(ii)) may not be able to be counted on as an effective liquidity risk management tool during times of liquidity stress. In the case of a significant decline in market liquidity, if authorized participants were unwilling or unable to trade ETF shares in the primary market, and the majority of trading took place among investors in the secondary market, the ETF's shares could trade continuously at a premium or a discount to the value of the ETF's underlying portfolio securities. This could frustrate the expectations of secondary market investors who count on the creation and redemption process to align the prices of ETF shares and their underlying portfolio securities.[378] We therefore encourage funds to assess the liquidity characteristics of an ETF's underlying securities, as well as the characteristics of the ETF shares themselves, in classifying an ETF's liquidity under proposed rule 22e–4(b)(2)(i). We also encourage funds to consider the portion of a fund's three-day liquid assets that is invested in ETF shares, taking into account the foregoing concerns.

c. Suspension of Redemptions

Section 22(e) of the Investment Company Act permits a fund to suspend redemptions in specified unusual circumstances, including for any period during which an emergency exists (only as determined by Commission rules and regulations) as a result of which it is not reasonably practicable for the fund to liquidate its portfolio securities, or fairly determine the value of its net assets.[379] Rule 22e–3 exempts money market funds from section 22(e), permitting a money market fund to suspend redemptions and postpone payment of redemption proceeds in an orderly liquidation of the fund if, subject to other requirements, the fund's board makes certain findings.[380] The Commission has previously requested comment on whether the relief provided by rule 22e–3 should be available to types of open-end funds besides money market funds.[381] The Commission received only limited comments addressing the topic, with a few commenters generally supportive of extending the rule to all open-end funds,[382] and one commenter arguing that open-end funds should be required

of credit for its floating rate fund and senior loan portfolio ETF, but that it has been used on a very infrequent basis).

[372] *See supra* notes 315–318 and accompanying and following text.

[373] *See supra* notes 320–322 and accompany and following text.

[374] *See, e.g.,* Nuveen FSOC Notice Comment Letter, *supra* note 45, at 9–10 (''Funds without credit lines face the possibility of not being able to sell sufficient assets to raise cash to fund redemption requests, or having to sell assets at significantly discounted values. To the extent that a fund draws on a credit line to meet net redemptions (and thus temporarily leverages itself), it increases its market risk at a time when markets are stressed. While this can be potentially beneficial to long-term performance if the asset class recovers, it increases the risk of loss to remaining shareholders if markets continue to weaken.'').

[375] *See, e.g.,* Katy Burne, *Institutions Pour Cash Into Bond ETFs,* Wall Street Journal (Mar. 1, 2015), *available at http://www.wsj.com/articles/institutions-pour-cash-into-bond-etfs-1425250969.* Funds' investments in ETFs are subject to the Investment Company Act's limitations on investments in shares issued by other registered investment companies. *See* section 12(d)(1)(A) of the Investment Company Act.

[376] The Commission's 2015 Request for Comment on Exchange-Traded Products requested comment on whether investors' expectations of the nature of the liquidity of an exchange-traded product (including an ETF) holding relatively less liquid portfolio securities differ from their expectations of the liquidity of the underlying portfolio securities. *See* 2015 ETP Request for Comment, *supra* note 11, at Question #49. *See e.g.,* Comment Letter of Vanguard on the 2015 ETP Request for Comment (Aug. 17, 2015) (stating that the disclosures made by ETFs in prospectuses, shareholder reports, and Web sites ''ensures that investors and market participants have the necessary information to make informed investment decisions''); Comment Letter of ETF Radar on the 2015 ETP Request for Comment (Aug. 8, 2015) (stating that investor expectations of liquidity depend on the skill of the investor); Comment Letter of Danny Reich on the 2015 ETP Request for Comment (July 2, 2015) (stating that there is a ''false assumption'' that underlying assets have the same liquidity as the ETP, particularly with respect to bond ETPs).

[377] *See supra note* 24 and accompanying text; *see also* Tyler Durden, *What Would Happen if ETF Holders Sold All at Once?,* ETF Daily News (Mar. 26, 2015), *available at http://etfdailynews.com/2015/03/26/what-would-happen-if-etf-holders-sold-all-at-once/2/* (''Thus we can't get away from depending on the liquidity of the underlying high yield bonds. The ETF can't be more liquid than the underlying, and we know the underlying can become highly illiquid.'').

[378] *See supra* note 29 and accompanying text.

[379] See *supra* note 82.

[380] *See supra* note 155 and accompanying text.

[381] *See* 2009 Money Market Fund Reform Proposing Release, *supra* note 366.

[382] *See* Comment Letter of the Committee on Federal Regulation of Securities, Section of Business Law of the American Bar Association on Money Market Fund Reform (Sept. 9, 2009); Comment Letter of Bankers Trust Company, N.A. on Money Market Fund Reform (Aug. 28, 2009).

to seek individual exemptive orders from the Commission to obtain the relief provided by rule 22e–3.[383] We request specific comment below on whether proposing a rule similar to rule 22e–3, which would permit open-end funds other than money market funds to suspend redemptions and postpone payment of redemption proceeds in an orderly liquidation of the fund under certain circumstances, would protect the interests of its investors if the fund were to liquidate.

We also request comment below on whether the Commission should consider proposing rules that would permit funds to suspend redemptions under other circumstances not involving the liquidation of the fund.[384] As discussed above, private funds are often able to impose gates and suspend redemptions to manage liquidity stress,[385] and rule 2a–7 likewise permits money market funds to temporarily suspend redemptions under certain circumstances.[386] Registered funds that are not money market funds, however, are significantly more limited in their current ability to suspend redemptions under the Investment Company Act.[387] Specifically, open-end funds may suspend redemptions for any period during which the NYSE is closed (other than customary weekend and holiday closings) and in three additional situations only if the Commission has made certain determinations.[388] These limited suspension rights are aimed at preventing funds and their advisers from interfering with shareholders' redemption rights for improper purposes,[389] and recognize the importance that shareholders place on daily redeemability of fund shares.

d. Request for Comment

We request comment on the above discussion and guidance regarding certain tools that a fund could use to manage liquidity risk beyond the requirements specified in proposed rule 22e–4.

- Are there any specific liquidity risk management policies or procedures, beyond those that would be required by proposed rule 22e–4(b)(2)(iv)(A)–(E), that funds should be required to implement? What procedures, separate from any that resemble those required by proposed rule 22e–4(b)(2)(iv)(A)–(E), do funds currently use to manage liquidity risk?
- Do commenters generally agree with our guidance discussed above on the use of borrowing arrangements and other funding sources, the use of ETFs to manage portfolio liquidity, and the use of redemptions in kind? Is any additional guidance needed on the liquidity risk management tools described in this section? Are there any other issues associated with specific liquidity risk management tools or techniques about which we should provide guidance? To the extent that funds use liquidity risk management tools outside those mentioned in this section, what guidance, if any, is needed regarding those tools?
- Regarding borrowing arrangements and other funding sources, would additional guidance be useful regarding specific types of borrowing arrangements?
- When using ETFs to manage liquidity, do funds consider the liquidity of the ETFs' portfolio securities? Why or why not?

We also request specific comment on several current rules that touch on liquidity risk management issues and the suspension of shareholder redemptions.

- Would proposing a rule similar to rule 22e–3 for funds other than money market funds protect the interests of fund investors if the fund were to liquidate? If so, under what circumstances should funds be permitted to suspend redemptions and postpone payment of redemption proceeds, and should a fund's board be required to make any finding in connection with a fund's suspension of redemptions?
- Should we consider proposing rules that would permit funds to suspend redemptions under other circumstances, such as rules that would specify certain emergency circumstances that would permit funds to suspend redemptions under section 22(e)? How could we define such emergency circumstances? For example, should we define emergency circumstances to include situations where redemptions exceeded a high level over a certain period of time or where asset price volatility in the markets exceeded a certain level making it difficult for the fund to accurately price?

7. Cross-Trades

Funds, subject to the requirements of the Investment Company Act, are permitted to engage in ''cross-trading,'' that is, securities transactions with certain of their affiliated persons, including other funds within the fund family. Some funds may seek to use cross-trading as an additional liquidity risk management tool. Rule 17a–7, however, includes conditions that limit the portfolio assets that may be cross-traded, and as discussed below, cross-trades that involve certain less liquid assets may not be eligible to rely on the rule. We propose below guidance relating to the use of cross-trading in response to investor redemptions.

Section 17 of the Investment Company Act restricts transactions between an ''affiliated person of a registered investment company or an affiliated person of such affiliated person'' and that investment company—for example, transactions between a fund and another fund managed by the same adviser.[390] A fund must therefore obtain exemptive relief from the Commission before entering into purchase or sale transactions with an affiliated fund, or execute such transactions subject to the provisions of rule 17a–7 under the Investment Company Act (permitting purchase and sale transactions among affiliated funds and other accounts, under certain circumstances).[391]

Cross-trading can benefit funds and their shareholders, for example by allowing funds that are mutually interested in a securities transaction that is consistent with the investment strategies of each fund to conduct such a transaction without incurring transaction costs and without generating a market impact.[392] However, cross-

[383] *See* Comment Letter of Federated Investors, Inc. on Money Market Fund Reform (Sept. 8, 2009).

[384] *See, e.g.,* BlackRock FSOC Notice Comment Letter, *supra* note 50, at 40 (stating that the Commission should ''extend the authority to suspend redemptions under extraordinary redemptions, including an unmanageable spike in redemptions, to fund boards.'').

[385] *See supra* note 71 and accompanying text.

[386] *See supra* note 154 and accompanying text.

[387] *See supra* text accompanying note 379.

[388] *See supra* note 82.

[389] *See* 2014 Money Market Fund Reform Adopting Release, *supra* note 85, at section III.A.1.

[390] *See supra* note 320 and accompanying text.

[391] Rule 17a–7 under the Investment Company Act provides an exemption from section 17(a)'s prohibitions so long as certain conditions are met. In summary, rule 17a–7 requires, among other things, that: (i) The transaction at issue is a purchase or sale, for no consideration other than cash, for a security for which market quotations are readily available; (ii) the transaction be effected at the independent current market price for the security at issue; (iii) the transaction must be consistent with the policy of each fund participating in the transaction as set forth in its registration statement and reports filed under the Investment Company Act; (iv) no brokerage commission, fee (except for customary transfer fees) or other remuneration be paid in connection with the transaction; and (v) the fund's board, including a majority of the independent directors, adopts procedures that are reasonably designed to provide that the rule 17a–7 transactions comply with the conditions of the rule, approve changes to the procedures as the board deems necessary, and determines no less frequently than quarterly that all rule 17a–7 transactions made during the preceding quarter were effected in compliance with the approved procedures.

[392] As noted above, rule 17a–7 requires that each cross-trade be consistent with the policy of each fund participating in the transaction and that no

trades also have the potential for abuse. As the Commission has said, ''[f]or example, an unscrupulous investment adviser might ''dump'' undesirable securities on a registered investment company or transfer desirable securities from a registered investment company to another more favored advisory client in the complex. Moreover the transaction could be effected at a price which is disadvantageous to the registered investment company.'' [393] Accordingly, rule 17a–7 requires that any cross-trades satisfy certain conditions designed to prevent such abuses, including the requirement that market quotations be readily available for each traded security and that if the security is only traded over the counter, the cross-trade be conducted at the average of the highest current independent bid and lowest current independent offer determined on the basis of reasonable inquiry.[394] In requiring market quotations for cross-traded securities, the Commission has stated that ''[r]eliance upon such market quotations provides an independent basis for determining that the terms of the transaction are fair and reasonable to each participating investment company and do not involve overreaching.'' [395]

Certain less liquid assets may be ineligible to trade under rule 17a–7 due to this requirement. Indeed, the less liquid an asset is, the more likely it may not satisfy rule 17a–7.[396] Accordingly, for assets that do not trade in active secondary markets, a fund should consider whether ''market quotations are readily available'' and a ''current market price'' is available and thus whether the asset may be cross-traded in accordance with rule 17a–7.

In addition, when considering whether cross-trading would be an effective and appropriate liquidity risk management tool, a fund's adviser should consider its duty to seek best execution for each fund potentially involved in the cross-trading transaction, as well as its duty of loyalty to each fund.[397] An adviser should not cause funds to enter into a cross-trade unless doing so would be in the best interests of each fund participating in the transaction. In assessing these factors, a fund should consider any negative impact on the fund resulting from the purchase of assets by one fund from an affiliated fund (that is, whether any risk-shifting between funds that results from trading assets is appropriate, considering the funds' strategies, risk profile, and liquidity needs before the transaction takes place) given the policy of each fund as recited in its registration statement and reports under the Act. We request comment on our guidance relating to cross-trading.

- Does our guidance (combined with existing guidance) relating to rule 17a–7 provide sufficient protections for cross-trades involving assets that are only traded over the counter and, depending on the facts and circumstances, may be less liquid? If not, what additional guidance or protections might be warranted to protect funds and investors from unfairness or abuse in cross-trades?

D. Board Approval and Designation of Program Administrative Responsibilities

1. Initial Approval of Liquidity Risk Management Program

Proposed rule 22e–4(b)(3)(i) would require each fund to obtain initial approval of its written liquidity risk management program from the fund's board of directors, including a majority of independent directors.[398] The proposed rule specifies that this approval is required to include the fund's three-day liquid asset minimum. Directors, and particularly independent directors, play a critical role in overseeing fund operations, although they may delegate day-to-day management to a fund's adviser.[399] Given the board's historical oversight role, we believe it is appropriate to require a fund's board to approve the fund's liquidity risk management program. This requirement is designed to facilitate independent scrutiny by the board of directors of the liquidity risk management program—an area where there may be a conflict of interest between the investment adviser and the fund. For example, an adviser might have an incentive to set a low three-day liquid asset minimum in order to permit the fund to invest in additional less liquid assets (because such assets may result in higher total returns for a fund), even though a low minimum may not reflect an appropriate alignment between the fund's portfolio liquidity profile and the fund's liquidity needs.

Directors may satisfy their obligations with respect to this initial approval by reviewing summaries of the liquidity risk management program prepared by the fund's investment adviser or officers administering the program, legal counsel, or other persons familiar with the liquidity risk management program. The summaries should familiarize directors with the salient features of the program and provide them with an understanding of how the liquidity risk management program addresses the required assessment of the fund's liquidity risk, including how the fund's investment adviser or officers administering the program determined the fund's three-day liquid asset minimum. In considering whether to approve a fund's liquidity risk management program, the board may wish to consider the nature of the fund's liquidity risk exposure. A board also may wish to consider the adequacy of the fund's liquidity risk management program in light of recent experiences regarding the fund's liquidity, including any redemption pressures experienced by the fund.

2. Approval of Material Changes to Liquidity Risk Management Program and Oversight of the Three-Day Liquid Asset Minimum

Proposed rule 22e–4(b)(3)(i) also would require each fund to obtain approval of any material changes to the fund's liquidity risk management program, including changes to the

brokerage commissions, fees or other remuneration be paid in connection with the transaction. Because cross-trades are conducted privately between funds, they are not transparent to market trading reporting systems and thus are unlikely to generate a market impact.

[393] Exemption of Certain Purchase or Sale Transactions Between a Registered Investment Company and Certain Affiliated Persons Thereof, Investment Company Act Release No. 11136 (Apr. 21, 1980) [45 FR 29067 (May 1, 1980)].

[394] *See* rule 17a–7(b).

[395] Exemption of Certain Purchase or Sale Transactions Between a Registered Investment Company and Certain Affiliated Persons Thereof, Investment Company Act Release No. 11676 (Mar. 10, 1981) [45 FR 17011 (Mar. 17, 1981)]. The Commission historically declined to expand rule 17a–7 to cross-trades for which market quotations were not readily available and where independent current market prices were not available because these conditions increase the potential for abuse through cross-trades. *See id.*

[396] *See supra* section III.B.2 (discussing proposed factors for classifying the liquidity of a portfolio position).

[397] *See, e.g.,* In the Matter of Western Asset Management Co., Investment Company Act Release No. 30893 (Jan. 27, 2014) (settled action) (the adviser to funds engaging in cross-trading ''has a fiduciary duty of loyalty to its clients and also must seek to obtain best execution for both its buying and selling clients'').

[398] In this release, we refer to directors who are not ''interested persons'' of the fund as ''independent directors.'' Section 2(a)(19) of the Investment Company Act identifies persons who are ''interested persons'' of a fund.

[399] *See* Investment Trusts and Investment Companies: Hearings on H.R. 10065 Before a Subcomm. of the House Comm. on Interstate and Foreign Commerce, 76th Cong., 3d Sess. 112 (1940) at 109 (describing the board as an ''independent check'' on management); *Burks* v. *Lasker,* 441 U.S. 471 (1979) (citing Tannenbaum v. Zeller, 552 F.2d 402, 406 (2d. Cir. 1979)) (describing independent directors as ''independent watchdogs''). *See also* Comment Letter of the Independent Directors Council on the FSOC Notice (Mar. 25, 2015), at 5 (''A fund board oversees the adviser's management of the portfolio's liquidity as part of its oversight of the fund's compliance program and portfolio management more generally.'').

fund's three-day liquid asset minimum, from the fund's board of directors, including a majority of independent directors. As with the initial approval of a fund's liquidity risk management program, the requirement to obtain approval of any material changes to the fund's liquidity risk management program from the board is designed to facilitate independent scrutiny of material changes to the liquidity risk management program by the board of directors. We note that our proposal to require directors to approve material changes to the fund's liquidity risk management program differs from the requirements under rule 38a–1 under the Act, which does not require a fund board to approve changes to a fund's compliance policies and procedures.[400] Given that the fund's liquidity risk management program will be administered by a fund's investment adviser or officers (rather than a chief compliance officer),[401] we believe that board approval of material changes in this context will provide an important independent check on such administration.

The fund's board would be responsible under the proposed rule for reviewing a written report from the fund's investment adviser or officers administering the fund's liquidity risk management program, provided no less frequently than annually, that reviews the adequacy of the fund's liquidity risk management program, including the fund's three-day liquid asset minimum, and the effectiveness of its implementation.[402] This aspect of the proposed rule is designed to facilitate board oversight over the adequacy and effectiveness of the fund's liquidity risk management program, including the three-day liquid asset minimum and whether the three-day liquid asset minimum is providing an appropriate level of minimum liquidity to the fund in light of changes in the markets, the fund, and its shareholder base over time. To the extent that the board is being asked to approve a change in a fund's three-day liquid asset minimum, the written report should also provide directors with an understanding of how a change to the fund's three-day liquid asset minimum was determined to be appropriate. We believe that this review and its related report will provide the board with sufficient information to provide oversight over the adequacy and effective implementation of the fund's liquidity risk management program. As with the initial approval of each fund's liquidity risk management program, directors may also wish to consider the nature of the fund's liquidity risk exposure in approving any material changes, particularly with respect to the fund's three-day liquid asset minimum.

3. Designation of Administrative Responsibilities to Fund Investment Adviser or Officers

Proposed rule 22e–4(b)(3)(iii) would expressly require a fund to designate the fund's investment adviser or officers (which may not be solely portfolio managers of the fund) responsible for administering the fund's liquidity risk management program, which designation must be approved by the fund's board of directors. Designating the fund's investment adviser or officers responsible for the administration of the fund's liquidity risk management program, subject to board oversight, is consistent with the way we understand most funds currently manage liquidity.[403] The proposed designation also tasks the persons who are in a position to manage the fund's liquidity risks on a real-time basis with responsibility for administration of the liquidity risk management program. In administering a fund's liquidity risk management program, the fund's investment adviser or officers may wish to consult with the fund's portfolio manager, traders, risk managers, and others as necessary or appropriate (*e.g.,* to obtain information used in classifying the liquidity of a new portfolio position), but we note that the fund's portfolio managers may not be solely responsible for administering the program.

We understand, based on staff outreach, that some funds employ a dedicated risk management officer and task liquidity risk management to this officer, in consultation with the fund's portfolio management function. The board of a fund that employs a dedicated risk management officer (or an officer whose role includes risk management among other duties) may find it appropriate to designate administration of the fund's liquidity risk management program to this officer. We request comment below on whether a fund should be required to specifically task administration of the fund's liquidity risk management program to a dedicated risk officer, or whether we should otherwise specify the officer who must administer the fund's liquidity risk management program.

Because the administration of a fund's liquidity risk management program would be designated to a fund's investment adviser or officers, the investment adviser or officers should provide the board with enough information to oversee such administration. As discussed above, the fund's investment adviser or officers would therefore be required to provide the board with a written report on the adequacy of the fund's liquidity risk management program, including the three-day liquid asset minimum, and the effectiveness of its implementation, at least annually. To the extent that a serious compliance issue arises under the program, it may be appropriate to consider whether the event should be brought to the board's attention promptly.[404]

We understand that, in certain circumstances, a fund's service providers may assist a fund and its investment adviser in monitoring factors relevant to a fund's liquidity risk and managing the fund's liquidity risk. For example, third parties could provide data relevant to assessing fund flows. Also, a sub-adviser's portfolio management responsibilities would involve investing a fund's assets in accordance with the fund's three-day

[400] Rule 38a–1 requires that the fund's chief compliance officer provide a written annual report to the fund's board addressing, among other things, any material changes made to the fund's compliance policies and procedures since the date of the last report and any material changes to the fund's compliance policies and procedures recommended as a result of the fund's annual review of the adequacy of such policies and procedures and the effectiveness of their implementation.

[401] Rule 38a–1 contains several provisions ''designed to promote the independence of the chief compliance officer from the management of the fund.'' *See* Rule 38a–1 Adopting Release, *supra* note 90. These include: Rule 38a–1(a)(4)(i) (designation and compensation of the chief compliance officer must be approved by the fund's board, including a majority of the fund's independent directors); rule 38a–1(a)(4)(ii) (the chief compliance officer can only be discharged from his or her responsibilities with the approval of the fund's board, including a majority of the fund's independent directors); rule 38a–1(a)(4)(iii) (the chief compliance officer must provide an annual report to the board addressing: (i) The operation of the policies and procedures of the fund and certain service providers since the last report; (ii) any material changes to the policies and procedures since the last report; (iii) any recommendations for material changes to the policies and procedures as a result of the annual review; and (iv) any material compliance matters since the date of the last report); and rule 38a–1(a)(4)(iv) (requiring the chief compliance officer to meet separately with the fund's independent directors at least once a year).

[402] Proposed rule 22e–4(b)(3)(ii).

[403] *See* Federal Regulation Of Securities Committee, American Bar Association, Fund Director's Guidebook (4th ed. 2015), at p. 82 (''Determining the liquidity of a security is primarily an investment decision that is delegated to the investment adviser, but directors may establish guidelines and standards for determining liquidity.'').

[404] See Rule 38a–1 Adopting Release, supra note 90 (noting, in the case of a rule 38a–1 compliance program, that ''[s]erious compliance issues must, of course, always be brought to the board's attention promptly'').

liquid asset minimum and any other liquidity-related portfolio requirements adopted by the fund.[405] While we understand that such actions could provide useful assistance to a fund in assessing, monitoring, and managing liquidity risk, we note that the primary parties responsible for a fund's liquidity risk management are the fund itself and any parties to whom the fund has designated responsibility for administering the fund's liquidity risk management program. A fund (or its investment adviser, to the extent the investment adviser has been given liquidity risk management responsibility) should thus oversee any liquidity risk monitoring or risk management activities undertaken by the fund's service providers, and we encourage a fund (or its investment adviser, as appropriate) to communicate regularly with its service providers as a part of its oversight and to coordinate the liquidity risk management efforts undertaken by various parties.

4. Request for Comment

We request comment on the proposed board approval and oversight requirements.

- Do fund boards currently approve procedures for classifying the liquidity of portfolio assets? Do fund boards take any additional steps to oversee the liquidity of portfolio assets? Should the Commission require boards, including a majority of independent directors, to approve the initial liquidity risk management program, including the three-day liquid asset minimum?
- Should the Commission require boards to approve material changes to a fund's liquidity risk management program, including any changes to a fund's three-day liquid asset minimum? Should the Commission define what would constitute a ''material change'' to a fund's liquidity risk management program or provide additional guidance regarding what changes would constitute material changes? Alternatively, should the Commission require boards to approve all changes to a fund's liquidity risk management program? Or, similar to rule 38a–1 regarding a fund's compliance program, should there be no requirement for board approval of changes to the liquidity risk management program?
- Does the release provide adequate guidance to fund boards regarding their approval of the liquidity risk management program? Should we provide any additional guidance in this regard?
- Do commenters agree that it would be appropriate to require a fund to designate the fund's adviser or officers responsible for administering a fund's liquidity risk management program, subject to board approval? Is it appropriate to specify that those administering the program may not be solely the fund's portfolio managers? Would any small fund complexes have difficulty meeting the proposed requirement that the program may not be solely administered by the fund's portfolio manager? Is it appropriate to allow a fund to designate a fund sub-adviser responsible for administering a fund's liquidity risk management program? Should the Commission require a fund to task administration of the fund's liquidity risk management program to a specific officer of the fund? Should the Commission require that a fund have a chief risk officer or risk committee administer the fund's liquidity risk management program?
- Should the Commission specify a shorter or longer frequency for review of a report on the fund's liquidity risk management program? Should the report to the board cover both the adequacy and effectiveness of the fund's liquidity risk management program as well as the adequacy of the fund's three-day liquid asset minimum? Alternatively, would a report reviewing the adequacy of the fund's three-day liquid asset minimum likely provide a review of the fund's liquidity risk management program overall given the factors that must be assessed in setting the three-day liquid asset minimum?
- Are there other aspects of the fund's liquidity risk management program about which the fund's investment adviser or officers responsible for administering the program should report to the board? Should we provide any additional guidance to fund boards in connection with the approval and oversight of a fund's liquidity risk management program?

E. Liquidity Risk Management Program Recordkeeping Requirements

We are proposing to require that each fund maintain a written copy of the policies and procedures adopted as part of its liquidity risk management program for five years, in an easily accessible place.[406] Each fund also would be required to maintain copies of any materials provided to its board in connection with the board's initial approval of the fund's liquidity risk management program and approvals of any subsequent material changes to the program, including any changes to the fund's three-day liquid asset minimum, and copies of written reports provided to the board that review the adequacy of the fund's liquidity risk management program, including the fund's three-day liquid asset minimum, and the effectiveness of its implementation.[407] Funds would have to maintain such records for at least five years after the end of the fiscal year in which the documents were provided to the board, the first two years in an easily accessible place.

Finally, we are proposing to require that each fund keep a written record of how its three-day liquid asset minimum, and any adjustments thereto, were determined, including the fund's assessment and periodic review of its liquidity risk in light of the factors incorporated in paragraphs (b)(2)(iii)(A) through (D) of proposed rule 22e–4.[408] Funds would have to maintain such records for a period of not less than five years, the first two years in an easily accessible place, following the determination of, and each change to, the fund's three-day liquid asset minimum.

The records discussed above are designed to provide our examination staff with a basis to determine whether a fund has adopted a liquidity risk management program in compliance with the requirements of proposed rule 22e–4. Specifically, such records would help our staff to determine whether a fund's program incorporates the elements required to be included under paragraph (b)(2) of proposed rule 22e–4. We also anticipate that these records would assist our staff in identifying weaknesses in a fund's liquidity risk management if violations do occur or are uncorrected.

The five-year retention period in proposed rule 22e–4(c) is consistent with that in rule 38a–1(d) under the Act. We believe consistency in these retention periods is appropriate because funds currently have program-related recordkeeping procedures in place incorporating a five-year retention period, which we believe would lessen the compliance burden to funds slightly, compared to choosing a different retention period, such as the six-year recordkeeping retention period under rule 31a–2 of the Act. Taking this into account, we believe a five-year retention period is a sufficient period of time for our examination staff to evaluate whether a fund is in compliance (and

[405] A fund could also formally designate a fund's sub-adviser as responsible for the fund's liquidity risk management program.

[406] Proposed rule 22e–4(c)(1).

[407] Proposed rule 22e–4(c)(2); *see also* proposed rule 22e–4(b)(3)(i)–(ii).

[408] Proposed rule 22e–4(c)(3).

has been in compliance) with the liquidity risk management program requirements of the rule and anticipate that such information would become less relevant if extended beyond a five-year retention period. Furthermore, we believe that the proposed five-year retention period appropriately balances recordkeeping-related burdens on funds.

We request comment on the proposed liquidity risk management program recordkeeping requirements.

- Do commenters agree that the proposed recordkeeping requirements are appropriate? Specifically, are there any additional records associated with a fund's liquidity risk management program that a fund should be required to keep? Should a fund be required to keep a written record of how the liquidity classifications of each of the fund's positions in a portfolio asset were determined, including assessment of the factors set forth in proposed rule 22e–4(b)(2)(ii)? Should a fund be required to keep a written record of what liquidity classifications were determined for each of the fund's positions in a portfolio asset? Do commenters anticipate that, to the extent that data regarding certain factors that a fund would be required to consider in classifying its portfolio positions' liquidity could be obtained largely through automated systems, it would be possible to easily re-create a record of how past liquidity classifications assigned to a fund's portfolio positions were determined? Are there feasible alternatives to the proposed rule that would minimize recordkeeping burdens, including the costs of maintaining the required records?

- Do commenters agree that the five-year retention period for records that would be required to be kept pursuant to proposed rule 22e–4(c) is appropriate? If not, what retention period would commenters recommend? Would commenters recommend a six-year retention period? Why or why not?

- We specifically request comment on any alternatives to the proposed recordkeeping requirements that would minimize recordkeeping burdens on funds, the utility and necessity of the proposed recordkeeping requirements in relation to the associated costs and in view of the public benefits derived, and the effects that additional recordkeeping requirements would have on funds' internal compliance policies and procedures.[409]

[409] *See* sections 30(c)(2)(A), 30(c)(2)(B), and 31(a)(2) of the Investment Company Act.

F. Swing Pricing

Rule 22c–1 under the Investment Company Act, the ''forward pricing'' rule, requires funds, their principal underwriters, dealers in fund shares, and other persons designated in a fund's prospectus, to sell and redeem fund shares at a price based on the current NAV next computed after receipt of an order to purchase or redeem.[410] When a fund trades portfolio assets as a result of purchase or redemption requests, costs associated with this trading activity can dilute the value of the existing shareholders' interests in the fund. This dilution occurs because the price at which shareholders transact in fund shares reflects the shares' current NAV that is next computed after the fund's receipt of the shareholders' purchase and redemption requests (generally, the fund's NAV calculated as of the close of the fund's primary underlying market, which is typically 4 p.m. Eastern Time),[411] but the fund's NAV will not generally reflect changes in holdings of the fund's portfolio assets and changes in the number of the fund's outstanding shares until the first business day following the fund's receipt of the shareholders' purchase and redemption requests.[412] Thus, the price that a purchasing shareholder pays for fund shares customarily does not take into account the market impact costs and trading costs that arise when the fund buys portfolio assets in order to invest proceeds of shareholder purchases. Likewise, the price that a redeeming shareholder receives for fund shares customarily does not take into account the market impact costs and trading costs that arise when the fund sells portfolio assets in order to meet shareholder redemptions. Going forward, however, the NAV of the fund shares held by existing shareholders does reflect these costs, and thus these costs are borne not by the purchasing or redeeming shareholders but by all existing fund shareholders.[413]

While forward pricing captures the changes in portfolio assets' value that arise as a result of market-wide trading, it does not necessarily reflect any disparity between the market price of a portfolio asset at the end of the day (as determined for purposes of striking a fund's NAV) and the price that a fund receives for trading that asset. This scenario could arise, for example, in situations in which an asset's value changes throughout the day, and the price that a fund receives when trading that asset differs from the market value of the asset at the end of the day. It also could arise if a fund were forced to sell a relatively less liquid asset at an inopportune time, and thus had to accept a price for that asset that incorporates a significant discount to the asset's stated value.

To provide an illustration of a situation in which forward pricing may not result in a fund's NAV reflecting the price that a fund actually received when it sold portfolio assets, consider the following example. If a fund has valued portfolio asset X at $10 at the beginning of day 1, and market activity on day 1 (including the fund's sale of portfolio asset X) decreases the market value of portfolio asset X to $9 at the end of day 1, the fund's remaining holdings of portfolio asset X at the end of day 1 would be valued at $9 to reflect the asset's market value on that day. However, staff outreach has shown that it is common industry practice, as permitted by rule 2a–4, for the fund's current NAV to not reflect the actual price at which the fund has sold the

[410] *See* rule 22c–1(a). Prior to adoption of rule 22c–1, investor orders to purchase and redeem could be executed at a price computed before receipt of the order, allowing investors to lock-in a low price in a rising market and a higher price in a falling market. The forward pricing provision of rule 22c–1 was designed to eliminate these trading practices and the dilution to fund shareholders which occurred as a result of backward pricing. Pricing of Redeemable Securities for Distribution, Redemption, and Repurchase, Investment Company Act Release No. 14244 (Nov. 21, 1984) [49 FR 46558 (Nov. 27, 1984)], at text following n.2.

[411] *See supra* note 41 and accompanying text.

[412] *See* rule 2a–4(a)(2) (providing that changes in holdings of portfolio securities shall be reflected in the fund's current NAV no later than in the first calculation on the first business day following the trade date); rule 2a–4(a)(3) (providing that changes in the number of outstanding shares of the registered company resulting from distributions, redemptions, and repurchases shall be reflected in the fund's current NAV no later than in the first calculation on the first business day following such change); *see also* BlackRock, *Swing Pricing: The Dilution Effects of Trading Activity* (Dec. 2011), *available at http://www2.blackrock.com/content/groups/internationalsite/documents/literature/1111157589.pdf* (''BlackRock Swing Pricing Paper'').

[413] *See* Association of the Luxembourg Fund Industry, *Swing Pricing: Survey, Reports & Guidelines* (Feb. 2011), *available at http://www.alfi.lu/sites/alfi.lu/files/ALFI_Swing_Pricing.pdf* (''Luxembourg Swing Pricing Survey, Reports & Guidelines''), at 13 (''[T]he single price at which investors buy and sell the fund's shares only reflects the value of its net assets. It does not take into account the dealing costs that arise when the portfolio manager trades as a result of capital activity incurring a spread on the underlying securities. In other words, the charges incurred fall not on the client who has just traded, but on all investors in the fund.'').

To the extent that a fund were to apply a purchase fee or redemption fee, shareholders would, at least to a certain extent, bear the transaction-related costs associated with their purchase and redemption requests. *See infra* notes 421–422 and accompanying text; *see also* Securities and Exchange Commission, *Mutual Fund Fees and Expenses, available at http://www.sec.gov/answers/mffees.htm.*

portfolio assets until the next business day following the sale.[414] In the example above, if the fund selling portfolio asset X sold the asset during the day at $8 on day 1, the price that the fund received for these asset sales would not be reflected in the fund's NAV until day 2. Thus, redeeming shareholders would have received an exit price that would reflect portfolio asset X being valued at the close of the market at $9 on day 1, whereas remaining shareholders would hold shares on day 2 whose value reflects portfolio asset X being sold at $8 (the actual price that the fund received when it sold the asset on day one).

Similarly, as noted above, the price that a purchasing shareholder pays for fund shares normally does not take into account trading and market impact costs that arise when the fund buys portfolio assets to invest the proceeds received from shareholder purchases. For example, when a fund experiences net inflows, it may invest the proceeds of shareholder purchases over several days following the purchase of fund shares. Thus, the purchase price that shareholders receive on day 1 would not reflect any transaction fees associated with investing the proceeds of shareholder purchases on subsequent days, or any market activity (including the fund's purchase of portfolio assets) that increases the value of the fund's portfolio assets. To illustrate, if the fund's NAV on day 1 (and the purchase price an incoming shareholder were to receive on day 1) reflects portfolio asset X being valued at $10, but the fund were to purchase additional shares of portfolio asset X on day 2 at $11, the price that a purchasing shareholder pays on day 1 would not reflect the costs of investing the proceeds of the shareholder's purchases of fund shares. These costs instead would be reflected in the fund's NAV on days following the shareholder's purchase, and thus would be borne by all of the investors in the fund, not only the shareholders who purchased on day 1.

Certain foreign funds currently use ''swing pricing,'' the process of adjusting the fund's NAV to effectively pass on the market impact costs,[415] spread costs,[416] and transaction fees and charges stemming from net capital activity (*i.e.*, flows into or out of the fund) to the shareholders associated with that activity, in order to protect other shareholders from dilution arising from these costs. Investment management industry representative associations operating in certain European jurisdictions have adopted guidelines on swing pricing procedures in recent years,[417] and a survey conducted by the Association of the Luxembourg Fund Industry (''ALFI'') several years ago confirmed a strong directional trend towards the adoption of swing pricing among major market participants in that jurisdiction, which is a significant jurisdiction for the organization of UCITS funds in Europe.[418] Likewise, several comments from asset managers received in response to the FSOC Notice[419] noted favorably that funds regulated under the UCITS Directive use swing pricing to allocate transaction costs to purchasing and redeeming shareholders.[420]

Commission rules and guidance do not currently address the ability of a fund to use swing pricing to mitigate potential dilution of fund shareholders. The Commission has previously recognized that excessive trading of mutual fund shares could dilute the value of long-term investors' shares,[421] however, and in response to this, the Commission adopted rule 22c–2 under the Investment Company Act. Rule 22c–2, among other things, permits a fund to impose a fee of up to two percent on shareholders' redemptions and requires fund boards to consider imposing redemption fees under certain circumstances.[422] While redemption

[414] *See* 2a–4(a)(2) (providing that changes in holdings of portfolio securities shall be reflected in the fund's current NAV no later than in the first calculation on the first business day following the trade date). The next day's NAV would generally reflect the cash receivable from the sale instead of the value of the shares that were sold (although if the shares were sold and settled within a T+0 or T+1 timeframe, the next day's NAV would reflect the value of the shares that were sold).

[415] Market impact costs are incurred when the price of a security changes as a result of the effort to purchase or sell the security. Stated formally, market impacts are the price concessions (amounts added to the purchase price or subtracted from the selling price) that are required to find the opposite side of the trade and complete the transaction. Market impact cost cannot be calculated directly. It can be roughly estimated by comparing the actual price at which a trade was executed to prices that were present in the market at or near the time of the trade. *See* Concept Release: Request for Comments on Measures to Improve Disclosure of Mutual Fund Transaction Costs, Investment Company Act Release No. 26313 (Dec. 18, 2003) [68 FR 74819 (Dec. 24, 2003)] (''Transaction Cost Concept Release'').

[416] Spread costs are incurred indirectly when a fund buys a security from a dealer at the ''asked'' price (slightly above current value) or sells a security to a dealer at the ''bid'' price (slightly below current value). The difference between the bid price and the asked price is known as the ''spread.'' *See* Transaction Cost Concept Release, *supra* note 415. For equity securities listed on an exchange, the costs associated with trading the security typically take the form of brokerage commissions, as opposed to spread costs.

[417] *See, e.g.*, Luxembourg Swing Pricing Survey, Reports & Guidelines, *supra* note 413; Association Francaise de la Gestion Financière, *Charte de bonne conduit pour le Swing Pricing et les droits d'entrée et de sortie ajustables acquis aux fonds* (2014), available at *http://www.afg.asso.fr/index.php?option=com_content&view=article&id=5459%3Acharte-de-bonne-conduite-pour-le-swing-pricing-et-les-droits-dentree-et-de-sortie-ajustables-acquis-aux-fonds&catid=527%3A2014&lang=fr*.

The European Commission's 2009 revised Undertakings for Collective Investment in Transferable Securities (''UCITS'') Directive does not specifically provide for swing pricing, but does provide that ''[t]he rules for the valuation of assets and the rules for calculating the sale or issue price and the repurchase or redemption price of the units of a UCITS shall be laid down in the applicable national law, in the fund rules or in the instruments of incorporation of the investment company.'' *Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations, and administrative provisions relating to undertakings for collective investment in transferable securities*, Official J. of the European Union (Nov. 2009), available at *http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:302:0032:0096:en:PDF*, at Article 85.

[418] *See* Luxembourg Swing Pricing Survey, Reports & Guidelines, *supra* note 413; *see also* BlackRock Swing Pricing Paper, *supra* note 412 (discussing the results of the ALFI survey). The results of the ALFI survey indicated that the majority of respondents were already using swing pricing, and the number of fund managers using swing pricing had tripled over the previous five years.

[419] *See supra* note 16.

[420] *See* Comment Letter of AllianceBernstein L.P. on the FSOC Notice (Mar. 25, 2015) (noting that UCITS funds may utilize swing pricing to ''accurately reflect the costs borne by other shareholders stemming from transaction costs''); BlackRock FSOC Notice Comment Letter, *supra* note 50, at 5 and 39 (recommending that policy makers consider a ''mechanism to allocate transaction costs to redeeming shareholders as a way to provide a price signal for the price of market liquidity and to reimburse or buffer a fund's remaining shareholders''); *see also* Nuveen FSOC Notice Comment Letter, *supra* note 45, at n.26 (''The SEC could also study proposals to change the pricing mechanisms for mutual fund subscriptions and redemptions in such a way that, under certain pre-specified circumstances, subscribing and redeeming shareholders would bear the cost of portfolio transactions necessary to invest cash for new subscriptions and to fund redemptions.''); Occupy the SEC FSOC Notice Comment Letter, *supra* note 45, at 13 (stating that investors buying or selling large amounts of fund shares impose costs on the fund that results in inequitable outcomes as long-term investors subsidize those who trade more actively and that for funds that hold illiquid assets these externalities can become quite material).

[421] *See, e.g.*, Mutual Fund Redemption Fees, Investment Company Act Release No. 26782 (Mar. 11, 2005) [70 FR 13328 (Mar. 18, 2005)] (''Rule 22c–2 Adopting Release'') at n.7 and accompanying text.

[422] Rule 22c–2 prohibits a fund from redeeming shares within seven days after the share purchase unless the fund meets three conditions. *See* rule 22c–2(a). First, the board of directors must either: (i) Approve a redemption fee (in an amount not to exceed two percent of the value of shares redeemed), or (ii) determine that imposition of a redemption fee is either not necessary or not appropriate. Second, the fund (or its principal underwriter or transfer agent) must enter into a written agreement with each financial intermediary under which the intermediary agrees to, among other things: (i) Provide, at the fund's request, identity and transaction information about shareholders who hold their shares through an account with the intermediary; and (ii) execute instructions from the fund to restrict or prohibit

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fees (or purchase fees) could mitigate dilution arising from shareholder transaction activity, implementing a fee requires coordination with the fund's service providers, which could entail operational complexity. On the other hand, adjusting a fund's NAV, like imposing a fee, could pass on transaction-related costs to purchasing and redeeming shareholders, but could be simpler to implement because this adjustment would occur pursuant to the fund's own procedures (as opposed to involving the intermediaries' systems) and would be factored into the process by which a fund strikes its NAV. However, the Commission has not addressed whether a fund might adjust its current NAV to lessen dilution of the value of a fund's outstanding securities, and the Commission's current valuation guidance could raise questions about making such a NAV adjustment.[423]

Because we believe that swing pricing could be a useful tool in mitigating potential dilution of fund shareholders, we are proposing rule 22c–1(a)(3), which would permit certain mutual funds (but not ETFs or money market funds) to use swing pricing under certain circumstances. Proposed rule 22c–1(a)(3) specifies the conditions under which we believe swing pricing would be appropriately used. Below we describe in detail the proposed requirements that a fund using swing pricing would be obliged to follow, the objectives of the proposed rule, and certain considerations that a fund should generally assess in determining whether swing pricing would be an effective tool to prevent fund dilution and promote fairness among all its shareholders. The proposed rule is designed to promote *all* shareholders' interests and promote practices that seek to ensure that a fund's shares are purchased and redeemed at a fair price.[424] We also believe that the proposed rule would provide a set of operational standards that would allow U.S. funds to gain comfort using swing pricing as a new means of mitigating potential dilution. We recognize that implementing swing pricing could give rise to a number of operational issues and questions, and we provide guidance and request comment on relevant operational considerations below.

1. Proposed Rule 22c–1(a)(3)

a. Overview and Objectives of Proposed Rule

Under proposed rule 22c–1(a)(3), a registered open-end investment company (but not a registered investment company that is regulated as a money market fund,[425] and not including an exchange-traded fund [426]) would be permitted to establish and implement policies and procedures providing for the fund to adjust its current NAV to mitigate dilution of the value of its outstanding redeemable securities as a result of shareholder purchase and redemption activity.[427] Specifically, a fund [428] would be permitted to establish and implement swing pricing policies and procedures that would require a fund to adjust its NAV under certain circumstances, provided that the fund's board (including a majority of directors who are not interested persons of the fund) [429] must approve these policies and procedures, and the policies and procedures must include certain specified elements.[430] A fund's swing pricing policies and procedures must provide that the fund will adjust its NAV by an amount designated as the ''swing factor'' once the level of net purchases into or net redemptions from the fund has exceeded a specified percentage of the fund's net asset value known as the ''swing threshold.'' [431] A fund would be required to adopt policies and procedures for determining and periodically reviewing its swing threshold. A fund's swing pricing policies and procedures also would be required to include policies and procedures for determining a swing factor that would be used to adjust the fund's NAV when the fund's swing threshold is breached. While the swing factor could vary depending on the facts and circumstances, a fund's policies and procedures for determining its swing factor must take certain specified factors into account.[432] A fund's board must approve the swing pricing policies and procedures (including the fund's swing threshold), as well as any material change thereto,[433] and the board would be required to designate the fund's adviser or officers responsible for administering the policies and procedures.[434] A fund would be required to abide by certain recordkeeping requirements relating to its swing pricing policies and procedures and any NAV adjustments made pursuant to these policies and procedures.[435]

In determining whether the fund's level of net purchases or net redemptions has exceeded the fund's swing threshold, the person(s) responsible for administering the fund's swing pricing policies and procedures [436] would be permitted to make such determination on the basis of information obtained after reasonable inquiry.[437] As discussed below, swing pricing requires the net cash flows for a fund to be known, or reasonably estimated, before determining whether to adjust the fund's NAV on a particular

future purchases or exchanges. Third, the fund must maintain a copy of each written agreement with a financial intermediary for six years.

[423] For example, adjusting a fund's NAV in order to effectively require shareholders who are purchasing or redeeming shares of the fund to bear the costs associated with their purchases or redemptions could be viewed as a temporary change in a fund's valuation policies that might conflict with long-standing Commission guidance that a fund's valuation policies be ''consistently applied.'' *See* Accounting for Investment Securities by Registered Investment Companies, Investment Company Act Release No. 6295 (Dec. 23, 1970) [35 FR 19986 (Dec. 31, 1970)] (''ASR 118'').

[424] *See* Rule 38a–1 Adopting Release, *supra* note 90, at text following n.40 (noting that the pricing requirements of the Investment Company Act are ''critical to ensuring fund shares are purchased and redeemed at fair prices and that shareholder interests are not diluted.'').

[425] *See* rule 2a–7.

[426] Proposed rule 22c–1(a)(3)(v)(A) would define ''exchange-traded fund'' as ''an open-end management investment company or a class thereof, the shares of which are traded on a national securities exchange, and that operates pursuant to an exemptive order granted by the Commission or in reliance on an exemptive rule adopted by the Commission.''

[427] Proposed rule 22c–1(a)(3). Under the proposed rule, ''swing pricing'' would be defined as ''the process of adjusting a fund's current net asset value per share to mitigate dilution of the value of its outstanding redeemable securities as a result of shareholder purchase and redemption activity, pursuant to the requirements set forth in [proposed rule 22c–1(a)(3)].'' *See* proposed rule 22c–1(a)(3)(v)(C).

[428] For purposes of this section III.F and the discussions of proposed rule 22c–1(a)(3) in this document, the term ''fund'' denotes a fund as defined in proposed rule 22c–1(a)(3), that is, ''a registered open-end management investment company (but not a registered open-end management investment company that is regulated as a money market fund under § 270.2a–7 or an exchange traded fund as defined in [proposed rule 22c–1(a)(3)(v)(A)]).''

[429] Proposed rule 22c–1(a)(3)(ii)(A).

[430] Proposed rule 22c–1(a)(3)(i).

[431] Proposed rule 22c–1(a)(3)(i)(A). Under the proposed rule, ''swing factor'' would be defined as ''the amount, expressed as a percentage of the fund's net asset value and determined pursuant to the fund's swing pricing procedures, by which a fund adjusts its net asset value per share when the level of net purchases or net redemptions from the fund has exceeded the fund's swing threshold.'' Proposed rule 22c–1(a)(3)(v)(B). We request comment on this definition in section III.F.1.e below.

''Swing threshold'' would be defined as ''the amount of net purchases into or net redemptions from a fund, expressed as a percentage of the fund's net asset value, that triggers the initiation of swing pricing.'' Proposed rule 22c–1(a)(3)(v)(D). We request comment on this definition in section III.F.1.c below.

[432] Proposed rule 22c–1(a)(3)(i)(D).

[433] Proposed rule 22c–1(a)(3)(ii)(A).

[434] Proposed rule 22c–1(a)(3)(ii)(B).

[435] *See infra* section III.F.1.g; proposed rule 22c–1(a)(3)(iii); proposed amendment to rule 31a–2(a)(2).

[436] *See infra* section III.F.1.f.

[437] Proposed rule 22c–1(a)(3)(i)(A).

day.[438] Because the deadline by which a fund must strike its NAV may precede the time that a fund receives final information concerning daily net flows from the fund's transfer agent or principal underwriter, we believe it is appropriate to permit the person responsible for administering swing pricing policies and procedures to determine whether net purchases or net redemptions have exceeded the fund's swing threshold on the basis of information obtained after reasonable inquiry. The operational processes associated with swing pricing are discussed in more detail below at section III.F.2.a.

Under the proposed rule, in-kind purchases and in-kind redemptions would be excluded from the calculation of net purchases and net redemptions for purposes of determining whether a fund's net purchases or net redemptions exceed its swing threshold.[439] When a fund investor purchases or redeems shares of a fund in kind as opposed to in cash, this does not necessarily cause the fund to trade any of its portfolio assets. We therefore believe that the risk of dilution as a result of shareholder purchase and redemption activity is lower with respect to in-kind purchases and in-kind redemptions, and thus swing pricing would not be permitted unless a fund's net purchases or net redemptions that are made in cash (and not in kind) exceed the fund's swing threshold.

We are proposing rule 22c–1(a)(3) to provide funds with a tool to mitigate the potentially dilutive effects of shareholder purchase and redemption activity. Funds would be able to adopt swing pricing policies and procedures in their discretion (although, once these policies and procedures are adopted, a fund would be required to adjust its NAV when net purchases or net redemptions cross the swing threshold, unless the fund's board approves a change to the fund's swing threshold). When a fund that has adopted swing pricing experiences net purchases exceeding the swing threshold, it would adjust its NAV upward, which would effectively require purchasing shareholders to cover near-term costs associated with the fund investing in additional portfolio assets. Conversely, when a fund that has adopted swing pricing experiences net redemptions exceeding the swing threshold, it would adjust its NAV downward, which would effectively require redeeming shareholders to cover near-term costs associated with the fund selling portfolio assets. In both cases, swing pricing would result in the costs of trading portfolio assets (along with transaction fees and charges relating to these trades) being passed on to purchasing and redeeming shareholders.

As discussed above, some foreign funds currently use swing pricing, which suggests that these funds consider swing pricing to be a valuable and effective means of decreasing dilution. Indeed, one investment manager conducted a study of its funds whose prices swung over a one-year period (over fifty funds) and found that the performance of each of these funds would have been impaired, in some cases quite considerably, had the manager not implemented a swing pricing policy.[440] Likewise, ALFI has noted that studies have shown that ''[f]unds that apply swing pricing show superior performance over time compared to funds (with identical investment strategies and trading patterns) that do not employ anti-dilution measures,'' and that ''[s]wing pricing helps preserve investment returns as the value to long-term investors normally exceeds the value of the swing factor applied on entry to or exit from the fund.'' [441] We believe that the swing pricing policies contemplated by the proposed rule, which are similar to those used by some foreign funds, could mitigate dilution arising from shareholders' purchase and redemption activity.[442] As opposed to purchase and redemption fees or liquidity fees, which could also prevent fund dilution arising from purchase or redemption activity,[443] swing pricing would occur pursuant to the fund's own procedures and would not require coordination with the fund's service providers because the swing pricing adjustment would be factored into the process by which a fund strikes its NAV.[444] In addition to mitigating potential dilution arising from purchase and redemption activity, swing pricing also could help deter redemptions motivated by any first-mover advantage. That is, if remaining shareholders understood that redeeming shareholders would bear the estimated costs of their redemption activity, it would reduce their incentive to redeem quickly because there would be less risk that they would bear the costs of other shareholders' redemption activity.

In considering the swing pricing proposal, we considered proposing a rule that would permit ''dual pricing'' as opposed to swing pricing. We understand that certain foreign funds use dual pricing as an alternative means of mitigating potential dilution arising from shareholder transaction activity. A fund using dual pricing would not adjust the fund's NAV by a swing factor when it faces high levels of net purchases or net redemptions, but instead would quote two prices—one for incoming shareholders (reflecting the cost of buying portfolio securities at the ask price in the market), and one for outgoing shareholders (reflecting the proceeds the fund would receive from selling portfolio securities at the bid price in the market).[445] While we believe that dual pricing also could mitigate potential dilution, we believe that swing pricing is a preferable alternative because we believe it would be simpler to implement and for investors to understand. Swing pricing would permit a fund to continue to transact using one price, as they do today (instead of transacting using separate prices for purchasing and redeeming shareholders), and also would permit a fund to price its shares without adjustment unless the level of net purchases or net redemptions were to cross the fund's swing threshold.

We recognize that swing pricing may involve potential disadvantages to funds as well as potential advantages, and the provisions of proposed rule 22c–1(a)(3) are designed to maximize the relative

[438] *See infra* section III.F.2.a.

[439] Proposed rule 22c–1(a)(3)(i)(A).

[440] *See* BlackRock Swing Pricing Paper, *supra* note 412.

[441] *See* Luxembourg Swing Pricing Survey, Reports & Guidelines, *supra* note 413, at 12. *But see infra* paragraph following note 447 (noting that swing pricing could increase the volatility of a fund's NAV in the short term, which could increase tracking error and could make a fund's performance deviate from the fund's benchmark during the period of volatility to a greater degree than if swing pricing had not been used).

[442] *See* Luxembourg Swing Pricing Survey, Reports & Guidelines, *supra* note 413, at 12. The Commission has previously recognized that costs arising from certain types of redemption activity (namely, short-term trading strategies, such as market timing) could dilute the value of long-term investors' shares. *See* Rule 22c–2 Adopting Release, *supra* note 421.

[443] As discussed above, the Commission has previously recognized that excessive trading of fund shares could dilute the value of long-term investors' shares, and in response to this, adopted rule 22c–2, which permits a fund to impose redemption fees, and requires fund boards to consider imposing redemption fees, under certain circumstances. *See supra* notes 421–422.

In addition, money market funds are permitted to use liquidity fees under rule 2a–7. *See* 2014 Money Market Fund Reform Adopting Release, *supra* note 85, at section III.A.5; *see also* discussion of money market fund liquidity fees in section III.F.1.b *infra.* Liquidity fees (including ''dilution levies'' used by certain UCITS) are also used in some foreign jurisdictions, as a distinct liquidity risk management tool separate from swing pricing. *See infra* notes 467–468 and accompanying text.

[444] *See supra* note 422 and accompanying and following text.

[445] *See, e.g., supra* note 423 for a discussion of different methods of valuing portfolio assets, as considered in ASR 118.

advantages and respond to potential concerns associated with swing pricing. While swing pricing protects against dilution at the fund level and could act as a deterrent against redemptions motivated by any first-mover advantage, the potential disadvantages of swing pricing (described in more detail below) include increased performance volatility and the fact that the precise impact of swing pricing on particular purchase and redemption requests would not be known in advance and thus may not be fully transparent to investors. Under proposed rule 22c–1(a)(3), swing pricing would be a voluntary tool for funds, and thus a fund would be able to weigh the potential advantages and disadvantages of swing pricing in relation to the fund's particular circumstances and risks, as well as the other tools the fund uses to manage risks relating to dilution and liquidity.

The swing pricing requirements in proposed rule 22c–1(a)(3) aim to minimize NAV volatility (and related tracking error) associated with swing pricing to the extent possible. Swing pricing could increase the volatility of a fund's NAV in the short term, because NAV adjustments would occur when the fund's net purchases or net redemptions pass the fund's swing threshold. Thus, the fund's NAV would show greater fluctuation than would be the case in the absence of swing pricing. This volatility might increase tracking error (*i.e.*, the difference in return based on the swung NAV compared to the fund's benchmark) during the period of NAV adjustment, and could make a fund's short-term performance deviate from the fund's benchmark to a greater degree than if swing pricing had not been used.[446] Volatility and tracking error related to swing pricing could, therefore, result in investors incorrectly perceiving the short-term relative performance of a fund. This could potentially cause market distortions if investors were to incorrectly rate the performance of funds that use swing pricing compared to funds that do not, and shifted their invested assets from funds that use swing pricing to funds that do not as a result of this perception. Volatility and tracking error related to swing pricing also may activate alerts in monitoring systems that follow fund performance, which could in turn trigger purchases or redemptions in automated fund advisory services whose algorithms are driven by fund performance. However, we believe that the use of partial swing pricing, described below, would significantly reduce the performance volatility potentially associated with swing pricing. In addition, swing pricing should have a minimal effect on longer-term performance volatility and longer-term tracking error. Taking these considerations into account, we do not believe that volatility would generally be a significant deterrent to funds using swing pricing. We do request comment below on the potential effects of swing pricing on funds' performance volatility and any potential market distortions that could result if some funds adopt swing pricing but other, similarly situated funds do not.

Proposed rule 22c–1(a)(3) envisions partial swing pricing (that is, a NAV adjustment would not be permitted unless net purchases or net redemptions exceed a threshold set by the fund and approved by the fund's board) and not full swing pricing (that is, a NAV adjustment *any time* the fund experiences net purchases or net redemptions). Some foreign funds employ full swing pricing,[447] and there are certain advantages to full swing pricing (*e.g.*, a fund using full swing pricing would not be required to determine an appropriate swing threshold).[448] However, we believe partial swing pricing would generally cause lower NAV volatility than full swing pricing. The use of partial swing pricing also recognizes that net purchases and net redemptions below a certain threshold might not require a fund to trade portfolio assets,[449] and therefore a NAV adjustment, and any associated NAV volatility, might not be appropriate if purchases and redemptions would not result in costs associated with asset purchases and sales.

We recognize that there are other trade-offs that a fund would have to consider in determining to implement swing pricing. For example, application of a swing factor would affect all purchasing and redeeming shareholders equally, regardless of whether the size of an individual shareholder's purchases or redemptions alone would create material trading costs for the fund. This could cause certain shareholders to experience benefits or costs, relative to the other shareholders in the fund, that otherwise would not exist. For example, an investor who purchases fund shares on a day when a fund adjusts its NAV downward would pay less to enter the fund than if the fund had not adjusted is NAV on that day. And, while a small investor's redemption requests would not likely create significant liquidity costs for the fund on its own, if this investor were to redeem on the same day that the fund's net redemptions cross the swing threshold, his or her redemption proceeds would be reduced by the NAV adjustment. These concerns, however, are partially mitigated by the fact that shareholders could be assured that the same threshold level of net purchase and net redemption activity (as approved by the fund's board) would consistently trigger the use of swing pricing, unless the fund's board and a majority of the fund's independent directors were to approve a change in the fund's swing threshold.[450] Furthermore, we believe that investors who purchase shares on a day that a fund adjusts its NAV downward would not create dilution for non-redeeming shareholders (even though the purchasing shareholders may be receiving a lower price than would be the case if the NAV was not adjusted downward). Under these circumstances, shareholders' purchase activity would provide liquidity to the fund, which could reduce the fund's liquidity costs and thereby could decrease the swing factor. This could potentially help redeeming shareholders to receive a more favorable redemption price than they otherwise would have if there had been less purchase activity on that day, but would not affect the interests of non-redeeming investors.

We believe that an adequate level of transparency about swing pricing is critical for investors to understand the risks associated with investing in a particular fund. As discussed in section III.G below, proposed disclosure and reporting requirements regarding swing pricing would assist shareholders in understanding whether a particular fund has implemented swing pricing policies and procedures and has used swing pricing. We are not, however, proposing to require a fund to publicly disclose its swing threshold, because of concerns that certain shareholders may attempt to time their transactions based on this information,[451] as well as

[446] *But see supra* notes 440–441 and accompanying text (noting that swing pricing has been found to benefit fund performance over the long term).

[447] *But see* Luxembourg Swing Pricing Survey, Reports & Guidelines, *supra* note 413, at 6 (of the respondents surveyed by ALFI, the majority employed a partial swing approach, with only a select few choosing the full swing method).

[448] *See* Luxembourg Swing Pricing Survey, Reports & Guidelines, *supra* note 413, at 17.

[449] For example, a fund may not need to sell portfolio assets to pay redemptions below a certain threshold if it maintains a certain percentage of its net assets in cash or cash equivalents.

[450] *See infra* section III.F.1.f.

[451] *See* Luxembourg Swing Pricing Survey, Reports & Guidelines, *supra* note 413, at 8 (of the respondents surveyed by ALFI, the majority of those that used swing pricing ''were reluctant to

concerns that disclosure could be confusing or potentially misleading insofar as it could give an inaccurate view of funds' relative risks and benefits. For example, a shareholder might assume that Fund X with a swing threshold of 5% is inherently more risky and thus a ''worse'' investment than Fund Y with a swing threshold of 7% because a lower level of net flows would cause Fund X to adjust its NAV than Fund Y. But the relative performance and risks of both funds could depend on additional considerations, even excluding differences in the various market, credit, liquidity, and other risks associated with the funds' portfolio assets. These considerations could include the swing factors the funds would use to adjust their NAV and the frequency with which each fund would encounter net purchases or net redemptions that cross the fund's swing threshold. Although funds would not be required to disclose their swing threshold, the use of partial swing pricing as opposed to full swing pricing could give shareholders comfort that, under circumstances in which the fund is experiencing relatively low purchases or redemptions, the fund's NAV will likely not be adjusted.

Request for Comment

We seek comment on the general swing pricing process as contemplated by proposed rule 22c–1(a)(3). We seek specific comment on the process a fund would use to determine and review its swing threshold and to calculate the swing factor it would use to adjust its NAV, and on the proposed approval and oversight requirements associated with swing pricing policies and procedures, below.

- Do commenters agree that swing pricing could be a useful tool for U.S. registered funds in mitigating potential dilution of fund shareholders? Do commenters believe that dilution arising from costs associated with certain purchases or redemptions of fund shares is a significant problem that funds currently face, have historically faced under certain market conditions, or might be expected to face in the future?
- Do commenters agree that the proposed rule should require a fund that adopts swing pricing policies and procedures to adjust the fund's NAV when the fund's level of net purchases *or* redemptions exceeds the fund's swing threshold? Or should the proposed rule instead only require a fund that adopts swing pricing policies and procedures to adjust the fund's NAV when the fund's level of net redemptions exceeds the swing threshold? Alternatively, should the proposed rule permit a fund to choose whether to adopt swing pricing policies and procedures that would: (i) Require the fund to adjust its NAV when the fund's level of net purchases or redemptions exceeds the fund's swing threshold; or (ii) require the fund to adjust its NAV only when the fund's level of net redemptions exceeds the fund's swing threshold? Are there greater concerns about the potential for dilution associated with net redemptions than those associated with net purchases?
- Should a fund be permitted to use full swing pricing, as opposed to the partial swing pricing contemplated by the proposed rule? Why or why not?
- Under the proposed rule, when net purchases or net redemptions of a fund that has adopted swing pricing policies and procedures exceed the fund's swing threshold, the price that *all* purchasing or redeeming shareholders would receive for fund shares would be adjusted pursuant to the fund's swing pricing policies and procedures. Should a fund instead be permitted to exempt certain shareholders (for example, purchasing shareholders on days when the fund's share price is adjusted downward, or small shareholders whose purchase or redemption activity would not likely create significant liquidity costs for the fund) from receiving an adjusted share price on a day when the fund's net purchases or redemptions exceed the swing threshold? Why or why not?
- Would the use of purchase fees, redemption fees and/or liquidity fees (either separately or in combination) be a more or less effective means of mitigating potential dilution than swing pricing? Why or why not? Would the use of purchase fees, redemption fees and/or liquidity fees (either separately or in combination) entail burdens and costs that are higher or lower than the burdens and costs associated with swing pricing? What types of operational challenges would arise with swing pricing as opposed to purchase fees, redemption fees, and liquidity fees? Are purchase fees, redemption fees, and liquidity fees feasible for those funds whose shares are primarily held through third-party intermediaries?
- Would the use of dual pricing be a more or less effective means of mitigating potential dilution than swing pricing? What types of operational challenges would arise with swing pricing vs. dual pricing?
- Would allowing funds to require certain investors to accept in-kind redemptions in certain circumstances be a more or less effective means of mitigation potential dilution than swing pricing in those circumstances?
- Do commenters agree that the swing pricing framework contemplated by proposed rule 22c–1(a)(3) responds as effectively as possible to the potential concerns associated with swing pricing? Specifically, we request comment on the extent to which the swing pricing requirements incorporated into the proposed rule would reduce volatility and respond to transparency-related concerns. Would any performance volatility that could result from swing pricing result in market distortions if some funds adopt swing pricing but other, similarly situated funds do not? Do commenters believe that the use of partial swing pricing, as opposed to full swing pricing, would mitigate concerns that the swing pricing would increase a fund's volatility? Do these proposed requirements also effectively respond to transparency-related concerns associated with swing pricing, and would the proposed disclosure requirements regarding swing pricing also respond to transparency concerns? Would any alternative or additional swing pricing requirements more effectively respond to potential concerns about volatility or transparency (or any other concerns) associated with swing pricing?
- As proposed, rule 22c–1(a)(3) would permit, but not require, a fund to adopt swing pricing policies and procedures. What process do commenters anticipate that a fund may use to weigh the potential advantages and disadvantages of swing pricing in relation to the fund's particular circumstances and risks? Should each fund's board be required to determine whether swing pricing is appropriate for each fund? Should all funds, or a particular subset of funds (*e.g.*, funds whose three-day liquid asset minimums are below a certain level, or whose less liquid assets are above a certain level) be required to use swing pricing? Do commenters expect funds would decide that swing pricing would be an effective anti-dilution tool, in spite of potential concerns about volatility or transparency (or any other potential concerns)?
- Proposed rule 22c–1(a)(3) would permit the person(s) responsible for administering a fund's swing pricing policies and procedures to make the

disclose the level of [swing] threshold they apply . . . [and some] commented that the act of disclosing these details was contradictory to the principle of investor protection and therefore avoided disclosing the threshold.'' ALFI noted that ''[o]n balance it appears that the majority of promoters prefer not to disclose thresholds to ensure clients do not actively manage trades below the trigger level of the partial swing.'').

determination of whether the fund's level of net purchases or redemptions has exceeded the fund's swing threshold ''on the basis of information obtained after reasonable inquiry.'' Do commenters agree that this would be appropriate? Why or why not? Is the phrase ''information obtained after reasonable inquiry'' clear? If not, how could this term be clarified within the context of the proposed rule?

• As proposed, rule 22c–1(a)(3) would require a fund to exclude any purchases or redemptions that are made in kind and not in cash when determining whether the fund's level of net purchases or net redemptions has exceeded the fund's swing threshold. Is this exclusion appropriate? Why or why not?

b. Scope of Proposed Rule

Proposed rule 22c–1(a)(3) would apply to all registered open-end management investment companies, with the exception of money market funds and ETFs.[452] While rule 22c–1(a) generally applies to all registered investment companies issuing redeemable securities,[453] we believe that only open-end mutual funds (and, as discussed below, not UITs or ETFs) are generally susceptible to the risk that shareholder redemption activity could dilute the value of outstanding shares held by existing shareholders. And as discussed below, we believe money market funds, while potentially susceptible to this risk, already have extensive tools at their disposal to mitigate potential shareholder dilution.

All investment companies that fall within the scope of proposed rule 22e–4, with the exception of ETFs, would be permitted to use swing pricing under proposed rule 22c–1(a)(3), and a fund may decide to adopt swing pricing policies and procedures as part of the liquidity risk management program it would be required to implement under proposed rule 22e–4. Under proposed rule 22c–1(a)(3), swing pricing would be voluntary for funds, and some fund complexes may decide to use swing pricing for certain funds within the complex but not others, or establish different swing thresholds for different funds within the complex.[454] As discussed above, funds would be required to exclude any purchases and redemptions that are made in kind, and not in cash, in determining whether the fund's level of net purchases or net redemptions has exceeded the fund's swing threshold.[455] This could functionally limit the ability of a fund that often permits in-kind purchases and in-kind redemptions to use swing pricing, or discourage such a fund from adopting swing pricing policies and procedures, because the fund's level of net purchases or net redemptions as calculated pursuant to proposed rule 22c–1(a)(3) may never (or rarely) reach the fund's swing threshold as determined pursuant to the proposed rule.

We are not proposing to include closed-end investment companies, UITs, ETFs or money market funds within the scope of proposed rule 22c–1(a)(3). Closed-end investment companies do not issue redeemable securities and therefore would not incur costs associated with shareholder purchase and redemption activity that would necessitate swing pricing. Similarly, where a UIT sponsor maintains a secondary market in units of a UIT series, we believe that the series is unlikely to ever need to use swing pricing. In addition, since UITs do not frequently trade their underlying securities, but instead maintain a relatively fixed portfolio, investor flows do not generally affect the portfolio, and thus purchases and sales of UIT shares would not likely produce dilutive effects to existing shareholders.[456]

Although we believe that ETFs could experience liquidity risk and thus have included them within the scope of proposed rule 22e–4,[457] we are proposing not to include ETFs within the scope of proposed rule 22c–1(a)(3) because we believe—as described more fully below—that ETFs' purchase and redemption practices do not generally entail the risk of dilution as a result of authorized participants' purchase and redemption activity, and that swing pricing could impede the effective functioning of an ETF's arbitrage mechanism. Unlike mutual funds, which typically internalize the costs associated with purchases and redemptions of shares, ETFs typically externalize these costs by charging a fixed and/or variable fee to authorized participants who purchase creation units from, and sell creation units to, an ETF. The fixed and/or variable fees are imposed to offset both transfer and other transaction costs that may be incurred by the ETF (or its service providers), as well as brokerage, tax-related, foreign exchange, execution, market impact and other costs and expenses related to the execution of trades resulting from such transaction. The amount of these fixed and variable fees typically depends on whether the authorized participant effects transactions in kind versus in cash and is related to the costs and expenses associated with transaction effected in kind versus in cash. When an authorized participant redeems ETF shares by selling a creation unit to the ETF, for example, the fees imposed by the ETF defray the costs of the liquidity that the redeeming authorized participant receives, which in turn mitigates the risk that dilution of non-redeeming authorized participants would result when an ETF redeems its shares.

In addition to our belief that ETFs' purchase and redemption practices would generally not entail the risk of dilution for existing shareholders, we are also not including ETFs within the scope of the proposed rule because we believe that swing pricing could impede the effective functioning of an ETF's arbitrage mechanism.[458] As discussed above, the effective functioning of the arbitrage mechanism is necessary in order for an ETF's shares to trade at a price that is at or close to the NAV of the ETF.[459] If an ETF were to adopt swing pricing policies and procedures, as conceptualized under the proposed rule, an authorized participant would not know whether the ETF's NAV would be adjusted by a swing factor on any given day and therefore may not be able to assess whether an arbitrage opportunity exists.[460] The Commission

[452] As discussed above, for purposes of the proposed amendments to rule 22c–1, ''exchange-traded fund'' includes an ETMF.

[453] Rule 2a–7 provides exemptions from rule 22c–1 for money market funds, to permit certain money market funds to use the amortized cost method and/or the penny-rounding method to calculate its NAV, and to permit a money market fund to impose liquidity fees and temporarily suspend redemptions. *See* rule 2a–7(c)(1)(i); rule 2a–7(c)(2).

[454] Outside the U.S., it is a common industry practice for funds within a fund complex each to have an individual swing threshold, or for some funds within a complex to use swing pricing while others do not. *See, e.g.,* BlackRock Swing Pricing Paper, *supra* note 412; J.P. Morgan Asset Management, *Swing pricing: The J.P. Morgan Asset Management Approach in the Luxembourg Domiciled SICAVs,* JPMorgan Funds and JPMorgan Investment Funds Insight (June 2014), *available at http://www.jpmorganassetmanagement.de/DE/dms/Swing%20Pricing%20%5bMKR%5d%20%5bIP_EN%5d.pdf* (''J.P. Morgan Asset Management Swing Pricing Paper'').

[455] *See supra* note 439 and accompanying paragraph.

[456] *See, e.g., supra* notes 136 and 141 and accompanying text.

[457] *See supra* section III.A.2.

[458] As discussed previously, ETMF market makers would not engage in the same arbitrage as ETF market makers because all trading prices of ETMF shares are linked to NAV. *See* supra note 32 and accompanying text. ETMFs would charge transaction fees that mitigate the risk of dilution, and therefore we do not propose to include ETMFs within the scope of proposed rule 22c–1(a)(3).

[459] *See, e.g., supra* note 14 and accompanying text.

[460] *See supra* note 451 and accompanying paragraph (noting that a fund would not be required to disclose its swing threshold under the proposed rule).

has historically considered the effective functioning of the arbitrage mechanism to be central to the principle that all shareholders be treated equitably when buying and selling their fund shares.[461] Therefore, we believe that the implementation of swing pricing by an ETF could raise concerns about the equitable treatment of shareholders, to the extent that swing pricing could impede the effective functioning of the arbitrage mechanism.

We are also not proposing to include money market funds within the scope of proposed rule 22c–1(a)(3). Money market funds are subject to extensive requirements concerning the liquidity of their portfolio assets. Also, a money market fund (other than a government fund) is permitted to impose a liquidity fee on redemptions if its weekly liquid assets fall below a certain threshold, and these fees serve a similar purpose as the NAV adjustments contemplated by swing pricing.[462] That is, money market fund liquidity fees allocate at least some of the costs of providing liquidity to redeeming rather than existing shareholders,[463] and also generate additional liquidity to meet redemption requests.[464] We therefore believe that money market funds already have liquidity risk management tools at their disposal that could accomplish comparable goals to the swing pricing that would be permitted under proposed rule 22c–1(a)(3).

We also believe that the liquidity fee regime permitted under rule 2a–7 is a more appropriate tool for money market funds to manage the allocation of liquidity costs than swing pricing. First, while funds would be able to adopt swing pricing policies and procedures at their discretion, rule 2a–7 requires a money market fund under certain circumstances to impose a 1% liquidity fee on each shareholder's redemption, unless the fund's board of directors (including a majority of its independent directors) determines that such fee is not in the best interests of the fund, or determines that a lower or higher fee (not to exceed 2%) is in the best interests of the fund.[465] Money market funds also have unique minimum liquid asset requirements, and we believe the use of liquidity fees is appropriately tied to those requirements. Finally, we anticipate that open-end funds that adopt swing pricing policies and procedures would be required under such procedures to adjust their NAV on a relatively regular basis (whenever the fund's net purchases or net redemptions exceed the fund's swing threshold). In contrast, money market fund investors (particularly, investors in stable-NAV money market funds) are particularly sensitive to price volatility,[466] and we anticipate liquidity fees will be used only in times of stress when money market funds' internal liquidity has been partially depleted. We note that some foreign jurisdictions have a similar conception of liquidity fees as a distinct tool separate from swing pricing. For example, in Europe, UCITS may use swing pricing and apply ''dilution levies.'' [467] While many UCITS use swing pricing as a matter of normal course, dilution levies may be considered a liquidity risk management tool that is used in connection with stressed conditions.[468]

Request for Comment

We seek comment on the scope of proposed rule 22c–1(a)(3).

- Do commenters agree that the proposed rule should apply to all registered open-end management investment companies except money market funds and open-end ETFs?
- Do commenters agree that the risk of investor dilution is low for closed-end investment companies and UITs, and thus closed-end investment companies and UITs should not be included within the scope of proposed rule 22c–1(a)(3)?
- Do commenters agree that the risk of investor dilution is low for ETFs, whether ETFs purchase and redeem in cash or in kind? Why or why not? Do commenters agree that swing pricing could adversely affect the effective functioning of an ETF's arbitrage mechanism? Why or why not? Regardless of these considerations, should ETFs be permitted to use swing pricing, and do commenters anticipate that ETFs would use swing pricing if the scope of proposed rule 22c–1(a)(3) were expanded to include ETFs?
- If the scope of the proposed rule were expanded to include ETFs, are there any swing pricing operational considerations specific to ETFs that we should address? For example, if an ETF were to adopt swing pricing, how should we address any shareholder fairness implications that could result if certain authorized participants were to transact in cash and others were to transact in kind on a day when the fund swings its NAV? Should ETFs be permitted to use swing pricing in addition to imposing transaction fees on authorized participants, or as an alternative to such fees? Should we address implications of the proposed rule on exemptive relief that has been granted to existing ETFs? Should we also consider the implications of the proposed rule on an ETF that operates as a share class of a fund that also offers mutual fund share classes, or on an ETF that operates as a feeder fund investing in a master fund alongside mutual fund feeder funds?
- We seek comment on how the utilization of swing pricing by an ETF could affect the capital markets, in particular, market-making in the ETF. If the scope of the rule were expanded to include ETFs, would market makers and other market participants that contribute to ETF market-making be less willing to do so if it were unclear when an ETF that has adopted swing pricing policies and procedures would adjust its NAV, and to what extent swing pricing would affect the ETF's end-of-day NAV?

[461] *See, e.g.,* Spruce ETF Trust, et al., Investment Company Act Release No. 31301 (Oct. 21, 2014) [79 FR 63964 (Oct. 27, 2014)] (notice of application for exemptive relief) (to the extent that investors would have to exit at a price substantially below the NAV of the ETF, this would be ''contrary to the foundational principle underlying section 22(d) and rule 22c–1 under the Act that all shareholders be treated equitably when buying and selling their fund shares''); Precidian ETFs Trust, et al., Investment Company Act Release No. 31300 (Oct. 21, 2014) [79 FR 63971 (Oct. 27, 2014)] (notice of application for exemptive relief) (''A close tie between market price and NAV per share of the ETF is the foundation for why the prices at which retail investors buy and sell ETF shares are similar to the prices at which Authorized Participants are able to buy and redeem shares directly from the ETF at NAV. This close tie between prices paid by retail investors and Authorized Participants is important because section 22(d) and rule 22c–1 under the Act are designed to require that all fund shareholders be treated equitably when buying and selling their fund shares.'').

[462] *See* rule 2a–7(c)(2); *see also* 2014 Money Market Fund Reform Adopting Release, *supra* note 85, at section III.A.

[463] *See, e.g.,* 2014 Money Market Fund Reform Adopting Release, *supra* note 85, at n.139 and accompanying text.

[464] *See id.* at n.120.

[465] *See supra* note 462.

[466] For example, retail and government money market funds are permitted to maintain a stable NAV, reflecting in part our understanding that investors in these products have a low tolerance for NAV volatility. *See* 2014 Money Market Fund Reform Adopting Release, *supra* note 85, at section III.B.3.c. Investors in floating NAV money market funds also could be sensitive to principal volatility, as we recognized in adopting requirements that all money market funds disclose their daily net asset value (rounded to the fourth decimal place) on their Web sites, and as we discussed in the economic analysis of the 2014 Money Market Fund Reform Adopting Release. *See id.* at section III.E.9 and section III.K.

[467] *See, e.g.,* BlackRock Fund Structures Paper, *supra* note 30, at 6; *see also supra* note 422 and accompanying and following text (discussing redemption fees that are currently permitted under rule 22c–2 and noting that, while redemption fees could mitigate dilution arising from redemption activity, implementing a fee requires coordination with the fund's service providers, which could entail operational complexity).

[468] *See* BlackRock Fund Structures Paper, *supra* note 30, at 6.

• The proposed definition of ''exchange-traded fund'' in rule 22c–1 would include ETMFs. While no ETMF has been launched yet, if an ETMF were to begin operations pursuant to applicable exemptive relief, it would arrange for an independent third party to disseminate the intraday indicative value of the ETMF's shares, which an investor would use to estimate the number of shares to buy or sell based on the dollar amount in which the investor wants to transact.[469] To what extent would a NAV adjustment effected by swing pricing make an investor's estimate less accurate, given that such adjustment would not be reflected in the intraday indicative value of the ETMF's shares disseminated during the trading day?

• Do commenters agree that money market funds already have liquidity risk management tools at their disposal that could accomplish comparable goals to swing pricing, and that the liquidity fee regime permitted under rule 2a–7 is a more appropriate tool for money market funds to manage the allocation of liquidity costs than swing pricing? Would there be any reason to extend the scope of proposed rule 22c–1(a)(3) to floating NAV money market funds?

c. Determining the Fund's Swing Threshold

Under proposed rule 22c–1(a)(3), a fund's swing pricing policies and procedures must provide that the fund is required to adjust its NAV once the level of net purchases or net redemptions from the fund has exceeded a set, specified percentage of the fund's net asset value known as the ''swing threshold.'' [470] A fund would be required to adopt policies and procedures for determining its swing threshold,[471] and as discussed below, the swing threshold and any changes thereto must be approved by the fund's board of directors.[472] In specifying its swing threshold, a fund would be required to consider:

○ The size, frequency, and volatility of historical net purchases or net redemptions of fund shares during normal and stressed periods;

○ The fund's investment strategy and the liquidity of the fund's portfolio assets;

○ The fund's holdings of cash and cash equivalents, as well as borrowing arrangements and other funding sources; and

○ The costs associated with transactions in the markets in which the fund invests.[473]

In order to effectively mitigate possible dilution arising in connection with shareholder purchase and redemption activity, a fund's swing threshold should generally reflect the estimated point at which net purchases or net redemptions would trigger the fund's investment adviser to trade portfolio assets in the near term, to a degree or of a type that may generate material liquidity or transaction costs for the fund. As discussed below, we believe that a consideration of the factors set forth above would permit a fund to estimate this point. The liquidity or transaction costs associated with purchase or redemption activity can dilute the value of existing shareholders' interests in the fund, and the purpose of swing pricing is to lessen this potential dilution. Trading assets to meet purchase or redemption requests is not in and of itself an indication that a fund will incur material liquidity or transaction costs. For example, trading smaller levels of very liquid assets would likely not produce significant costs to the fund. However, trading portfolio assets to a significant degree, or trading relatively less liquid assets within a short time frame in order to invest proceeds from purchases or satisfy redemption requests, could generate material costs to the fund that could dilute the value of fund shares held by existing investors.

We believe that evaluating the factors that proposed rule 22c–1(a)(3) would require a fund to consider in specifying its swing threshold would assist a fund in determining what level of net purchases or net redemptions would generally lead to a trade of portfolio assets that would result in material costs to the fund. Assessing the size, frequency, and volatility of historical net purchases and net redemptions of fund shares would permit a fund to determine its typical levels of net purchases and net redemptions and the levels the fund could expect to encounter during periods of unusual market stress, as well as the frequency with which the fund could expect to see periods of unusually high purchases or redemptions. We believe that comparing the fund's historical flow patterns with the fund's investment strategy, the liquidity of the fund's portfolio holdings, the fund's holdings of cash and cash equivalents and borrowing arrangements and other funding sources, and the costs associated with transactions in the markets in which the fund invests would allow a fund to predict what levels of purchases and redemptions would result in material costs under a variety of scenarios.

The first three factors that proposed rule 22c–1(a)(3)(i)(B) would require a fund to consider in specifying the fund's swing threshold correspond with certain of the factors a fund would be required to consider in assessing its liquidity risk.[474] This is because evaluating a fund's liquidity risk, or the risk that the fund could not meet expected and reasonably foreseeable requests to redeem its shares without materially affecting the fund's NAV,[475] is a similar exercise to determining the fund's swing threshold (which, as discussed above, should generally reflect the estimated point at which net purchases or net redemptions would trigger the fund's investment manager to trade portfolio assets in the near term, to a degree or of a type that may generate material liquidity or transaction costs for the fund). For this reason, we believe that the issues a fund would consider in assessing the extent to which the (i) size, frequency, and volatility of historical purchases and redemptions of fund shares during normal and stressed periods, (ii) the fund's investment strategy and portfolio liquidity, and (iii) the fund's holdings of cash and cash equivalents, borrowing arrangements and other funding sources would affect the fund's liquidity risk also are relevant when a fund determines its swing

[469] *See* ETMF Notice, *supra* note 15.

[470] Proposed rule 22c–1(a)(3)(i)(A). Under the proposed rule, ''swing threshold'' would be defined as ''the amount of net purchases into or net redemptions from a fund, expressed as a percentage of the fund's net asset value, that triggers the initiation of swing pricing.'' Proposed rule 22c–1(a)(3)(v)(D). We request comment on this definition at the end of this section III.F.1.c.

[471] Proposed rule 22c–1(a)(3)(i)(B).

[472] *See infra* section III.F.1.f.

[473] Proposed rule 22c–1(a)(3)(i)(B).

These factors overlap significantly with factors that we understand are commonly considered by funds that use swing pricing in other jurisdictions, in order to determine a fund's swing threshold. For example, the Luxembourg Swing Pricing Survey, Reports & Guidelines provides that factors influencing the determination of the swing threshold ordinarily include: (i) Fund size; (ii) type and liquidity of securities in which the fund invests; (iii) costs (and hence, the dilution impact) associated with the markets in which the fund invests; and (iv) investment manager's investment policy and the extent to which the fund can retain cash (or near cash) as opposed to always being fully invested). *See* Luxembourg Swing Pricing Survey, Reports & Guidelines, *supra* note 413, at 14.

[474] *See* proposed rule 22e–4(b)(2)(iii)(A)*(1),* proposed rule 22e–4(b)(2)(iii)(B), proposed rule 22e–4(b)(2)(iii)(D) (requiring a fund to consider, in assessing its liquidity risk, the ''size, frequency, and volatility of historical purchases and redemptions of fund shares during normal and stressed periods,'' the fund's ''investment strategy and liquidity of portfolio assets,'' and the fund's ''holdings of cash and cash equivalents, as well as borrowing arrangements and other funding sources,'' respectively).

[475] *See* proposed rule 22e–4(a)(7).

threshold. These issues are discussed in detail above.[476]

In assessing the fourth factor, the costs associated with transactions in the markets in which the fund invests, a fund may wish to consider, as applicable, market impact costs[477] and spread costs[478] that the fund typically incurs when it trades its portfolio assets (or assets with comparable characteristics if data concerning a particular portfolio asset is not available to the fund). A fund also may wish to consider, as applicable, the transaction fees and charges that the fund typically is required to pay when it trades portfolio assets.[479] These could include brokerage commissions and custody fees, as well as other charges, fees, and taxes associated with portfolio asset purchases or sales (for example, transfer taxes and repatriation costs for certain foreign securities, or transaction fees associated with portfolio investments in other investment companies).

We understand that because proposed rule 22c–1(a)(3) does not specify a minimum ''floor'' for a fund's swing threshold, a fund could set a swing threshold representing a very low level of net purchases or net redemptions. This could result in the fund effectively practicing full swing pricing (that is, adjusting the fund's NAV whenever there is *any* level of net purchases or net redemptions) instead of partial swing pricing. However, we do not anticipate that a fund would generally wish to set a very low swing threshold, because we believe that a fund would not want to incur the increased NAV volatility associated with full (or nearly full) swing pricing. We also are not currently proposing a swing threshold floor because we believe that different levels of net purchases and net redemptions would create a risk of dilution for funds with different strategies, shareholder bases, and other liquidity-related characteristics, and thus it would be difficult to determine a swing threshold floor that would be appropriate across the scope of funds that would be permitted to use swing pricing.[480]

We recognize that requiring a fund to adopt a swing threshold could create the potential for shareholder gaming behavior because a fund's shareholders could attempt to time their purchases and redemptions based on the likelihood that a fund would or would not adjust its NAV. However, we do not think that potential gaming is a significant concern, because it would be difficult for shareholders to determine when the fund's net purchases or net redemptions cross the swing threshold. As discussed above, a fund would not be required to publicly disclose its swing threshold.[481] Also, funds are not required to disclose their daily net flows and do not usually do so.[482] For a shareholder to effectively ''game'' the swing pricing, it would have to know the daily flows on the day that shareholder was purchasing or redeeming and those flows would have to not materially change after the shareholder placed its order, all of which may be unlikely. Accordingly, even if a fund were to reveal its swing threshold, it may be difficult for shareholders to determine when the fund's net purchases or net redemptions exceed the swing threshold. We note that, to the extent a fund does decide to disclose its swing threshold, we believe it would not be appropriate for a fund to disclose it selectively to certain investors (*e.g.,* to only disclose the fund's swing threshold to institutional investors), as we believe this could assist certain groups of shareholders in strategically timing purchases and redemptions of fund shares, potentially disadvantaging shareholders who do not know the fund's swing threshold.[483]

Request for Comment

We request comment on the definition of ''swing threshold'' set forth in proposed rule 22c–1(a)(3) and the process a fund would use to determine its swing threshold.

- Is the definition of ''swing threshold,'' as set forth in proposed rule 22c–1(a)(3) appropriate and clear? If not, how could this definition be clarified or made more effective within the context of the proposed rule?
- Should a fund be permitted to adopt two swing thresholds—one for net redemptions and one for net purchases? Would this be more operationally difficult than adopting one swing threshold that would be used for net redemptions as well as net purchases, and if so, why?
- Should any of the proposed factors not be required to be considered by a fund in determining and reviewing its swing threshold? Should any be modified? Are there any additional factors, besides the proposed factors, that a fund should be required to consider? Should we set a minimum floor for a fund's swing threshold (*e.g.,* one percent, or some other percentage, of the fund's net asset value) to prevent a fund from setting a very low swing threshold? If so, what should it be and why?
- Do commenters agree that the swing threshold requirements under proposed rule 22c–1(a)(3) would not raise significant concerns regarding the potential for shareholder gaming behavior, because it would be difficult for shareholders to determine when the fund's net purchases or net redemptions cross the swing threshold? If commenters believe that the swing pricing framework contemplated by proposed rule 22c–1(a)(3) *would* raise significant concerns regarding the potential for shareholder gaming behavior, how could these concerns best be alleviated?

d. Periodic Review of a Fund's Swing Threshold

Proposed rule 22c–1(a)(3) would require a fund's swing pricing policies and procedures to include policies and procedures providing for the periodic review, no less frequently than annually, of the fund's swing threshold.[484] In conducting such review, a fund would be required to consider the factors included in proposed rule 22c–1(a)(3)(i)(B).[485] Any change to the fund's swing threshold, including those deemed appropriate as a result of this review would be deemed to be a material change to the fund's swing pricing policies and procedures that must be approved by the fund's

[476] *See supra* sections III.C.1.a, III.C.1.b, and III.C.1.d.

[477] *See supra* note 415.

[478] *See supra* note 416.

[479] A fund would be required to take transaction fees and charges into account when determining the swing factor that would be used to adjust the fund's NAV when the level of net purchases or net redemptions from the fund has exceeded the fund's swing threshold. Proposed rule 22c–1(a)(3)(i)(D)*(1). See infra* note 493 for a discussion of the proposed definition of ''transaction fees and charges.''

[480] We note that, in Europe, there are no across-the-board swing threshold floors applicable to UCITS that use swing pricing.

[481] *See supra* paragraph accompanying note 451.

[482] However, as proposed earlier this year, a fund would be required to disclose flow information on proposed Form N–PORT monthly, and information contained on reports for the last month of each fiscal quarter would be made public. *See infra* note 561.

[483] Like selective disclosure of fund portfolio holdings, we believe that selective disclosure of a fund's swing threshold could facilitate fraud and have adverse ramifications for a fund's investors if certain investors are given the opportunity to use this information to their advantage to the detriment of other investors. *See, e.g.,* Disclosure Regarding Market Timing and Selective Disclosure of Portfolio Holdings, Investment Company Act Release No. 26418 (Apr. 16, 2004) [69 FR 22300 (Apr. 23, 2004)] (discussing harm that could result from selective disclosure of fund portfolio holdings and adopting amendments to Form N–1A that would—among other things—require funds to disclose their policies and procedures with respect to the disclosure of their portfolio securities and any ongoing arrangements to make available information about their portfolio securities).

[484] Proposed rule 22c–1(a)(3)(i)(C).

[485] *Id.*

board.[486] Beyond specifying certain factors that a fund would be required to consider in reviewing its swing threshold, proposed rule 22c–1(a)(3) does not include prescribed review procedures, nor does it specify the required risk review period or incorporate specific developments that a fund should consider as part of its review. A fund may wish to adopt procedures specifying that the swing threshold will be reviewed more frequently than annually (*i.e.,* semi-annually or monthly), and/or specifying any circumstances that would prompt ad-hoc review of the fund's swing threshold in addition to the periodic review required by the proposed rule (as well as the process for conducting any ad-hoc reviews). Like a fund's liquidity risk review procedures, we believe that funds should generally consider procedures for evaluating market-wide, and fund-specific developments affecting each of the proposed rule 22c–1(a)(3)(i)(B) factors in developing comprehensive procedures for reviewing a fund's swing threshold.[487]

Request for Comment

We request comment on the process a fund would use to review its swing threshold.

- Are there certain procedures that we should require, and/or on which we should provide guidance, regarding a fund's periodic review of its swing threshold? Should we expand our guidance on the market-wide, and fund-specific developments that a fund's swing threshold review procedures should cover?
- Do commenters agree that a fund that adopts swing pricing policies and procedures should be required to review its swing threshold at least annually? Do commenters anticipate that a fund that adopts swing pricing procedures would voluntarily choose to review its swing threshold any more frequently than annually? Alternatively, should a fund be required to review its swing threshold any more or less frequently than annually?

e. Calculating the Swing Factor the Fund Will Use To Adjust Its NAV

Under proposed rule 22c–1(a)(3), a fund's swing pricing policies and procedures would be required to provide that the fund must adjust its NAV by an amount designated as the ''swing factor'' each time the fund's net purchases or net redemptions have exceeded the fund's swing threshold.[488] A fund's swing pricing policies and procedures would be required to specify how the swing factor to be used to adjust the fund's NAV will be determined.[489] As discussed in more detail below, the swing factor would be the amount, expressed as a percentage of the fund's net asset value, that takes into account any near-term costs expected to be incurred by the fund as a result of net purchases or net redemptions that occur on the day the swing factor is used to adjust the fund's NAV.[490] It also must take into account information about the value of assets purchased or sold by the fund to satisfy net purchases or net redemptions that occur on the day the swing factor is used to adjust the fund's NAV (if that information would not be reflected in the current NAV of the fund computed on that day).[491]

We anticipate that, because these considerations could vary depending on the facts and circumstances, the swing factor that a fund would determine appropriate to use in adjusting its NAV also could vary. We therefore believe that procedures for determining the swing factor generally should detail how each of the factors a fund would be required to consider under the proposed rule would assist the fund in calculating the swing factor. Below we provide examples of methods that a fund may wish to consider employing in calculating the swing factor.

We are proposing rule 22c–1(a)(3) to provide funds with a tool to mitigate the potentially dilutive effects of shareholder purchase and redemption activity, and the factors a fund would be required to consider in determining its swing factor are meant to enhance a fund's ability to estimate the costs associated with purchase and redemption activity that could dilute the value of the existing shareholders' interests in the fund. These costs include both market-related costs (that is, market impact costs and spread costs[492]) and transaction fees and charges associated with the fund trading portfolio assets.[493] The proposed swing factor determination requirement incorporates an assessment of multiple sources of potential dilution, in order to cause a fund to take all relevant considerations into account when making this determination.

Specifically, proposed rule 22c–1(a)(3)(i)(D)*(1)* would require a fund's policies and procedures for determining the swing factor to take into account any near-term costs that are expected to be incurred as a result of net purchases or net redemptions that occur on the day the swing factor is used to adjust the fund's NAV, including any market impact costs, spread costs, and transaction fees and charges arising from asset purchases or asset sales in connection with those purchases or redemptions, as well as any borrowing-related costs associated with satisfying those redemptions.[494] While a fund may be able to determine some of these costs with precision (*e.g.,* transaction fees and charges, and borrowing-related costs), we understand that other costs may only be able to be estimated by the fund, and the swing factor therefore would represent an estimate of the combined near-term costs associated with purchase or redemption activity. A fund may wish to consider certain of the factors it would evaluate for purposes of classifying the liquidity of its portfolio positions[495] in order to assess the costs associated with purchasing or selling portfolio assets. For example, a fund could use a portfolio asset's average daily trading volume[496] in determining the portion of a particular portfolio holding that it could sell each day without market impact. Likewise, a fund

[486] Proposed rule 22c–1(a)(3)(ii)(A) (''The fund's board of directors, including a majority of directors who are not interested persons of the fund, shall approve . . . any material change to the [fund's swing pricing] policies and procedures (including any change to the fund's swing threshold).'').

[487] *See supra* section III.C.2.a.

[488] Proposed rule 22c–1(a)(3)(i)(A). Under the proposed rule, ''swing factor'' would be defined as ''the amount, expressed as a percentage of the fund's net asset value and determined pursuant to the fund's swing pricing procedures, by which a fund adjusts its net asset value when the level of net purchases into or net redemptions from the fund has exceeded the fund's swing threshold.'' Proposed rule 22c–1(a)(3)(v)(B). We request comment on this definition at the end of this section III.F.1.e.

[489] Proposed rule 22c–1(a)(3)(i)(D).

[490] *Id.*

[491] *Id.*

[492] *See supra* notes 415–416.

[493] ''Transaction fees and charges'' would be defined in proposed rule 22c–1(a)(3) to mean ''brokerage commissions, custody fees, and any other charges, fees, and taxes associated with portfolio asset purchases and sales.'' Proposed rule 22c–1(a)(3)(v)(E). We request comment on the proposed definition of this term at the end of this section III.F.1.e.

[494] The proposed costs that a fund would be required consider in determining its swing factor overlap significantly with costs that we understand funds that use swing pricing in other jurisdictions commonly consider when determining their swing factor. For example, the Luxembourg Swing Pricing Survey, Reports & Guidelines provides that the following should be considered when determining the swing factor: (i) The bid-offer spread of a fund's underlying portfolio assets, (ii) net broker commissions paid by the fund, (iii) custody transaction charges, (iv) fiscal charges (*e.g.,* stamp duty and sales tax), (v) any initial charges or exit fees applied to trades in underlying investment funds, and (vi) any swing factors or dilution amounts or spreads applied to underlying investment funds or derivative instruments. *See* Luxembourg Swing Pricing Survey, Reports & Guidelines, *supra* note 413, at 7, 15–16.

[495] *See supra* section III.B.2.

[496] *See* proposed rule 22e–4(b)(2)(ii)(B).

could refer to bid-ask spreads for a particular asset [497] to estimate the purchase price that the fund would pay for that asset. Indications of decreasing liquidity (for example, widening bid-ask spreads) would likely indicate increased market-related costs associated with certain portfolio assets. We anticipate that the particular transaction fees and charges that a fund would likely consider would include brokerage commissions and custody fees, as well as other charges, fees, and taxes associated with portfolio asset purchases or sales (for example, transfer taxes and repatriation costs for certain foreign securities, or transaction fees associated with portfolio investments in other investment companies). If a fund were to draw on a line of credit, or otherwise borrow money, in order to pay redemptions, this borrowing activity could result in costs to the fund that, like the costs associated with purchasing and selling portfolio assets, could dilute the value of the shares held by existing shareholders.[498] We are therefore proposing to require that a fund consider these costs, along with the costs associated with investing the proceeds from net purchases or assets sales to satisfy net redemptions, in determining the swing factor.

The proposed rule specifies that the determination of a fund's swing factor must take into account the *near-term* costs expected to be incurred by the fund as a result of net purchases or net redemptions that occur on the day the swing factor is used to adjust the fund's NAV (emphasis added). The phrase ''near-term'' is meant to reflect that investing proceeds from net purchases or satisfying net redemptions could involve costs that may not be incurred by the fund for several days. For example, a fund could use cash to satisfy redemptions, which may result in minimal costs to the fund, but rebalancing the fund's portfolio to rebuild cash balances in the next several days could cause the fund to incur costs that would be borne by the existing shareholders. The rule text specifies that the costs to be considered are those that are expected to be incurred by the fund as a result of the net purchase or net redemption activity that occurred on the day the swing factor is used to adjust the fund's NAV; this specification is designed to help ensure that the costs to be taken into account are those that are directly related to the purchases or redemptions at issue. Thus, while the term ''near-term costs'' does not envision a precise number of days, we believe that, in context, this term would not likely encompass costs that are significantly removed in time from the purchases or redemptions at issue.

Under proposed rule 22c–1(a)(3)(i)(D)*(2),* a fund's policies and procedures for determining the swing factor would be required to consider information about the value of assets purchased or sold by the fund as a result of the net purchases or net redemptions that occur on the day the swing factor is used to adjust the fund's NAV, if that information would not be reflected in the current NAV of the fund computed that day. This factor is meant to reflect the fact that a fund's NAV will generally not reflect changes in holdings of the fund's portfolio assets and changes in the number of the fund's outstanding shares until the first business day following the fund's receipt of the shareholder's purchase or redemption requests.[499] Thus, the price that a shareholder receives for his or her purchase or sale of fund shares customarily does not take into account market-related costs that arise when the fund trades portfolio assets in order to meet shareholder purchases or redemptions. But these costs could dilute the value of fund shares held by existing shareholders and thus should be considered in determining the fund's swing factor.

A fund could take a variety of approaches to determining its swing factor, in light of the fact that the relevant factors to be used in determining the swing factor could vary, as well as the likelihood that the persons administering the fund's swing pricing policies and procedures may (to the extent that net purchases or net redemptions cannot be ascertained or reasonably estimated until close to the time that the fund must strike its NAV) have limited time to determine the swing factor each day the fund's net purchases or net redemptions exceed the swing threshold. For example, a fund may wish to set a ''base'' swing factor, and adjust it as appropriate if certain aspects required to be considered in determining the swing factor deviate from a range of pre-determined norms (for example, if spread costs generally exceed a certain pre-determined level). Alternatively or additionally, we request comment below on the extent to which a fund that uses swing pricing may wish to incorporate into its policies and procedures a formula or algorithm that includes the factors required to be considered for determining the swing factor. We also understand that it may be difficult to determine certain costs (particularly, certain market impact costs and spread costs) with precision, while other factors that a fund would be required to consider in determining its swing factor may be able to be ascertained more exactly (for example, transaction fees and charges, borrowing-related costs, and the value of assets purchased or sold by the fund as a result of net purchases or net redemptions that occur on the day the swing factor is used to adjust the fund's NAV). For this reason, in establishing policies and procedures for determining the swing factor, a fund may wish to incorporate the use of reasonable estimates in these policies and procedures, to the extent the fund determines necessary or appropriate.[500]

We are not proposing to require an upper limit on the swing factor that a fund would be permitted to use, on account of the difficulty of establishing an appropriate across-the-board limit that would permit funds with different investment strategies, under all market conditions, to determine a swing factor that reflects the costs associated with the potential shareholder purchase or redemption activity. These costs could vary widely across funds and under different market conditions, and we do not wish to limit the extent to which swing pricing could mitigate the dilution of existing shareholders. We believe that the lack of an upper limit on a fund's swing factor would not result in inappropriately high NAV adjustments, because the swing factor would be required to be determined with reference to the factors discussed above, and the policies and procedures for determining the swing factor would be required to be approved by the fund's board, which has an obligation to act in the interests of the fund.[501]

We do recognize that if we were to require an upper limit on the amount that a fund would be permitted to adjust its NAV, this could mitigate volatility, tracking error, and transparency concerns that could arise from the use of swing pricing.[502] A required swing factor limit would act as an upper bound on the extent to which a fund would be able to adjust its NAV and the NAV volatility resulting from this adjustment. Also, capping the swing factor that a fund would be permitted to use would provide transparency

[497] *See* proposed rule 22e–4(b)(2)(ii)(D).

[498] *See supra* section III.C.5.a.

[499] *See supra* note 412 and accompanying text.

[500] We understand that funds that use swing pricing in other jurisdictions may use reasonable estimates, such as those discussed in this paragraph, when determining their swing factor. *See, e.g.,* Luxembourg Swing Pricing Survey, Reports & Guidelines, *supra* note 413, at 15.

[501] *See infra* section III.F.1.f and note 517.

[502] *See supra* section III.F.1.a.

regarding the maximum amount that a shareholder could expect the share price that he or she receives upon purchase or redemption to be adjusted on account of swing pricing. However, as discussed above, we believe that the use of partial swing pricing could significantly reduce the performance volatility potentially associated with swing pricing,[503] and that proposed disclosure and reporting requirements regarding swing pricing will enhance transparency surrounding the use of swing pricing.[504]

Although we are not proposing to require an upper limit on the swing factor that a fund would be permitted to use, a fund would be permitted to adopt an upper limit on the swing factor it would apply, as part of the fund's swing pricing policies and procedures.[505] We understand that certain foreign domiciled funds that use swing pricing voluntarily limit the level of the swing factor to be applied, with such limits generally ranging from 1%–3%.[506] These funds usually disclose the swing factor upper limit in the fund's offering documents.[507] To the extent that a fund chooses to adopt a swing factor upper limit as part of its swing pricing policies and procedures, this limit would be required to be approved by the fund's board (as part of the fund's swing pricing policies and procedures, which are subject to board approval).[508] Likewise, a change to a fund's swing factor upper limit would be deemed to be a material change to the fund's swing pricing policies and procedures that would require board approval.[509] As fund directors have an obligation to act in the interests of the fund,[510] we expect that a fund board approving a swing factor upper limit would generally determine that capping the swing factor would not unduly limit the extent to which swing pricing could mitigate the potentially dilutive effects of shareholder purchase and redemption activity. Also, because the upper limit would affect the swing factor a fund would use to adjust its NAV when net purchases or net redemptions exceed the fund's swing threshold, the determination of the upper limit must take into account the same factors the fund would be required to consider in determining the swing factor.[511]

We request comment below on whether to require an upper limit on the swing factor that a fund would be permitted to use, and if so, the appropriate level of such limit. We also request comment on whether a fund should be permitted to adopt an upper limit on the swing factor it would apply, as part of the fund's swing pricing policies and procedures.

Request for Comment

We request comment on the definition of ''swing factor'' set forth in proposed rule 22c–1(a)(3) and the process a fund would use to calculate the swing factor that the fund would use to adjust its NAV.

- Is the definition of ''swing factor,'' as set forth in proposed rule 22c–1(a)(3) appropriate and clear? If not, how could this definition be clarified or made more effective within the context of the proposed rule?
- We request comment on each of the considerations that a fund would be required to take into account in determining the swing factor, pursuant to proposed rule 22c–1(a)(3)(i)(D). Would these considerations reflect the estimated or actual costs associated with purchasing or selling portfolio assets in order to meet purchases or redemptions of fund shares? Should any aspect of proposed rule 22c–1(a)(3)(i)(D) not be required to be considered by a fund in calculating the swing factor? Should any of the considerations be modified, and is the definition of ''transaction fees and charges,'' as set forth in the proposed rule, appropriate and clear? Instead of codifying certain considerations that a fund must take into account in determining the swing factor, should we instead provide guidance on factors a fund may wish to consider in calculating the swing factor? Instead of using a swing factor to adjust a fund's NAV, is there an alternate means by which a fund should be permitted to adjust its NAV to mitigate potential dilution stemming from purchase or redemption activity (*e.g.,* pricing its assets on the basis of bid prices, as opposed to pricing using the mean of bid and asked prices)?
- We request comment on the approaches commenters believe a fund may take to determine its swing factor. For example, do commenters anticipate that a fund would set a ''base'' swing factor, and adjust it as appropriate if certain elements required to be considered in the swing factor deviate from a range of pre-determined norms? Do commenters believe that it would be feasible and likely that a fund may wish to use a formula or algorithm approach for determining the swing factor? What other approaches to determining the swing factor do commenters anticipate that a fund would be likely to take?
- Do commenters agree that the Commission should not require an upper limit on the swing factor that a fund would be permitted to use? Why or why not? If not, what upper limit would be appropriate (*e.g.,* 2%, or some other limit), and why? Should we specify different limits for different types of funds or investment strategies?
- Do commenters agree that a fund should be permitted to adopt an upper limit on the swing factor it would apply, as part of the fund's swing pricing policies and procedures? Why or why not? To the extent that a fund does adopt an upper limit on the swing factor it would apply, should the fund be required to disclose this upper limit to shareholders? Should each fund that adopts swing pricing policies and procedures be required, not only permitted, to adopt an upper limit on the swing factor it would apply?

f. Approval and Oversight of Swing Pricing Policies and Procedures

Proposed rule 22c–1(a)(3)(ii)(A) would require a fund that has determined to engage in the use of swing pricing to obtain initial approval of its swing pricing policies and procedures (including the fund's swing threshold and any swing factor upper limit specified under the fund's swing pricing policies and procedures) from the fund's board, including a majority of independent directors. The proposed rule also would require a fund's board, including a majority of independent directors, to approve any material change to the fund's swing pricing policies and procedures (including any change to the fund's swing threshold, a change to any swing factor upper limit, or any decision to suspend or terminate the fund's swing pricing policies and procedures).[512] However, a fund's board would not be required to manage the administration of the fund's swing pricing policies and procedures. The proposed rule instead provides that a fund's board is required to designate the fund's investment adviser or officers responsible for administering the fund's swing pricing policies and procedures and determining the swing factor that would be used to adjust the fund's NAV when the fund's swing threshold is breached.[513] This proposed designation requirement tasks administration for the fund's swing pricing policies and procedures to persons who we believe would be in a better position to evaluate

[503] *See supra* notes 447–449 and accompanying text.

[504] *See supra* paragraph accompanying note 451.

[505] *See* proposed rule 22c–1(a)(3)(i)(D).

[506] Luxembourg Swing Pricing Survey, Reports & Guidelines, *supra* note 413, at 7.

[507] *Id.*

[508] *See infra* section III.F.1.f.

[509] *See id.;* proposed rule 22c–1(a)(3)(ii)(A).

[510] *See infra* note 517 and accompanying text.

[511] Proposed rule 22c–1(a)(3)(i)(D).

[512] Proposed rule 22c–1(a)(3)(ii)(A).

[513] Proposed rule 22c–1(a)(3)(ii)(B).

fund flows on a real-time basis than the fund's board.

The proposed oversight requirements for a fund's board and its independent directors reflect the historical role that a fund's board and independent directors have held with respect to issues involving valuation. A fund's board historically has held significant responsibility regarding valuation- and pricing-related matters,[514] as well as in approving valuation and compliance-related policies and procedures.[515] Additionally, in the past we have stated that a fund's compliance policies and procedures, which must be approved by the fund's board (including a majority of independent directors), should include procedures for the pricing of portfolio securities and fund shares.[516]

We believe that the proposed board and independent director approval requirements would help ensure that a fund establishes and implements swing pricing policies and procedures that are in the best interests of all the fund's shareholders. Because fund directors have an obligation to act in the interests of the fund,[517] a board approving swing pricing policies and procedures might do so under the premise that such policies and procedures would not unduly disadvantage any particular group of shareholders, and that any disadvantages that could affect certain shareholders would generally be outweighed by the benefits to the fund as a whole. Furthermore, the proposed approval requirements would serve to assure shareholders that the same level of net purchase or net redemption activity would consistently trigger the use of swing pricing, unless the fund's board and a majority of the fund's independent directors were to approve a change in the fund's swing threshold.

We believe that shareholders' interests would be best served by requiring the majority of a fund's independent directors, along with the fund's board, to approve the fund's swing pricing policies and procedures. As we have stated before, a fund's independent directors serve to guard investors' interests.[518] The decision to implement swing pricing, and determining the terms of swing pricing policies and procedures to be adopted by a fund, could occasionally produce conflicts for the fund and its adviser, and we believe that the proposed independent director approval requirement would help ensure that a fund's use of swing pricing would operate to the benefit of the fund's shareholders (even if this may not be in the best interest of the fund's adviser). For example, a fund's adviser could be reluctant to implement swing pricing to the extent it may make the fund's performance stray too far from, or appear more volatile than, the fund's benchmark, which could impact the ability of the fund to attract new investments. Approval of swing pricing policies and procedures by a majority of a fund's independent directors could make certain that the fund would use swing pricing in circumstances in which the board has determined swing pricing would serve shareholders' best interests, even if these interests may conflict with the adviser's.

While a fund's board would be required to approve the fund's swing pricing policies and procedures, the board would be required to designate the fund's adviser or officers responsible for the administration of these policies and procedures, including responsibility for determining a swing factor that would be used to adjust the fund's NAV when the fund's swing threshold is breached.[519] It is currently common industry practice for foreign domiciled funds that use swing pricing to appoint a committee to administer the fund's swing pricing operations.[520] A fund's board may wish to consider requiring the fund's swing pricing policies and procedures to be administered by a committee, and to specify the officers or functional areas that comprise the committee (taking into account any possible conflicts for the fund and the adviser related to swing pricing). The persons or committee tasked with swing pricing oversight may wish to meet periodically to determine the swing factor(s) the fund would use in a variety of circumstances, taking into account the factors and considerations discussed above in section III.F.1.e. A fund may wish to consider delineating the frequency with which these persons would meet in its policies and procedures; for example, a fund's policies and procedures might specify that these persons shall meet periodically, such as monthly or quarterly, or more frequently if market conditions require.[521] Because a fund may decide to adopt swing pricing policies and procedures as part of its liquidity risk management program, the fund's board may wish to provide that the persons (or functional areas) in charge of implementing these policies and procedures overlap with the persons (or functional areas) in charge of administering the liquidity risk management program.

Proposed rule 22c–1(a)(3) would require the determination of the swing factor to be reasonably segregated from the portfolio management function of the fund. For example, if a committee were tasked with determining the swing factor(s) the fund would use in a variety of circumstances, we believe it would be appropriate for the fund's portfolio manager to provide inputs to be used by that committee in determining the swing factor, but not to decide how those inputs would be employed in the swing factor determination. We believe that, in determining the swing factor, independence from portfolio management is important because the incentives of portfolio managers may not always be consistent with determining a swing factor that most effectively prevents dilution of existing

[514] *See, e.g.,* section 2(a)(41)(B) of the Investment Company Act and rule 2a–4 thereunder (when market quotations are not readily available for a fund's portfolio securities, the Investment Company Act requires the fund's board of directors to determine, in good faith, the fair value of the securities); rule 2a–7(c)(1)(i) and rule 2a–7(g)(1)(i)(A)–(C) (a stable NAV money market fund that qualifies as a retail or government money market fund may use the amortized cost method of valuation to compute the current share price provided, among other things, the board of directors believes that the amortized cost method of valuation fairly reflects the market-based NAV and does not believe that such valuation may result in material dilution or other unfair results to investors or existing shareholders).

[515] *See, e.g.,* ASR 118, *supra* note 423 (a board, consistent with its responsibility to determine the fair value of each issue of restricted securities in good faith, determines the method of valuing each issue of restricted securities in the company's portfolio and the actual valuation calculations may be made by persons acting pursuant to the board's direction; the board must continuously review the appropriateness of the method used in valuing each issue of security in the company's portfolio); Rule 38a–1 Adopting Release, *supra* note 90, at text accompanying n.46 (stating that rule 38a–1 requires fund directors to approve written compliance policies and procedures that require each fund to ''provide a methodology or methodologies by which the fund determines the fair value of the portfolio security'').

[516] *See* Rule 38a–1 Adopting Release, *supra* note 90, at nn.39–47 and accompanying text.

[517] *See, e.g.,* Role of Independent Directors of Investment Companies, Investment Company Act Release No. 24082 (Oct. 14, 1999) [64 FR 59826 (Nov. 3, 1999)] (discussing directors' duties of care and loyalty).

[518] *See id.*

[519] Proposed rule 22c–1(a)(3)(ii)(B).

[520] *See, e.g.,* BlackRock Swing Pricing Paper, *supra* note 412; J.P. Morgan Asset Management Swing Pricing Paper, *supra* note 454; Franklin Templeton Investments, Swing pricing: Investor protection against fund dilution, last visited Apr. 15, 2015, *available at http://www.franklintempleton.co.uk/downloadsServlet?docid=hjs17mth* (''Franklin Templeton Investments Swing Pricing Paper'').

[521] *See, e.g.,* BlackRock Swing Pricing Paper, *supra* note 412 (swing pricing committee meets at least monthly); J.P. Morgan Asset Management Swing Pricing Paper, *supra* note 454 (swing pricing committee meets at least quarterly); Franklin Templeton Investments Swing Pricing Paper, *supra* note 520 (swing pricing committee meets at least quarterly).

shareholders' interests in the fund. For example, a fund's portfolio manager could have an incentive to determine a swing factor that is as low as possible, because the portfolio manager could be reluctant for the fund's short-term performance to appear relatively poor compared to other funds and the fund's benchmark.[522]

A fund's board would not be required to approve each swing factor that would be used to adjust the fund's NAV when the fund's swing threshold is breached, although the board would be required to approve the policies and procedures for determining the swing threshold. This approval framework—along with the proposed segregation of the swing factor determination from the portfolio management function—is meant to strike a balance between ensuring appropriate board oversight over the policies and procedures for determining the swing factor, and independence with respect to the swing factor determination process, while recognizing that it may not be practicable for a fund's directors to be directly involved in the process of determining each swing factor. Because the persons administering the fund's swing pricing policies and procedures may have limited time to determine each swing factor to the extent that net purchases or net redemptions cannot be ascertained or reasonably estimated until close to the time that the fund must strike its NAV, we do not believe that it would generally be operationally feasible for a fund's board to approve each swing factor. Also, we do not believe that requiring a fund's board to approve each swing factor would be consistent with boards' historical oversight role.

Request for Comment

We seek comment on the proposed approval and oversight requirements associated with a fund's swing pricing policies and procedures.

- Do commenters agree that a fund's board, including a majority of the fund's independent directors, should be required to approve the fund's swing pricing policies and procedures (including the fund's swing threshold, and any swing factor upper limit specified under the fund's swing pricing policies and procedures), and any material changes thereto? Would these approval requirements ensure that a fund establishes and implements swing pricing policies and procedures that are in the interests of all of the fund's shareholders? Do commenters agree that the proposed independent director approval requirement would ensure that a fund's use of swing pricing benefits the fund's shareholders? Should the board be provided the option to not use swing pricing in a particular situation when swing pricing would have been warranted pursuant to a fund's swing pricing policies and procedures?
- Do commenters agree that it would be appropriate to require a fund's board to designate the fund's adviser or officers responsible for the administration of swing pricing policies and procedures, including responsibility for determining a swing factor that would be used to adjust the fund's NAV when the fund's swing threshold is breached? Do commenters agree that the determination of the swing factor should be reasonably segregated from the portfolio management of the fund? Would this pose any difficulty for particular types of entities, for example funds managed by small advisers? Is there a better way to prevent conflicts between the portfolio manager's incentives and the process of determining a swing factor that most effectively prevents dilution of existing shareholders' interests in the fund? What officers (or functional areas) of a fund do commenters anticipate a fund's board would select to administer the fund's swing pricing policies and procedures, and do commenters anticipate that these persons (or functional areas) would overlap with the administrators of a fund's liquidity risk management program?
- Do commenters agree that a fund's board should not be required to approve each swing factor that would be used to adjust the fund's NAV when the fund's swing threshold is breached, although the board would be required to approve the policies and procedures for determining the swing threshold? Why or why not?
- Should the Commission provide guidance as to the circumstances in which a possible misapplication of a firm's swing pricing policy could result in a material NAV error? For example, should the Commission explain whether an error would occur when the fund makes estimates under its swing pricing policy that is applied correctly, but the information, such as final shareholder flows, subsequently changes to a material degree? Should funds be required to have specific policies and procedures to address possible NAV errors?

g. Recordkeeping Requirements

Proposed rule 22c–1(a)(3) would require a fund to maintain a written copy of swing pricing policies and procedures adopted by the fund that are in effect, or at any time within the past six years were in effect, in an easily accessible place.[523] Additionally, we are proposing to expand current rule 31a–2(a)(2), which requires a fund to keep records evidencing and supporting each computation of the fund's NAV,[524] to reflect the NAV adjustments based on a fund's swing pricing policies and procedures. Specifically, a fund that adopts swing pricing policies and procedures would be required to preserve records evidencing and supporting each computation of an adjustment to the fund's NAV based on the fund's swing pricing policies and procedures.[525] For each NAV adjustment, such records should generally include, at a minimum, the fund's unswung NAV, the level of net purchases or net redemptions that the fund encountered (or estimated) that triggered the application of swing pricing, the swing factor that was used to adjust the fund's NAV, and relevant data supporting the calculation of the swing factor. The records required under the proposed amendments to rule 31a–2(a)(2) would be required to be preserved for at least six years from the date that the NAV adjustment occurred, the first two years in an easily accessible place.[526] The proposed six-year period for a fund to maintain a copy of its swing pricing policies and procedures in proposed rule 22c–1(a)(3) corresponds with the six-year recordkeeping period currently incorporated in rule 31a–2(a)(2). We believe that consistency in these retention periods is appropriate in order to permit a fund or Commission staff to review historical instances of NAV adjustments effected pursuant to the fund's swing pricing policies and procedures in light of the policies and procedures that were actually in place at the time the NAV adjustments occurred.

These proposed recordkeeping requirements would help our examination staff to ascertain whether a fund that has adopted swing pricing policies and procedures has done so in compliance with the requirements of proposed rule 22c–1(a)(3). They also would help our staff to determine whether a fund is taking into account

[522] *See supra* note 446 and accompanying text; *infra* section III.F.2.b.

[523] Proposed rule 22c–1(a)(3)(iii).

[524] *See* rule 31a–2(a)(2) (every registered investment company shall . . . ''[p]reserve for a period not less than six years from the end of the fiscal year in which any transactions occurred, the first two years in an easily accessible place . . . all schedules evidencing and supporting each computation of net asset value of the investment company shares'').

[525] *See* proposed amendment to rule 31a–2(a)(2).

[526] *See id.*

the factors required to be considered under proposed rule 22c–1(a)(3)(i)(D) in calculating the swing factor.

Request for Comment

We seek comment on the proposed recordkeeping requirements associated with a fund's swing pricing policies and procedures.

• Do commenters agree that the proposed recordkeeping requirements are appropriate? Are there any additional records associated with a fund's swing pricing policies and procedures that a fund should be required to keep? Should rule 31a–2(a)(2) be amended to specifically require a fund to keep records evidencing the fund's consideration of each of the factors required to be considered in determining each swing factor used to adjust the fund's NAV? Do commenters agree that the six-year record retention period in proposed rule 22c–1(a)(3) and the proposed amendments to rule 31a–2(a)(2) is appropriate?

2. Guidance on Operational Considerations Relating To Swing Pricing

a. Operational Processes Associated With Swing Pricing

Swing pricing requires the net cash flows for a fund to be known, or estimated using information obtained after reasonable inquiry,[527] before determining whether to adjust the fund's NAV on any particular day (and, if the fund's swing factor varies depending on its net flows, to determine the swing factor that the fund will use to adjust its NAV). A fund using swing pricing would need to monitor shareholder trades or flows of money in and out of the fund for purposes of determining whether the fund's net purchases or net redemptions would give rise to an NAV adjustment under its swing pricing policies and procedures.[528] Because the deadline by which a fund must strike its NAV may precede the time that a fund receives final information concerning daily net flows from the fund's transfer agent, a fund may wish to arrange for interim feeds of flows from its transfer agent or distributor in order to reasonably estimate its daily net flows for swing pricing purposes. A fund also may wish to implement formal or informal policies to encourage effective communication channels between the persons charged with implementing the fund's swing pricing policies and procedures, the fund's investment professionals, and personnel charged with day-to-day pricing responsibility (to the extent different persons comprise each of these groups).

In addition, there are unique operational considerations applicable to funds with multiple share classes. A fund with multiple share classes that uses swing pricing should consider the net purchase or net redemption activity of all share classes in determining whether its swing threshold has been breached.[529] Like a fund with only one share class, the purchase or redemption activity of certain shareholders (or a class of shareholders) within a multi-share-class fund could dilute the value of the existing shareholders' (or class of shareholders') interests in the fund.

b. Performance Reporting and Calculation of NAV-Based Performance Fees

For purposes of calculating the financial highlights and performance data to be included in a fund's prospectus and shareholder reports,[530] a fund using swing pricing should consider its NAV at the beginning and end of a reporting period, as well as its ''ending redeemable value'' on a particular day, to be its NAV as adjusted pursuant to its swing pricing policies and procedures (as applicable). Because a fund using swing pricing to adjust its NAV would, under certain circumstances, use the adjusted NAV as the price that shareholders receive for the purchase or redemption of shares, the adjusted NAV is the ''net asset value calculated on the last business day before the first day of each [performance] period'' and the ''price calculated on the last business day of each [performance] period,'' as referenced in the instructions to Item 13 (''Financial Highlights Information'') of Form N–1A. For the same reason, the adjusted NAV is the ''ending redeemable value'' of the fund's shares, as referenced in Item 26 (''Calculation of Performance Data'') of Form N–1A. Likewise, because rule 482 under the Securities Act references Form N–1A with respect to performance data,[531] a fund using swing pricing also should use its adjusted NAV when calculating the standardized performance data to be included in the fund's advertising materials.

If a fund using swing pricing pays NAV-based performance fees to its adviser,[532] the fund's NAV for purposes of calculating performance fees should be the NAV as adjusted pursuant to its swing pricing policies and procedures (as applicable). As discussed above, a fund's NAV used for performance reporting purposes would be the NAV as adjusted pursuant to swing pricing policies and procedures. We believe that the reported NAV and the NAV used for calculating performance fees (to the extent used) should be consistent in order to promote transparency regarding any performance fees paid to the fund's adviser, and to reflect the fact that the fund's performance likely has been affected by the transaction costs associated with shareholders' purchases and redemptions.

c. Fund Merger Considerations

When funds merge, and at least one of the merging funds uses swing pricing, there are a number of considerations relating to swing pricing that the funds generally should consider when determining the terms of the merger.[533]

[527] *See* proposed rule 22c–1(a)(3)(i)(A) (permitting the person(s) responsible for administering the fund's swing pricing policies and procedures to use ''information obtained after reasonable inquiry'' in determining whether the fund's level of net purchases or net redemptions has exceeded the fund's swing threshold).

[528] We have previously stated that a fund should adopt compliance policies and procedures that provide for monitoring shareholder trades or flows of money in and out of the fund for purposes of detecting market timing activity. *See* Rule 38a–1 Adopting Release, *supra* note 90, at nn.66–69 and accompanying text.

[529] *See* Luxembourg Swing Pricing Survey, Reports & Guidelines, *supra* note 413, at 21 (discussing swing pricing considerations relevant to funds with multiple share classes).

[530] *See* Items 13, 26 of Form N–1A.

[531] Rule 482(d), 17 CFR 230.482.

[532] Section 205(a)(1) of the Investment Advisers Act generally restricts an investment adviser from entering into, extending, renewing, or performing an investment advisory contract that provides for compensation to the adviser based on a share of capital gains on, or capital appreciation of, the funds of a client.

However, there are certain exemptions to this general restriction. *See* section 205(b)(2) of the Investment Advisers Act (providing that the section 205(a)(1) restriction does not apply to an investment adviser charging performance fees to a registered investment company if the fee is structured to comply with four requirements: (i) The fee is based on the investment company's NAV; (ii) the NAV is averaged over a ''specified period''; (iii) the fee increases or decreases proportionately with the investment company's ''investment performance'' over the specified period; and (iv) the investment company's investment performance relates to the ''investment record'' of an ''appropriate index'' of securities prices or another measure of investment performance as specified by the Commission by rule, regulation, or order); *see also* rule 205–3 under the Investment Advisers Act 17 CFR 275.205–3 (providing an exemption to the section 205(a)(1) restriction and permitting an investment adviser to charge performance fees if the adviser's client is a ''qualified client'' as defined in rule 205–3(d)(1) (generally, a client having at least $1 million under management with the adviser immediately after entering into an advisory contract with the adviser, or a client the adviser reasonably believed had a net worth of more than $2 million at the time the contract was entered into)).

[533] *See* Luxembourg Swing Pricing Survey, Reports & Guidelines, *supra* note 413, at 18–19 (discussing swing pricing considerations relevant to fund mergers).

The boards of merging funds should consider whether a swing factor should be used to adjust the value of the absorbed fund's assets, if the absorbing fund uses swing pricing and it is applied on the day of the merger.[534] Although the manager of the absorbing fund may need to sell certain of the assets of the absorbed fund following the merger (*e.g.,* for consistency with the absorbing fund's investment strategy, or to comply with certain regulatory requirements[535]), we do not believe that the NAV of either the absorbing fund or the absorbed fund should be adjusted to counter any dilution resulting from these sales, because costs associated with these sales would result from the merger and would not be caused by shareholders' purchase or redemption activity. In light of potential complications arising when funds using swing pricing merge, the boards of merging funds should consider whether to temporarily suspend a fund's swing pricing policies and procedures ahead of the merger.[536] Under proposed rule 22c–1(a)(3), such suspension would be considered a material change to the fund's swing pricing policies and procedures and thus could be accomplished only by vote of the fund's board, including a majority of the fund's independent directors.[537] In any event, the swing threshold of the absorbing fund should be reviewed following a merger. Likewise, the persons in charge of administering the absorbing fund's swing pricing policies and procedures should consider the effects of the merger when considering what swing factor would be appropriate to use if the fund's swing threshold is breached following the merger.

d. Request for Comment

We seek comment on the Commission's guidance discussed above regarding certain operational and accounting considerations relating to swing pricing. Do commenters generally agree with the Commission's guidance in this section III.F.2?

Along with this general request for comment on the Commission's guidance, we request specific comment on a number of individual guidance items.

- To what extent is it currently typical for a fund to receive interim feeds of flows from its transfer agent or distributor, and do these interim feeds generally permit a fund to reasonably estimate its net flows at the end of a business day? To what extent do financial intermediaries or other third parties provide interim feeds of flows?
- Should the Commission amend the proposed rule or provide guidance regarding pricing errors in the context of swing pricing? How do commenters anticipate that a fund using swing pricing may wish to update its pricing policies to provide clarity as to the application of swing pricing to the fund's policies concerning pricing errors? What policies do commenters anticipate that a fund's pricing policies could incorporate with respect to circumstances in which the fund's NAV was swung (or not swung) based on an estimate of net purchases or net redemptions that was later determined to be incorrect, but was based on information obtained after reasonable inquiry pursuant to proposed rule 22c–1(a)(3)(i)(A)?
- Do commenters agree that it is appropriate to require that a fund calculate performance fees based on the fund's NAV as adjusted pursuant to the fund's swing pricing policies and procedures (as applicable)? Why or why not? We specifically request comment on whether calculating a performance fee based on a fund's adjusted NAV could be viewed as inappropriately increasing or decreasing the fee (*e.g.,* depending on whether the NAV was adjusted at the beginning or end of a measurement period).
- Besides the issues discussed in this section, what specific operational challenges do funds anticipate associated with swing pricing? Do commenters anticipate there would be circumstances in which a fund's structure (*e.g.,* a fund with multiple share classes, as discussed in section III.F.2.a) would cause swing pricing to be particularly complex to implement?
- With respect to a fund with multiple share classes that uses swing pricing, do commenters agree that the fund should consider the net purchase or net redemption activity of all share classes in determining whether its swing threshold has been breached? Or should a fund instead be permitted to consider the net purchase or redemption activity of each share class separately (which potentially could lead to NAV adjustments for certain share classes and not others, or different NAV adjustments for each share class, on the same day)? If so, should we amend rule 18f–3 to expressly allow this? What operational or other difficulties could result from permitting a fund with multiple share classes that uses swing pricing to consider the net purchase or redemption activity of each share class separately, and to potentially make different NAV adjustments for each share class on the same day?
- Besides the issues discussed in this section, are there any other operational issues associated with swing pricing about which we should provide guidance?

3. Master-Feeder Funds

With respect to master-feeder funds, we believe the use of swing pricing would generally be appropriate only with respect to the level (or levels) of the fund structure that actually transact in underlying portfolio assets as a result of net purchase or redemption activity.[538] For example, if shareholders of a feeder fund were to redeem feeder fund shares, the feeder fund would redeem from the master fund (and not sell portfolio assets) in order to pay redeeming shareholders. Likewise, if investors were to purchase shares of a feeder fund, the feeder fund would invest in the master fund with cash received from the feeder fund purchasing shareholders, and the master fund would invest this cash in portfolio assets. Thus, a feeder fund would not be permitted to use swing pricing under the proposed rule.[539] The master fund, on the other hand, would potentially need to purchase portfolio assets in order to invest purchasing shareholders' cash (as transferred through the feeder fund), or sell portfolio assets in order to pay redemption proceeds in exchange for feeder fund shares. Thus, to the extent that net purchases into or redemptions from the master fund (by one or more feeder funds, or any other investors in the master fund) exceed the fund's swing threshold, the swing factor should thus be applied to the master fund's NAV.[540] In this example, because

[534] Directors overseeing fund mergers must take into account rule 17a–8 under the Investment Company Act (which sets forth requirements for mergers of affiliated investment companies), if applicable, as well as any relevant state law requirements. Rule 17a–8 requires a board, including a majority of the independent directors, to consider the relevant facts and circumstances with respect to a merger of affiliated funds and determine that the merger is in the best interests of each of the merging funds and that the interests of the shareholders of both the fund being acquired and the acquiring fund are not being diluted. We expect swing pricing considerations could be relevant to this determination.

See Luxembourg Swing Pricing Survey, Reports & Guidelines, *supra* note 413, at 18–19 (discussing issues associated with the use of swing pricing to adjust the value of the absorbed fund's assets).

[535] *See, e.g., supra* paragraph accompanying notes 296–298.

[536] *See supra* note 534.

[537] *See* proposed rule 22c–1(a)(3)(ii)(A).

[538] *See* Luxembourg Swing Pricing Survey, Reports & Guidelines, *supra* note 413, at 21–22 (discussing swing pricing considerations relevant to master-feeder fund structures).

[539] *See* proposed rule 22c–1(a)(3)(iv).

[540] Proposed rule 22c–1(a)(3) clarifies that, although feeder funds would not be permitted to use swing pricing, master funds would be permitted to do so. *See* proposed rule 22c–1(a)(3)(iv).

the feeder fund invests in the master fund, the master fund's adjusted NAV would indirectly affect the NAV of the feeder fund.

Request for Comment

We seek comment on the application of swing pricing to master-feeder funds. Do commenters generally agree that feeder funds should not be permitted to use swing pricing? Why or why not?

4. Financial Statement Disclosure Regarding Swing Pricing

The application of swing pricing would impact a fund's financial statements and disclosures in a number of areas, including a fund's statement of assets and liabilities, statement of changes in net assets, financial highlights and the notes to the financial statements. Currently, funds are required by Regulation S–X rule 6–04.19 [541] to state the NAV on the statement of assets and liabilities. Similar to ''ending redeemable value'' discussed in performance reporting in section III.F.2.b above, for purposes of reporting the NAV in a fund's statement of assets and liabilities, a fund using swing pricing should consider its ''purchase price'' or ''redemption price'' on a particular day to be its NAV as adjusted pursuant to its swing pricing policies and procedures. We believe that disclosure of this price is important, as it allows investors to understand the value they would receive had they purchased or redeemed shares on the financial reporting period end date. Different from redemption fees, which may be charged to specific shareholders based on the length of time that the shareholder has owned shares of the fund, all shareholders in a fund would receive the NAV as adjusted pursuant to its swing pricing policies and procedures. As all shareholders would receive the NAV as adjusted pursuant to the fund's swing pricing policies and procedures, we are proposing to amend Regulation S–X rule 6–04.19 to require funds to disclose the NAV as adjusted pursuant to its swing pricing policies and procedures (if applicable).[542]

Swing pricing also would impact disclosures of capital share transactions included in a fund's statement of changes in net assets. A fund using swing pricing to adjust its NAV would make payments for shares redeemed and receive payments for shares purchased net of the swing pricing adjustment. For example, if a fund had an unadjusted NAV of $10.00 on a given day and the adjusted NAV pursuant to the fund's swing pricing policies and procedures was $9.90, shareholders would transact at $9.90 multiplied by the number of shares purchased or redeemed. The $0.10 difference between the adjusted and unadjusted NAV would be retained by the fund to offset transaction and liquidity costs. This $0.10 difference per share should be accounted for as a capital transaction and not included as income to the fund, because it is designed to reflect the near-term transactional and liquidity costs incurred as a result of satisfying shareholder transactions. Funds are required by Regulation S–X rule 6–09.4(b) to disclose the number of shares and dollar amounts received for shares sold and paid for shares redeemed.[543] In this example, Regulation S–X would require the dollar amount disclosed to be based on the $9.90 per share that was actually used for shareholder transactions.

Consistent with presentation of the impact of swing pricing on the statement of changes in net assets and performance reporting described in section III.F.2.b, a fund should include the impact of swing pricing in its financial highlights.[544] The per share impact of amounts retained by the fund due to swing pricing should be included in the fund's disclosures of per share operating performance.[545] Accordingly, we are proposing to amend Item 13 of Form N–1A to specifically require the per share impact of amounts related to swing pricing to be disclosed below the total distributions line in a fund's financial highlights. In order to properly reconcile with the adjusted NAV reported on the statement of assets and liabilities, we also are proposing to clarify that ''Net Asset Value, Beginning of Period'' and ''Net Asset Value, End of Period'' are each the NAV as adjusted pursuant to the fund's swing pricing policies and procedures, if applicable.

Similarly, a fund's calculation of total return should use the NAV as adjusted pursuant to a fund's swing pricing policies and procedures as the redemption price calculated on the last business day of the period. We are proposing to amend Instructions 3(a) and 3(d) to Item 13 of Form N–1A to explicitly require funds to assume the NAV calculated on the last business day before the first day of each period and the price calculated on the last business day of each period shown should each be adjusted for the impact of swing pricing, if applicable. We believe that it is important for investors to understand the impact of swing pricing on the return that they would have received for the period presented in the fund's financial statements. We also are proposing to amend instructions to Item 26 regarding calculation of performance data to clarify that ''ending redeemable value'' should assume a value adjusted pursuant to swing pricing policies and procedures.

Finally, we are proposing to require funds that adopted swing pricing policies and procedures to state in a note to their financial statements the general methods used in determining whether the fund's net asset value per share will swing, whether the fund's net asset value per share has swung during the year, and a general description of the effects of swing pricing on the fund's financial statements.[546] We believe this information would be useful in further understanding the impact of swing pricing on a fund.

Request for Comment

We seek comment on the financial statement disclosure considerations relating to swing pricing. Do commenters generally agree with the Commission's guidance discussed above regarding financial statement disclosure, as well as the proposed amendments to Regulation S–X?

Along with this general request for comment, we request specific comment on a number of individual issues discussed above.

- Should the Commission allow a fund to disclose the total return calculation on an unadjusted NAV basis as a supplement to the total return calculation in the financial highlights table, and/or in a fund's advertising materials?
- Should the dollar amount of purchases and redemptions disclosed in a fund's financial statements be presented based on unadjusted NAV, with the dollar amount retained by the fund because of swing pricing separately disclosed? Alternatively, should the dollar amount of purchases and redemptions be presented as the actual value received by the fund or paid to shareholders, which would include the impact of swing pricing? Why or why not?

[541] *See* 17 CFR 210.6–04.19.

[542] *See* proposed amendments to 210.6–04.19. We also propose amending Regulation S–X rule 6–02 to add a definition of swing pricing. Swing pricing would be defined as having the meaning given in proposed rule 22c–1(a)(3)(v)(C). *See* proposed 210.6–02(g).

[543] *See* 17 CFR 210.6–09.4(b).

[544] *See* Item 13 of Form N–1A.

[545] ASC 946–205–50–7 requires specific per share information to be presented in the financial highlights for registered investment companies, including disclosure of the per share amount of purchase premiums, redemption fees, or other capital items.

[546] *See* proposed amendments to rule 6–03(n) of Regulation S–X.

• Should funds be required to disclose only the NAV as adjusted pursuant to a fund's swing pricing policies and procedures on the statement of assets and liabilities? Alternatively, should funds be required to disclose both unadjusted NAV and the NAV as adjusted pursuant to a fund's swing pricing policies and procedures on the statement of assets and liabilities?

• Should we require additional disclosures in notes to fund financial statements regarding swing pricing? If so, what additional information should be disclosed? Do commenters believe that any of the proposed disclosures should be modified? Are any of the proposed disclosures unnecessary? Why or why not?

• Do commenters have any accounting or auditing concerns in connection with swing pricing? If so, please describe specific concerns.

G. Disclosure and Reporting Requirements Regarding Liquidity Risk and Liquidity Risk Management

Investors receiving relevant information about the operations of a fund and the principal risks associated with an investment in a particular fund are important in facilitating investor choice regarding the appropriate investments for their risk tolerances. Investors in open-end funds generally expect funds to pay redemption proceeds promptly following their redemption requests based, in part, on representations made by funds in their disclosure documents. Accordingly, information about how redemptions will be made and when investors will receive payment is significant to investors. Currently, funds are not expressly required to disclose how they manage the liquidity of their assets, and therefore limited information is available regarding whether the liquidity of a fund's portfolio securities corresponds with its liquidity needs related to redemption obligations. In addition to the proposed amendments to Form N–1A and Regulation S–X discussed above regarding financial reporting related to swing pricing, we are proposing amendments to Form N–1A, Regulation S–X, proposed Form N–PORT and proposed Form N–CEN to improve the ability of investors, the Commission staff, and other potential users to analyze and better understand a fund's redemption practices, its management of liquidity risks, and how liquidity risk management can affect shareholder redemptions. We are also proposing amendments to Form N–1A regarding disclosure of swing pricing.

1. Proposed Amendments to Form N–1A

a. Redemption of Fund Shares

Form N–1A is used by funds to register under the Investment Company Act and to register offerings of their securities under the Securities Act. In particular, Form N–1A requires funds to describe their procedures for redeeming fund shares, including restrictions on redemptions and any redemption charges.[547] Disclosure regarding other important redemption information, such as the timing of payment of redemption proceeds to fund shareholders, varies across funds as today there are no specific requirements for this disclosure under the form. Some funds disclose that they will redeem shares within a specific number of days after receiving a redemption request, other funds disclose that they will honor such requests within seven days (as required by section 22(e) of the Act), and others provide no specific time periods. Some funds disclose differences in the timing of payment of redemption proceeds based on the distribution channel through which the fund shares are redeemed, while others do not.

We believe that requiring consistency in disclosures and increasing the level of information provided among funds regarding the timing of payment after shareholder redemption of fund shares would give investors fuller information about their investments. Improvements are needed to enhance the ability of investors to evaluate and compare redemption policies across funds and to understand when a fund will actually pay redemption proceeds. Accordingly, we are proposing amendments to Item 11 of Form N–1A that would require a fund to disclose the number of days in which the fund will pay redemption proceeds to redeeming shareholders.[548] If the number of days in which the fund will pay redemption proceeds differs by distribution channel, the fund also would be required to disclose the number of days for each distribution channel.[549]

We also are proposing amendments to Item 11 of Form N–1A that would require a fund to disclose the methods that the fund uses to meet redemption requests.[550] Under this requirement funds would have to disclose whether they use the methods regularly to meet redemptions or only in stressed market conditions. Methods to meet redemption requests may include, for example, sales of portfolio assets, holdings of cash or cash equivalents, lines of credit, interfund lending, and ability to make in-kind redemptions. To address transaction costs associated with shareholder activity, funds also may use redemption fees.[551]

Currently, Item 11(c)(3) of Form N–1A requires funds to disclose whether they reserve the right to redeem their shares in kind instead of in cash.[552] We propose to incorporate this disclosure requirement into proposed Item 11(c)(8) discussed above. We understand that the use of in-kind redemptions (outside of the ETF context) historically has been rare and that many funds reserve the right to redeem in kind only as a tool to manage liquidity risk under emergency circumstances or to manage the redemption activity of a fund's large institutional investors.[553] We also are aware that there are often logistical issues associated with redemptions in kind and that these issues can limit the availability of in-kind redemptions as a practical matter.[554] A fund should consider whether adding relevant detail to its disclosure regarding in-kind redemptions, or revising its disclosure if the fund would be practically limited in its ability to redeem its shares in kind, would provide more accurate information to investors.

We are also proposing to amend Item 28 of Form N–1A to require a fund to file as an exhibit to its registration statement any agreements related to lines of credit for the benefit of the fund.[555] As previously mentioned, we understand based on staff outreach that it is relatively common for funds to establish lines of credit to manage liquidity risk and meet shareholder redemptions, typically during periods of significantly limited market liquidity.[556] We believe that requiring funds to include such agreements as exhibits to registration statements will increase Commission, investor, and market participant knowledge concerning the arrangements funds have made in order to strengthen their ability to meet shareholder redemption requests and manage liquidity risk and the terms of those arrangements. We also propose to include an instruction related to credit agreements noting that the specific fees paid in connection with the credit

[547] *See* Item 11(c) of Form N–1A.

[548] *See* proposed Item 11(c)(7) of Form N–1A.

[549] *Id.*

[550] *See* proposed Item 11(c)(8) of Form N–1A.

[551] Funds also may use swing pricing to address transaction costs associated with shareholder purchases or redemptions. We have proposed amendments to Form N–1A regarding disclosure of swing pricing. *See* proposed Item 6(d) of Form N–1A.

[552] *See* Item 11(c)(3) of Form N–1A.

[553] *See supra* section III.C.5.c.

[554] *Id.*

[555] *See* proposed Item 28(h) of Form N–1A.

[556] *See supra* section III.C.5.a.

agreements need not be disclosed in the exhibit filed with the Commission to preserve the confidentiality of this information.

Overall, we believe that requiring funds to provide additional disclosure concerning the methods they use and the funding sources they have to fulfill their redemption obligations and whether those methods are used on a regular basis or only in stressed market conditions would improve shareholder and market participant knowledge regarding fund redemption procedures and liquidity risk management. In particular, increased knowledge of how and when a fund's redemption procedures may affect whether, for example, a shareholder would receive cash or securities in kind or pay a redemption fee would be helpful for investors to better understand the impact of a fund's redemption procedures on shareholders.

b. Swing Pricing

Form N–1A currently requires a fund to describe its procedures for pricing fund shares, including an explanation that the price of fund shares is based on the fund's NAV and the method used to value fund shares.[557] If the fund is an ETF, an explanation that the price of fund shares is based on market price is required.[558] As discussed above, under proposed rule 22c–1(a)(3), a fund (with the exception of a money market fund or ETF) would be permitted, under certain circumstances, to use swing pricing to adjust its current NAV as an additional tool to lessen dilution of the value of outstanding redeemable securities through shareholder purchase and redemption activity.[559]

We are proposing to amend Item 6 of Form N–1A to account for this pricing procedure. Specifically, the proposed amendment would require a fund that uses swing pricing to explain the circumstances under which swing pricing would be required to be used as well as the effects of using swing pricing.[560] For a fund that invests in other funds (*e.g.,* fund-of-funds, master-feeder funds), the fund would be required to include a statement that its NAV is calculated based on the NAVs of the funds in which the fund invests, and that the prospectuses for those funds explain the circumstances under which those funds will use swing pricing and the effects of using swing pricing. We believe that these proposed disclosures would improve public understanding regarding a fund's use of swing pricing as well as the potential advantages and disadvantages of using swing pricing to manage dilution arising from shareholder purchase and redemption activity.

c. Request for Comment

We request comment on all aspects of the proposed amendments to Form N–1A.

- Would the proposed amendments regarding payment of redemption proceeds be helpful to fund shareholders? Should we modify the proposed disclosures, and if so, how?
- In addition to the proposed disclosure requirements, should Form N–1A be amended to require certain funds to incorporate enhanced disclosure regarding liquidity risk into their summary prospectuses? If so, what funds should be subject to such enhanced disclosure requirements (*e.g.,* funds with certain investment strategies, whose three-day liquid asset minimums are below a certain threshold, or that hold above a certain percentage of their portfolio (for instance, 5%, 10%, 20%, 30%) in assets with extremely limited liquidity, such as assets that can only be converted to cash in over 7 days, over 15 days, over 30 days, or over 90 days at a price that does not materially affect the value of that asset immediately prior to sale)? What specific liquidity risk disclosure requirements should apply to these funds?
- Are there any challenges associated with funds disclosing when they expect to pay redemption proceeds? Should funds be required to disclose the expected period in normal and stressed market conditions?
- Are there any challenges associated with funds disclosing the methods that they use to meet redemption requests and whether those methods are used regularly or only in stressed market conditions? Would disclosure of this information overly complicate prospectus disclosures?
- In cases where the number of days in which a fund will pay redemption proceeds differs by distribution channel, are there any challenges associated with funds disclosing the number of days for each distribution channel? Do funds pay all redemption proceeds at the same time irrespective of distribution channel (although when the shareholder actually receives redemption proceeds may differ by distribution channel)?
- Would the proposed amendments provide useful information to shareholders about how funds plan to satisfy redemption requests? Is there any additional information about fund redemption policies that shareholders should be aware of that is not discussed above? If so, would such additional information already be covered under existing Form N–1A requirements, or would we need to make any amendments to the form or its instructions?
- Would the proposed amendment to Item 28 of Form N–1A that would require a fund to file as exhibits to its registration statement any agreements related to lines of credit for the benefit of the fund be useful to fund shareholders and market participants? Why or why not? Are there any issues associated with funds filing such credit agreements? For example, even if specific fees paid in connection with the credit agreements are redacted, do funds have confidentiality concerns regarding filing such credit agreements? Should funds be required to file credit agreements if we adopt the proposed amendments to proposed Form N–CEN that require a fund to disclose information regarding lines of credit available to the fund?
- Would the proposed amendments to Form N–1A regarding swing pricing be useful to fund shareholders? Should funds be required to disclose additional information regarding swing pricing, and if so, what information should be disclosed?

2. Proposed Amendments to Proposed Form N–PORT

The Commission, investors, and other market participants currently have limited information about the liquidity of portfolio investments of funds, and we believe that all would benefit from more detailed reporting and disclosure of the liquidity of a fund's portfolio investments. On May 20, 2015, we proposed requiring registered management investment companies and ETFs organized as unit investment trusts, other than registered money market funds or small business investment companies, to electronically file with the Commission monthly portfolio investment information on proposed Form N–PORT.[561] As we discussed in the Investment Company Reporting Modernization Release, the information that would be filed on proposed Form N–PORT would enhance the Commission's ability to effectively oversee and monitor the activities of

[557] *See* Item 11(a)(1) of Form N–1A.

[558] *Id.*

[559] *See supra* section III.F.

[560] *See* proposed Item 6(d) of Form N–1A.

[561] Submissions on Form N–PORT would be required to be filed no later than 30 days after the close of each month. As proposed, only information reported for the third month of each fund's fiscal quarter on Form N–PORT would be publicly available, and such information would not be made public until 60 days after the end of the third month of the fund's fiscal quarter. *See* Investment Company Reporting Modernization Release, *supra* note 104.

investment companies in order to better carry out its regulatory functions. We also stated that we believe that many investors, particularly institutional investors, as well as academic researchers, financial analysts, and economic research firms, could use the information reported on proposed Form N–PORT to evaluate fund portfolios and assess the potential for returns and risks of a particular fund.[562]

We believe that requiring funds to report information about the liquidity of portfolio investments would assist the Commission in better assessing liquidity risk in the open-end fund industry, which can inform its policy and guidance, as well as in its monitoring for compliance with proposed rule 22e–4 and identifying potential outliers in fund liquidity classifications for further inquiry, as appropriate. Furthermore, we believe that this information would help investors and potential users better understand the liquidity risks in funds. Accordingly, the Commission seeks to enhance the reporting regarding the liquidity of fund holdings by proposing that each fund report on Form N–PORT the fund's three-day liquid asset minimum as well as the liquidity classification for each portfolio asset, as further described below.

a. Liquidity Classification of Portfolio Investments

Part C of proposed Form N–PORT would require a fund and its consolidated subsidiaries to disclose its schedule of investments and certain information about the fund's portfolio of investments. We propose to add Item C.13 to Part C of proposed Form N–PORT, which would require a fund to indicate the liquidity classification of each of the fund's positions in a portfolio asset. Funds would be required to indicate such liquidity classification using the following categories as specified in proposed rule 22e–4:

- Convertible to cash within 1 business day;
- Convertible to cash within 2–3 business days;
- Convertible to cash within 4–7 calendar days;
- Convertible to cash within 8–15 calendar days;
- Convertible to cash within 16–30 calendar days; and
- Convertible to cash in more than 30 calendar days.

For portfolio assets with multiple liquidity classifications, proposed Item C.13 would require funds to indicate the dollar amount attributable to each classification. For example, a fund could determine that it could convert half of a portfolio position to cash in 2–3 business days and the other half of the position in 4–7 calendar days in order to dispose of the position without creating a market impact and receive cash for the trade. In this case, half of the position would be reported in the 2–3 day category and the other half in the 4–7 day category.

We anticipate that the enhanced reporting proposed in these amendments would help our staff better monitor liquidity trends and various funds' liquidity risk profiles. We also believe that making this information available to the public quarterly, as with other information on proposed N–PORT, is appropriate. We received several comments to the Investment Company Reporting Modernization Release that addressed our proposal to require funds to identify on proposed Form N–PORT whether an investment is an illiquid asset. Specifically, several commenters noted concern that public dissemination of a fund's liquidity determinations could lead to misinterpretation and confusion among investors, particularly because of the subjective nature of such determinations.[563]

While we appreciate commenters' concerns and request further comment, we believe that the liquidity-related data reported on Form N–PORT that is made publicly available would inform investors and assist users in assessing funds' relative liquidity and the overall liquidity of the fund industry and of particular investment strategies and would not be confusing to investors.[564] For example, third-party data analyzers could use the reported information to produce useful metrics for investors about the relative liquidity of different funds with similar strategies. We also anticipate that this publicly available data would provide a resource for fund managers to compare the liquidity classifications assigned to various portfolio assets, which in turn could result in making the liquidity classifications assigned to certain positions more consistent across the fund industry, to the extent appropriate, and could provide greater market transparency as to the liquidity characteristics of certain assets.

We note that the liquidity classification of an asset may vary across funds depending on the facts and circumstances relating to the funds and their trading practices.[565] For example, one fund may hold a particular asset as a hedge against a risk in another portfolio asset. In this case, that asset's liquidity profile may be tied to the liquidity of the corresponding hedged asset. Another fund not using that asset as a hedge could report a quite different liquidity classification. Liquidity classifications also may vary based on the size of fund positions in a particular portfolio asset. We also recognize that liquidity classifications inherently involve some level of judgment by the fund and estimation as market conditions can change, and thus a fund may predict liquidity based on current information that it will take a certain time period to convert a particular asset to cash only to find that it takes longer to do so when the fund actually sells the asset. Nevertheless, for the reasons discussed above, we believe that the proposed reporting of liquidity classification information will provide very valuable information to us and market participants about current fund expectations regarding portfolio liquidity.

b. 15% Standard Assets

As currently proposed, Form N–PORT would require that each fund disclose whether each particular portfolio security is an ''illiquid asset.'' [566] The proposed form defines illiquid assets in terms of current Commission guidelines (*i.e.,* assets that cannot be sold or disposed of by the fund within seven calendar days, at approximately the value ascribed to them by the fund).[567] In connection with proposed rule 22e–4's requirement regarding 15% standard assets,[568] we propose to amend the General Instructions to proposed Form N–PORT to remove the term ''Illiquid

[562] *See* Investment Company Reporting Modernization Release, *supra* note 104.

[563] *See, e.g.,* Comment Letter of Charles Schwab Investment Management on Investment Company Reporting Modernization Release (Aug. 11, 2015); Comment Letter of Invesco Advisers, Inc. on Investment Company Reporting Modernization Release (Aug. 11, 2015); Comment Letter of the Investment Company Institute on Investment Company Reporting Modernization Release (Aug. 11, 2015); Comment Letter of Pioneer Investments on Investment Company Reporting Modernization Release (Aug. 11, 2015).

[564] *See supra* note 561 regarding public disclosure of information submitted on Form N–PORT.

[565] *See, e.g.,* Comment Letter of the Investment Company Institute on Investment Company Reporting Modernization Release (Aug. 11, 2015) (''These [liquidity] judgments may differ among personnel and certainly among fund complexes.''); Comment Letter of Invesco Advisers, Inc. on Investment Company Reporting Modernization Release (Aug. 11, 2015) (''Invesco and other fund complexes could reasonably differ in their assessments of the liquidity of a particular security, even though both complexes have a sound method for determining liquidity and follow their own reasonable procedures.'').

[566] *See* Item C.7 of proposed Form N–PORT.

[567] *See* General Instruction E of proposed Form N–PORT.

[568] *See* proposed rule 22e–4(a)(4)*; see also supra* section III.C.4.a.

Asset'' from the definitions section and replace it with the term ''15% Standard Asset,'' as such term is defined in proposed rule 22e–4.[569]

This change would have the effect of requiring funds to report, for each portfolio asset, whether the asset is a 15% standard asset. This information would allow our staff and other interested parties to track the extent that funds are holding 15% standard assets and to discern the nature of those holdings. This information also would help these groups in tracking the fund's exposure to liquidity risk.

c. Three-Day Liquid Asset Minimum

We propose to add an Item B.7 to Part B of proposed Form N–PORT to require each fund to disclose its ''three-day liquid asset minimum,'' as such term is defined in proposed rule 22e–4.[570] Requiring reporting of this information on Form N–PORT would allow our staff and other interested parties to easily assess the three-day liquid asset minimum across funds because of the interactive nature of how the information would be reported on proposed Form N–PORT.

This should facilitate comparisons between funds as well as the observation of trends over time in this indicator of fund liquidity.

d. Request for Comment

We seek comment on each of the Commission's proposed amendments to proposed Form N–PORT.

- Is there different or other information associated with liquidity that we should require funds to report on proposed Form N–PORT? If so, please describe the information.
- Would the proposed liquidity classification disclosure assist investors, fund boards, and other users in analyzing liquidity among portfolio assets within the fund and across the fund industry? What challenges, if any, may arise in reporting the liquidity classification information, and how could we address those challenges? What concerns are raised with public disclosure of liquidity classification information and how could we address those concerns?
- Should we require that the liquidity classification information on proposed Form N–PORT only be reported to the Commission and not be publicly disclosed? If so, how would we achieve our goal of allowing investors to become better informed, through information provided by third-party information providers or otherwise, about the liquidity of the funds in which they invest? Would public disclosure of liquidity classification information facilitate predatory trading practices or exacerbate first mover incentives? If so, how?
- Proposed Form N–PORT has a section in which a fund can provide explanatory notes with any information that it believes would be helpful in understanding the information reported on Form N–PORT.[571] Would this allow funds to explain any methodologies, assumptions, or estimations used in determining liquidity classifications?

3. Proposed Amendments to Proposed Form N–CEN

As proposed, all registered investment companies, including money market funds but excluding face amount certificate companies, would be required to file Form N–CEN annually.[572] Form N–CEN would require these registered investment companies to provide census-type information that would assist our efforts to modernize the reporting and disclosure of information by registered investment companies and enhance the staff's ability to carry out its regulatory functions, including risk monitoring and analysis of the industry.[573]

a. Lines of Credit, Interfund Lending, Interfund Borrowing and Swing Pricing

We are proposing to amend proposed Form N–CEN to allow the Commission and other users to track certain liquidity risk management practices that we expect funds to use on a less frequent basis than the day-to-day portfolio construction techniques captured by proposed Form N–PORT. More specifically, we propose amending Part C of proposed Form N–CEN to add an item that would include certain questions regarding the use of lines of credit, interfund lending, interfund borrowing, and swing pricing.

The proposed amendments would add a new Item 44 to Part C of proposed Form N–CEN requiring a fund to disclose if it has available a committed line of credit, and, if so, the size of the line of credit in U.S. dollars, the name of the institution(s) with which the fund has the line of credit, and whether the line of credit is for that fund alone or is shared among multiple funds.[574] If the line of credit is shared among multiple funds, the fund would be required to disclose the names and SEC File numbers of the other funds (including any series) that may use the line of credit.[575] If the fund responds affirmatively to having available a committed line of credit, the fund would be required to disclose whether it drew on the line of credit during the reporting period.[576] If the fund drew on that line of credit during the reporting period, Item 44 would require the fund to disclose the average dollar amount outstanding when the line of credit was in use and the number of days that line of credit was in use.[577] This information would allow our staff and other potential users to assess how often and to what extent funds rely on certain external sources of liquidity, rather than relying on the liquidity of fund portfolio assets alone, for liquidity risk management. It also would allow monitoring of whether such lines of credit are concentrated in particular financial institutions.

Proposed Item 44 also would require a fund to report whether it engaged in interfund lending or interfund borrowing during the reporting period, and, if so, the average amount of the interfund loan when the loan was outstanding and the number of days that the interfund loan was outstanding.[578] This information would provide some transparency regarding the extent to which funds use interfund lending or interfund borrowing. We understand that one reason that funds have sought exemptive relief to engage in interfund

[569] *See* Item C.7 of proposed Form N–PORT; revised General Instructions to proposed Form N–PORT.

The Investment Company Reporting Modernization Release also proposed amendments to Article 12 of Regulation S–X in which funds would be required to identify illiquid securities. *See, e.g.,* proposed rule 12–12, n. 10 of Regulation S–X (requiring funds to indicate ''by an appropriate symbol each issue of illiquid securities''). We propose to define ''illiquid securities'' in Regulation S–X (as well as ''illiquid investment,'' which term also appears in Regulation S–X) by reference to the term ''15% standard assets,'' as defined in proposed rule 22e–4(a)(4). *See* proposed 210.6–02(e), (f).

[570] *See* proposed rule 22e–4(a)(9); *see also supra* section III.C.3. We also propose adding the term ''Three-Day Liquid Asset Minimum'' to General Instruction E of proposed Form N–PORT, referencing the definition of such term in proposed rule 22e–4.

[571] *See* Part E of proposed Form N–PORT.

[572] *See* Investment Company Reporting Modernization Release, *supra* note 104.

[573] *Id.*

[574] *See* proposed Item 44(a)(i)–(iii) of Part C of proposed Form N–CEN.

[575] *See* proposed Item 44(a)(iii)(1) of Part C of proposed Form N–CEN. Under proposed Form N–CEN, ''SEC File number'' means the number assigned to an entity by the Commission when that entity registered with the Commission in the capacity in which it is named in Form N–CEN. *See* General Instruction F to proposed Form N–CEN.

[576] *See* proposed Item 44(a)(iv) of Part C of proposed Form N–CEN.

[577] *See* proposed Item 44(a)(v) and (vi) of Part C of proposed Form N–CEN.

[578] *See* proposed Item 44(b) and (c) of Part C of proposed Form N–CEN.

lending and borrowing is to meet redemption obligations if necessary.

Finally, Item 44 would require a fund other than a money market fund to disclose whether it engaged in swing pricing during the reporting period. This disclosure would inform our staff and potential users about whether funds use swing pricing as a tool to mitigate dilution of the value of outstanding redeemable securities through shareholder purchase and redemption activity.[579]

b. Additional Information Concerning ETFs

Proposed Form N–CEN includes a section related specifically to ETFs.[580] Some of the proposed reporting requirements on Form N–CEN relate to an authorized participant's interaction with the ETF (or its service provider), as these entities play a significant role in the marketplace.[581] We believe collection of such information would allow us to better assess the size, capacity, and concentration of the authorized participant framework and may allow the Commission staff to monitor how ETF purchase and redemption activity is distributed across authorized participants and, for example, the extent to which a particular ETF—or ETFs as a group—may be reliant on one or more particular authorized participants.[582]

Specifically, we are proposing to add Item 60(g)[583] to Form N–CEN, which would require an ETF to report whether it required that an authorized participant post collateral to the ETF or any of its designated service providers in connection with the purchase or redemption of ETF shares during the reporting period.[584] We understand that some ETFs (or their custodians), particularly ETFs that invest in non-U.S. securities, require authorized participants transacting primarily on an in-kind basis to post collateral when purchasing or redeeming shares, most often for the duration of the settlement process. This can protect the ETF in the event, for example, that the authorized participant fails to deliver the basket securities.[585] The requirement to post collateral for creating or redeeming ETF shares impacts the authorized participant's operating capital, which could, in turn, affect the ability and willingness of authorized participants to serve such ETFs or serve other market makers on an agency basis. Accordingly, we believe that information about required posting of collateral by authorized participants when purchasing or redeeming shares—alongside the information we previously proposed to require in Form N–CEN—would be helpful in understanding whether, and to what extent, there may be concentration in the authorized participant framework for such ETFs.

c. Request for Comment

We seek comment on each of the Commission's proposed amendments to proposed Form N–CEN.

- Would the proposed reporting on the availability and use of lines of credit, interfund lending, interfund borrowing and the use of swing pricing assist investors, Commission staff, and market participants in assessing liquidity and liquidity risks within a fund and across the fund industry? Would this information be readily available to funds? If not, please explain why.
- Do the proposed questions collect all sources of liquidity outside the liquidity of fund portfolio assets? If not, what are these other sources?
- Is the annual reporting time period under Form N–CEN appropriate for this requested information? Should it be collected more frequently? If so, should we require funds to disclose any or all of the requested information on Form N–PORT instead of Form N–CEN?
- Is there different or other information associated with liquidity that we should require funds to report on proposed Form N–CEN? If so, please describe the information.
- Should funds be required to report information on uncommitted lines of credit? Please explain why or why not.
- What types of ETFs tend to require posting of collateral for purchases or redemptions and why? Please provide data on the size of such collateral deposits, and how this deposit requirement can affect an authorized participant's operating capital? How common is it for an authorized participant or market maker to contract with another authorized participant to post such collateral on its behalf? Are there situations where one authorized participant contracts with another authorized participant to purchase or redeem ETF shares on an agency basis rather than purchase or redeem the shares directly with the ETF because of the ETF's requirement that the purchase or redemption be collateralized for the duration of the settlement period?

H. Compliance Dates

1. Liquidity Risk Management Program

Proposed rule 22e–4 would require that each registered open-end management investment company, including open-end ETFs but not including money market funds, adopt and implement a written liquidity risk management program, approved by a fund's board of directors, that meets certain minimum requirements outlined in the rule. Given the nature of the liquidity risk management program, including the classification and ongoing review of the liquidity of each of a fund's positions in an asset (or portion thereof) required under proposed rule 22e–4(b)(2)(i) and the three-day liquid asset minimum determination required under proposed rule 22e–4(b)(2)(iv)(A), we expect to provide for a tiered set of compliance dates based on asset size for proposed rule 22e–4.

Specifically, for larger entities—namely, funds that together with other investment companies in the same ''group of related investment companies''[586] have net assets of $1

[579] As part of the proposed revisions to proposed Form N–CEN, we propose renumbering previously proposed Items 44 through 79 to 45 through 80.

[580] *See* Part E of proposed Form N–CEN. We note that the reporting requirements of proposed Form N–CEN that are tailored for ETFs also apply to UITs organized as ETFs, as well as exchange-traded managed funds. *See* General Instruction A to proposed Form N–CEN. The additional proposed reporting requirement discussed below would apply to the same group of entities.

[581] Specifically, proposed Form N–CEN would require an ETF to provide identifying information about each of its authorized participants, as well as the dollar value of the ETF's shares that each authorized participant purchased or redeemed from the ETF during the reporting period. *See* proposed Item 60(g) of proposed Form N–CEN.

[582] *See* Investment Company Reporting Modernization Release, *supra* note 104, at section II.E.4.

[583] In the Reporting Modernization Release, information requirements related to authorized participants for ETFs were in Item 59 of Proposed Form N–CEN; however, because this release proposes to add additional items to proposed Form N–CEN, Item 59 of proposed Form N–CEN would be renumbered to Item 60. *See infra* Text of Rules and Forms.

[584] Proposed Item 60(g) of proposed Form N–CEN.

[585] *See, e.g.,* Investment Company Institute, *The Role and Activities of Authorized Participants of Exchange-Traded Funds,* (Mar. 2015), *available at https://www.ici.org/pdf/ppr_15_aps_etfs.pdf.* In addition to ETFs that invest in non-U.S. securities, Commission staff understands that there are other ETFs that have collateral requirements for purchases and redemptions, such as ETFs that invest in debt securities.

[586] For these purposes, we expect that the threshold would be based on the definition of ''group of related investment companies,'' as such term is defined in rule 0–10 under the Investment Company Act. Rule 0–10 defines the term in part as ''two or more management companies (including series thereof) that: (i) Hold themselves out to investors as related companies for purposes of investment and investor services; and (ii) Either: (A) Have a common investment adviser or have investment advisers that are affiliated persons of each other; or (B) Have a common administrator. . . .'' We believe that this broad definition would encompass most types of fund complexes and therefore is an appropriate definition for compliance date purposes.

billion or more as of the end of the most recent fiscal year—we are proposing a compliance date of 18 months after the effective date to comply with proposed rule 22e–4. For these larger entities, we expect that 18 months would provide an adequate period of time for funds to prepare internal processes, policies and procedures and implement liquidity risk management programs that meet the requirements of the rule.

For smaller entities (*i.e.,* funds that together with other investment companies in the same ''group of related investment companies'' have net assets of less than $1 billion as of the end of the most recent fiscal year),[587] we are proposing to provide for an extra 12 months (or 30 months after the effective date) to comply with proposed rule 22e–4.[588] We believe that smaller entities would benefit from this extra time to establish and implement the requirements outlined in the rule.

On or before the applicable compliance date(s), a fund must have adopted and implemented compliance policies and procedures that satisfy the requirements of the new rule. These policies and procedures must have been approved by the board on or before the applicable compliance date(s).

2. Swing Pricing

Proposed rule 22c–1(a)(3), if adopted, would permit (but not require) a fund (with the exception of a money market fund or ETF) to adopt swing pricing policies and procedures. Related proposed amendments to rule 31a–2 (regarding the preservation of books and records evidencing and supporting adjustments to NAV based on swing pricing policies and procedures), Item 13 of Form N–1A and Regulation S–X (regarding financial reporting), and Item 11(c) of Form N–1A (regarding a fund's use of swing pricing) would apply only to funds that elect to use swing pricing. As reliance on rule 22c–1(a)(3) would be optional, we believe a compliance period would not be necessary. Therefore, we expect that a fund would be able to rely on the rule after the effective date as soon as the fund could comply with proposed rule 22c–1(a)(3) and related records, financial reporting and prospectus disclosure requirements.

3. Amendments to Form N–1A

Except with respect to the proposed amendments to Form N–1A related to swing pricing (discussed above), if the other proposed amendments to Form N–1A are adopted, we expect to require all initial registration statements on Form N–1A, and all post-effective amendments that are annual updates to effective registration statements on Form N–1A, filed six months or more after the effective date, to comply with the proposed amendments to Form N–1A. We do not expect that funds would require significant amounts of time to prepare additional disclosures in accordance with our proposed amendments regarding redemptions.

4. Amendments to Form N–PORT

Similar to the tiered compliance dates for the liquidity classification requirements for fund liquidity risk management programs under proposed rule 22e–4 (discussed above), we expect to provide for a tiered set of compliance dates based on asset size for the proposed amendments to proposed Form N–PORT. Specifically, for larger entities we are proposing a compliance date of 18 months after the effective date to comply with the new reporting requirements. For these larger entities, we expect that 18 months would provide an adequate period of time for funds, intermediaries, and other service providers to conduct the requisite operational changes to their systems and to establish internal processes to prepare, validate, and file reports containing the additional information requested by the proposed amendments to Form N–PORT. For smaller entities, we are proposing to provide for an extra 12 months (or 30 months after the effective date) to comply with the new reporting requirements. We believe that smaller groups would benefit from this extra time to comply with the filing requirements for Form N–PORT and would potentially benefit from the lessons learned by larger investment companies and groups of investment companies during the adoption period for Form N–PORT.

5. Amendments to Form N–CEN

If Form N–CEN and the amendments we propose to the form are adopted, we are proposing a compliance date of 18 months after the effective date to comply with the new reporting requirements.[589] We expect that 18 months would provide an adequate period of time for funds, intermediaries, and other service providers to conduct the requisite operational changes to their systems and to establish internal processes to prepare, validate, and file reports containing the additional information requested by the proposed amendments to Form N–CEN.

6. Request for Comment

We request comment on the compliance dates discussed above.

- How, if at all, should the proposed compliance dates be modified? What factors should we consider when setting the compliance dates for the proposed rule and amendments to the rules and forms? To the extent that a fund would decide to reallocate certain portions of its portfolio in order to correlate its portfolio holdings with its three-day liquid asset minimum, would the proposed compliance dates provide adequate time to do so in a way that would cause the fund to incur relatively few portfolio reallocation-related costs (*i.e.,* by permitting sufficient time to purchase and sell portfolio assets when it is relatively advantageous to do so)?
- We request comment on our proposed 18-month compliance date for proposed rule 22e–4. Is our 18-month compliance period appropriate? If not, what length of time (*e.g.,* 12 months or 24 months) would be appropriate for compliance with the new rule?
- We also request comment on our proposed tiered compliance dates for proposed rule 22e–4 and related reporting requirements under our proposed amendments to proposed Form N–PORT. Is a threshold of $1 billion based on the net assets of funds together with other investment companies in the same ''group of related investment companies'' as of the end of the most recent fiscal year appropriate? Should the threshold be higher or lower? [590] Should the threshold include aggregation of net assets with other investment companies in the same ''group of related investment companies?'' Why or why not? Is our

[587] Based on staff analysis of data obtained from Morningstar Direct, as of June 30, 2015, we estimate that a $1 billion threshold would provide an extended compliance period to approximately 66% of the fund groups, but only 0.6% of all fund assets. We therefore believe that the $1 billion threshold would appropriately balance the need to provide smaller groups of investment companies with more time to prepare internal processes, policies and procedures and implement liquidity risk management programs that meet the requirements of proposed rule 22e–4, while still including the vast majority of fund assets in the initial compliance period.

[588] *See* proposed rule 22e–4(b)(2)(i), (ii) and (iv)(A)–(C).

[589] Unlike Form N–PORT, we do not expect to provide a tiered compliance date based on asset size because we believe that it is less likely that smaller fund complexes would need additional time to comply with the amendments we propose on Form N–CEN. This 18-month compliance period is consistent with the compliance period for proposed Form N–CEN. *See* Investment Company Reporting Modernization Release, *supra* note 104.

[590] Based on staff analysis of data obtained from Morningstar Direct, as of June 30, 2015, we estimate that a threshold of $100 million would include approximately 38% of fund firms and 0.1% of all fund assets. A threshold of $3 billion would include approximately 77% of fund firms and 1.6% of fund assets.

12-month extension of the compliance period for smaller entities appropriate? If not, what length of time (*e.g.,* 6 months or 18 months) would be adequate and why?

- With respect to our proposed amendments to Form N–PORT, is our compliance date of 18 months for larger filers appropriate? If not, what length of time would be appropriate for compliance with the proposed amendments? Would a shorter or longer compliance date be appropriate? Is our 12-month extension of the compliance period for smaller entities appropriate? If not, what length of time would be appropriate for compliance with the additional reporting requirements under the proposed amendments?
- Is our 18-month compliance period for our proposed amendments to Form N–CEN appropriate? If not, what length of time would be appropriate? Would a shorter or longer compliance date be appropriate?
- We are proposing to not have a compliance period for proposed amendments to rule 22c–1 regarding swing pricing policies procedures and related amendments to rule 31a–2, Form N–1A and Regulation S–X. Is this appropriate?
- Is our six-month compliance period for our proposed amendments to Form N–1A disclosure requirements regarding the redemption of fund shares adequate? If not, what length of time would be adequate and why?

IV. Economic Analysis

A. Introduction and Primary Goals of Proposed Regulation

The Commission is sensitive to the economic effects that could result from the proposed liquidity risk management program requirement, the ability for funds to use swing pricing under proposed rule 22c–1(a)(3), and the proposed new disclosure and reporting requirements regarding liquidity risk and liquidity risk management (such proposed rule and proposed amendments to certain rules and forms, the ''proposed liquidity regulations''). These economic effects include the benefits and costs of the proposed liquidity regulations, as well as the effects on efficiency, competition, and capital formation. The economic effects of the proposed liquidity regulations are discussed below in the context of the primary goals of the proposed regulation.

In summary, and as discussed in greater detail in section III above, the proposed liquidity regulations include the following:

- Proposed new rule 22e–4 would require that each fund establish a written liquidity risk management program. A fund's liquidity risk management program would be required to include the following elements: (i) Classification and ongoing review of the classification of the liquidity of each of the fund's positions in a portfolio asset (or portions of a position in a particular asset), taking into account certain specified factors; (ii) assessment and periodic review of its liquidity risk; and (iii) management of the fund's liquidity risk, including limitations on the fund's acquisition of less liquid assets or 15% standard assets in certain circumstances.
- Under proposed rule 22c–1(a)(3), a fund (except a money market fund or ETF) would be permitted (but not required) to establish and implement swing pricing policies and procedures that would, under certain circumstances, require the fund to use swing pricing to adjust its current NAV to lessen potential dilution of the value of outstanding redeemable securities caused by shareholder purchase and redemption activity. A fund that engages in swing pricing would be subject to certain disclosure and reporting requirements.
- Proposed amendments to Form N–1A, Regulation S–X, proposed Form N–PORT, and proposed Form N–CEN would require enhanced fund disclosure and reporting regarding position liquidity, shareholder redemption practices, and swing pricing.

The proposed liquidity regulations are designed to promote effective liquidity risk management throughout the open-end fund industry and thereby reduce the risk that funds will be unable to meet redemption obligations and mitigate dilution of the interests of fund shareholders in accordance with, among other provisions, section 22(e) and rule 22c–1 under the Investment Company Act. The proposed liquidity regulations also seek to enhance disclosure regarding fund liquidity and redemption practices. In addition, these proposed reforms are intended to address the liquidity-related developments in the open-end fund industry discussed above and are a part of a broader set of initiatives to address the impact of open-end fund investment activities on financial markets and the risks associated with the increasingly complex portfolio composition and operations of the asset management industry. We provide an overview of these rulemaking goals in the following paragraphs, and the goals are discussed in more detail below as we describe the prospective benefits and costs of each aspect of the proposal.[591]

A primary goal of the proposed liquidity regulations is to promote investor protection by reducing the risk that funds will be unable to meet their redemption obligations, elevating the overall quality of liquidity risk management across the fund industry, increasing transparency of funds' liquidity risks and risk management practices, and mitigating potential dilution of existing shareholders' interests. Funds are not currently subject to requirements under the federal securities laws or Commission rules that specifically require them to maintain a minimum level of portfolio liquidity (with the exception of money market funds), and follow Commission guidelines (not rules) that generally limit their investment in illiquid assets.[592] Additionally, funds today are only subject to limited disclosure requirements concerning a fund's liquidity risk and risk management.[593] Staff outreach has shown that funds today engage in a variety of different practices—ranging from comprehensive and rigorous to minimal and basic—for classifying the liquidity of their portfolio assets, assessing and managing liquidity risk, and disclosing information about their liquidity risk, redemption practices, and liquidity risk management practices to investors.[594] We believe that the proposed enhanced requirements for funds' assessment, management, and disclosure of liquidity risk could decrease the chance that funds would be unable to meet their redemption obligations and mitigate potential dilution of non-redeeming shareholders' interests.

The proposed liquidity regulations are also intended to lessen the possibility of early redemption incentives (and investor dilution) created by insufficient liquidity risk management, as well as the possibility that investors' share value will be diluted by costs incurred by the fund as a result of other investors' purchase or redemption activity. When a fund experiences significant redemption requests, it may sell portfolio securities or borrow funds in order to obtain sufficient cash to meet redemptions.[595] However, sales of a fund's portfolio assets conducted in order to meet shareholder redemptions could result in significant adverse consequences to non-redeeming

[591] *See infra* sections IV.C.1, IV.C.2, and IV.C.3.

[592] *See supra* section II.D; *infra* section IV.B.1.a.

[593] *See supra* section II.D; *infra* section IV.B.1.c.

[594] *See supra* section II.D; *infra* sections IV.B.1.a, IV.B.1.c.

[595] *See supra* section II.B.2; *infra* sections IV.C.1, IV.C.2.

shareholders when a fund fails to adequately manage liquidity. For example, if a fund sells portfolio assets under unfavorable circumstances, this could create negative price pressure on those assets and decrease the value of any of those assets still held by the fund.[596] Funds also may borrow from a bank or use interfund lending facilities to meet redemption requests, but there are costs associated with such borrowings. Both selling of portfolio assets and borrowing to meet redemption requests could cause funds to incur costs that would be borne at least partially by non-redeeming shareholders.[597] These factors could result in dilution in the value of non-redeeming shareholders' interests in a fund,[598] and also could create incentives for early redemptions in times of liquidity stress, which could result in further dilution of non-redeeming shareholders' interests.[599] There also is a potential for adverse effects on the markets when open-end funds fail to adequately manage liquidity. For example, the sale of less liquid portfolio assets at discounted or even fire sale prices can produce significant negative price pressure on those assets and correlated assets, which can impact other investors holding these assets and may transmit stress to other funds or portions of the markets.[600] For reasons discussed in detail below, we believe that the liquidity risk management program requirement and the ability for a fund to adopt swing pricing policies and procedures would mitigate the risk of potential shareholder dilution and decrease the incentive for early redemption in times of liquidity stress.

Finally, the proposed liquidity regulations are meant to address recent industry developments that have underscored the significance of funds' liquidity risk management practices. In recent years, there has been significant growth in the assets managed by funds with strategies that focus on holding relatively less liquid assets, such as fixed income funds (including emerging market debt funds), open-end funds with alternative strategies, and emerging market equity funds.[601] There also has been considerable growth in assets managed by funds that exhibit characteristics that could give rise to increased liquidity risk, such as relatively high investor flow volatility.[602] Additionally, as discussed in detail above, standard fund redemption and securities settlement periods have tended to become significantly shorter over the last several decades, which has caused funds to satisfy redemption requests within relatively short time periods (*e.g.,* within T+3, T+2, and next-day periods).[603] But while fund redemption periods have become shorter, certain funds have increased their holdings of portfolio securities with relatively long settlement periods, which could result in a liquidity mismatch between when a fund plans or is required to pay redeeming shareholders, and when any asset sales that the fund has executed in order to pay redemptions will settle.[604] Collectively, these industry trends have emphasized the importance of effective liquidity risk management among funds and enhanced disclosure regarding liquidity risk and risk management.

B. Economic Baseline

The proposed liquidity regulations would affect all funds and their investors, investment advisers and other service providers, all issuers of the portfolio securities in which funds invest, and other market participants potentially affected by fund and investor behavior. The effects of the proposed liquidity regulations on all of these parties are analyzed in detail below in the discussion of the costs and benefits of the proposed regulations. The economic baseline of the proposed liquidity regulations includes funds' current practices regarding liquidity risk management, swing pricing, and liquidity risk disclosure, as well as the economic attributes of funds that affect their portfolio liquidity and liquidity risk. These economic attributes include industry-wide trends regarding funds' liquidity and liquidity risk management, as well as industry developments highlighting the importance of robust liquidity risk management by funds.

1. Funds' Current Practices Regarding Liquidity Risk Management, Swing Pricing, and Liquidity Risk Disclosure

a. Funds' Current Liquidity Risk Management Requirements and Practices

Under section 22(e) of the Investment Company Act, an open-end fund is required to make payment to shareholders for securities tendered for redemption within seven days of their tender.[605] In addition to the seven-day redemption requirement in section 22(e), open-end funds that are sold through broker-dealers are required as a practical matter to meet redemption requests within three business days because broker-dealers are subject to rule 15c6–1 under the Exchange Act, which establishes a three-day (T+3) settlement period for security trades effected by a broker or a dealer. Furthermore, rule 22c–1 under the Act, the ''forward pricing'' rule, requires funds, their principal underwriters, and dealers to sell and redeem fund shares at a price based on the current NAV next computed after receipt of an order to purchase or redeem fund shares, even though cash proceeds from purchases may be invested or fund assets may be sold in subsequent days in order to satisfy purchase requests or meet redemption obligations.

With the exception of money market funds subject to rule 2a–7 under the Act, the Commission has not promulgated rules requiring open-end funds to invest in a minimum level of liquid assets.[606] The Commission historically has taken the position that open-end funds should maintain a high degree of portfolio liquidity to ensure that their portfolio securities and other assets can be sold and the proceeds used to satisfy redemptions in a timely manner in order to comply with section 22(e).[607] The Commission also has stated that open-end funds have a ''general responsibility to maintain a level of portfolio liquidity that is appropriate under the circumstances,'' and to engage in ongoing portfolio liquidity monitoring to determine whether an adequate level of portfolio liquidity is being maintained in light of the fund's redemption obligations.[608] Open-end funds also are required by rule 38a–1 under the Act to adopt and implement written compliance policies and procedures reasonably designed to prevent violations of the federal securities laws, and such policies and procedures should be appropriately tailored to reflect each fund's particular compliance risks.[609] An open-end fund

[596] *See supra* notes 46–48 and accompanying text.

[597] *See supra* notes 49–53 and accompanying text.

[598] *See supra* notes 46–48 and accompanying text; *infra* sections IV.C.1, IV.C.2.

[599] *See supra* notes 49–53 and accompanying text; *infra* sections IV.C.1, IV.C.2.

[600] *See supra* note 54 and accompanying text.

[601] *See supra* section II.C.1; *infra* section IV.B.3; *see also* DERA Study, *supra* note 39, at pp. 6–9.

[602] *See infra* section IV.B.3.

[603] *See supra* notes 73–77 and accompanying text.

[604] *See supra* notes 78–79 and accompanying text.

[605] *See* section 22(e) of the Investment Company Act. Section 22(e) of the Act provides, in part, that no open-end fund shall suspend the right of redemption or postpone the date of payment upon redemption of any redeemable security in accordance with its terms for more than seven days after tender of the security absent specified unusual circumstances.

[606] *See supra* note 85 and accompanying text.

[607] *See* Restricted Securities Release, *supra* note 86.

[608] *See supra* note 87 and accompanying text.

[609] *See* Rule 38a–1 Adopting Release, *supra* note 90.

holding a significant portion of its assets in securities with long settlement periods or with infrequent trading, for instance, may be subject to relatively greater liquidity risks than other open-end funds, and should have relatively more robust policies and procedures to comply with its redemption obligations.

Additionally, long-standing Commission guidelines generally limit an open-end fund's aggregate holdings of ''illiquid assets'' to 15% of the fund's net assets (the ''15% guideline'').[610] Under the 15% guideline, a portfolio security or other asset is considered illiquid if it cannot be sold or disposed of in the ordinary course of business within seven days at approximately the value at which the fund has valued the investment.[611] The 15% guideline has generally limited funds' exposure to particular types of securities that cannot be sold within seven days and that the Commission and staff have indicated may be illiquid, depending on the facts and circumstances.

Staff outreach has shown that funds currently employ a diversity of practices with respect to classifying portfolio assets' liquidity, as well as managing liquidity risk. Section II.D.3 above provides an overview of these practices, which include, among others: Assessing the ability to sell particular assets within various time periods, taking into account relevant market, trading, and other factors; monitoring initial liquidity determinations for portfolio assets (and modifying these determinations, as appropriate); holding certain amounts of the fund's portfolio in highly liquid assets or cash equivalents; establishing committed back-up lines of credit or interfund lending facilities; and conducting stress testing relating to the extent the fund has liquid assets to cover possible levels of redemptions.[612] We have observed that some of the funds with relatively more thorough liquidity risk management practices have appeared to be able to meet periods of high redemptions without significantly altering the risk profile of the fund or materially affecting the fund's performance, and thus with few dilutive impacts. It therefore appears that these funds have generally aligned their portfolio liquidity with their liquidity needs, and that their liquidity risk management permits them to efficiently meet redemption requests. Other funds, however, employ liquidity classification and liquidity risk management practices that are substantially less rigorous. As discussed above in section II.D.3, some funds do not take different market conditions into account when evaluating portfolio asset liquidity, and do not conduct ongoing liquidity monitoring. Likewise, some funds do not have independent oversight of their liquidity risk management outside of the portfolio management process. As a result, funds' procedures for classifying the liquidity of their portfolio securities, as well as the comprehensiveness and independence of their liquidity risk management, vary significantly.

b. Funds' Current Swing Pricing Practices

Commission rules and guidance do not currently address the ability of an open-end fund to use swing pricing to mitigate potential dilution of fund shareholders, and U.S. registered funds do not currently use swing pricing. However, as discussed above, certain foreign funds currently do use swing pricing.[613] We understand that some fund complexes that include U.S. registered funds also include foreign-domiciled funds that currently use swing pricing.

c. Funds' Current Liquidity Risk Disclosure Requirements and Practices

Items 4 and 9 of Form N–1A require a fund to disclose the principal risks of investing in the fund.[614] A fund currently must disclose the risks to which the fund's portfolio as a whole is expected to be subject and the circumstances reasonably likely to adversely affect the fund's NAV, yield, or total return.[615] Some funds currently disclose that liquidity risk is a principal risk of investing in the fund.

Item 11 of Form N–1A requires a fund to describe its procedure for redeeming fund shares, including restrictions on redemptions, any redemption charges, and whether the fund has reserved the right to redeem in kind.[616] Disclosure regarding other redemption information, such as the timing of payment of redemption proceeds to fund shareholders, varies across funds as there are currently no specific requirements for this disclosure. Some funds disclose that they will redeem shares within a specific number of days after receiving a redemption request, other funds disclose that they will honor such requests within seven days (as required by section 22(e) of the Act), and others provide no specific time periods. Additionally, some funds disclose differences in the timing of payment of redemption proceeds based on the distribution channel through which the fund shares are redeemed, while others do not.

Funds are not currently required to disclose information about the liquidity of their portfolio assets. However, Form N–PORT, as proposed earlier this year, would require that each fund disclose whether each particular portfolio security is an ''illiquid asset'' and defines illiquid assets in terms of current Commission guidelines (*i.e.,* assets that cannot be sold or disposed of by the fund within seven calendar days, at approximately the value ascribed to them by the fund).[617] Also, some funds voluntarily disclose in their registration statements any specific limitations applicable to the fund's investment in 15% guideline assets, as well as types of assets considered by the fund to be subject to the 15% guideline.

Form N–1A does not currently require funds to disclose information about liquidity risk management practices such as the establishment (or use) of committed back-up lines of credit. A fund is, however, required to disclose information regarding the amount and terms of unused lines of credit for short-term financing, as well as information regarding related party transactions in its financial statements or notes thereto.[618]

2. Economic Trends Regarding Funds' Liquidity and Liquidity Risk Management

a. Overview

While the liquidity of a fund's portfolio assets, and the fund's overall liquidity risk, depend on a variety of factors and are unique to the particular circumstances facing the fund,[619] analysis by staff economists has revealed trends that are useful for

[610] *See supra* note 92 and accompanying text.

[611] *See supra* note 93 and accompanying text.

[612] *See also e.g.,* Nuveen FSOC Notice Comment Letter, *supra* note 45 (discussing stress tests of a fund's ability to meet redemptions over certain periods); BlackRock FSOC Notice Comment Letter, *supra* note 50 (discussing several overarching principles that provide the foundation for a prudent market liquidity risk management framework for collective investment vehicles, including an independent risk management function, compliance checks to ensure portfolio holdings do not exceed regulatory limits, a risk management function that is independent from portfolio management, and measuring levels of liquid assets into ''tiers of liquidity''); Invesco FSOC Notice Comment letter, *supra* note 35, at 11 (discussing liquidity analysis).

[613] *See supra* notes 417–420 and accompanying text.

[614] Item 4(b)(1)(i) and Item 9(c) of Form N–1A.

[615] *Id.*

[616] Item 11(c) of Form N–1A.

[617] *See* General Instruction E of proposed Form N–PORT.

[618] *See* Regulation S–X 210.5–02.19(b); 210.4–08(k).

[619] *See supra* section III.B.2 (discussing factors relevant to an assessment of the liquidity of a fund's portfolio assets); *supra* section III.C.1 (discussing factors relevant to an assessment of a fund's liquidity risk).

providing an overview of the liquidity of funds exhibiting certain characteristics.[620] These trends are useful in estimating the relative level of liquidity of certain types of funds, and have thus helped to shape the scope and substance of the proposed liquidity regulations and to estimate the benefits and costs of the proposed liquidity regulations, as discussed below. Staff economists have also analyzed how fund portfolios change in response to decreases in market liquidity and large net outflows. These trends may be useful in examining how redemption requests could give rise to investor protection and potential market impact concerns.

b. Trends in the Relationship Between Liquidity of Portfolio Assets, Market Capitalization of Portfolio Assets, and Fund Assets

Staff economists have examined how the liquidity of U.S. equity funds' portfolios is influenced by both the market capitalization of a fund's portfolio assets, as well as the size of the fund in terms of assets. As described in more detail below, among U.S. equity funds, the average liquidity of a fund's equity positions is correlated with the market capitalization of a fund's portfolio assets, as well as the level of the fund's assets.[621] The staff's analysis with respect to these trends is, at this point, limited to an analysis of U.S. equity funds, on account of limitations in the availability of current data with respect to the holdings of funds that are not U.S. equity funds.[622] To the extent that Form N–PORT is adopted, we anticipate that the fund portfolio data filed on this form would significantly assist the staff in conducting similar liquidity-related analyses in the future.[623]

Fund liquidity tends to be highest for large cap U.S. equity funds and lowest for small cap U.S. equity funds.[624] As a U.S. equity fund's assets increase, fund liquidity also tends to increase. Among U.S. equity funds with less than $100 million in assets, the median price impact of ten million dollars in trading volume on the average portfolio asset is about 69 basis points; among U.S. equity funds with greater than $1 billion in assets, the same amount of trading volume has a median price impact of about 46 basis points.[625]

To the extent that a fund invests in portfolio assets that are relatively less liquid, the fund may experience greater liquidity risk than a fund that invests in portfolio assets that are highly liquid. Based in part on our empirical analysis, we have decided not to propose any modification of or exclusion from the proposed liquidity requirements for smaller funds, since smaller funds tend to demonstrate relatively high flow volatility (and thus possibly greater liquidity risk).[626] Also, based in part on staff analysis finding that different types of funds within the same broad investment strategy demonstrate different levels of liquidity (and thus, presumably, different levels of liquidity risk), we have decided not to propose to exclude certain investment strategies from the scope of the proposed rule.[627] Our cost estimates associated with the proposed liquidity risk management program requirement reflect staff analysis showing that certain types of funds tend to have relatively more liquid portfolios than others.[628]

We do note, however, that the staff's analysis discussed in the previous two paragraphs may overstate the difference in liquidity risk between funds with differing levels of asset liquidity for two reasons. First, the analysis performed by the staff does not reflect the fact that smaller funds will have smaller positions in the underlying equities, and sales of relatively small positions should result in less price impact than sales of larger positions (although the sale of smaller positions should have greater transaction costs as a percentage of sale proceeds). However, with respect to U.S. equity funds, staff analysis indicates that, on average, smaller funds hold assets that are relatively less liquid, which may at least partially offset that fact.[629] Second, the analysis does not reflect the fact that less liquid funds, regardless of style or size, may have larger cash and cash equivalent holdings or liquid asset buffers that may offset their less liquid holdings. Staff analysis does show that cash and cash equivalent holdings vary, on average, according to the funds' strategy, but cash and cash equivalent holdings also vary significantly among funds within a particular strategy.[630] That result implies that, even within a relatively less liquid strategy, certain funds within the strategy hold relatively little cash and cash equivalents.

c. Trends in the Manner in Which Funds' Portfolio Management Responds to Changes in Flow Volatility and Decreases in Market Liquidity

While portfolio managers consider a variety of factors when constructing a fund's portfolio (including the fund's investment strategies, economic and market trends, portfolio asset credit quality, and tax considerations), meeting daily redemption obligations is fundamental for open-end funds, and funds need to manage liquidity in order to meet obligations. We understand, based on statements from members of the fund industry and staff outreach, that funds generally consider the portfolio management process to be of central importance in managing funds' liquidity risk.[631] Commission staff has analyzed whether the liquidity of funds' portfolio holdings, as well as funds' holdings of cash and cash equivalents, is correlated with certain events that could affect a fund's liquidity risk—that is, increased flow volatility, and decreased market liquidity. As described in more detail below, staff analysis shows empirical results indicating that funds' portfolio holdings tend to be less liquid, and their holdings of cash and cash equivalents tend to be lower, when funds encounter periods of decreased flow volatility. These results indicate that certain funds' portfolio construction takes liquidity risk management into account and, as discussed below, the details comprising these results have both reinforced our understanding of the benefits of the proposed regulations and have shaped certain of the provisions of the proposed regulations.

The results of the staff's analysis demonstrate that, with respect to U.S. equity funds, the liquidity of funds' holdings of equity securities is higher

[620] The analysis discussed in this section reflects an evaluation of data on U.S. funds (primarily, U.S. equity funds and U.S. municipal bond funds) from the years 1999–2014, conducted by economists in the Commission's Division of Economic and Risk Analysis. DERA Study, *supra* note 39.

[621] For these purposes, ''average liquidity of a fund's equity positions'' is defined as the asset-weighted average liquidity of the individual equity positions held by the fund. Liquidity for individual equity positions is calculated using the Amihud liquidity measure because it is a widely accepted liquidity measure. *See id.,* section 4.1. *See also* Yakov Amihud, *Illiquidity and Stock Returns: Cross-Section and Time-Series Events,* 5 J. of Fin. Markets (2002) 31 (''Amihud'').

[622] DERA Study, *supra* note 39, at pp. 31–32.

[623] *See infra* section IV.C.3.b.

[624] DERA Study, *supra* note 39, at pp. 29–30.

[625] *Id.*

[626] *See infra* section VI; *infra* note 727 and accompanying text.

[627] *See infra* notes 726–727 and accompanying text.

[628] *See infra* section IV. C.1. and accompanying text.

[629] DERA Study, *supra* note 39, at pp. 29–30.

[630] DERA Study, *supra* note 39, at pp. 10–12. The DERA Study describes how cash and cash equivalents are defined for these purposes.

[631] *See, e.g.,* ICI FSOC Notice Comment Letter, *supra* note 16, at 14 (''For mutual funds, the central importance of meeting redemptions means that liquidity management is a key element of regulatory compliance, investment risk management, and portfolio management—and a constant area of focus.'').

when flow volatility is higher.[632] As discussed above, staff's analysis with respect to trends that reflect the liquidity of funds' non-cash (or cash equivalent) holdings is limited to an analysis of U.S. equity funds, on account of limitations in the availability of current data with respect to the holdings of funds that are not U.S. equity funds.[633] However, the staff was able to conduct similar analyses regarding the relationship between flow volatility and portfolio liquidity with respect to U.S. municipal bond funds, which are unique in that their holdings typically consist only of U.S. municipal bonds and cash and cash equivalents. Because U.S. municipal bonds are less liquid than cash, any change in the relative holdings of municipal bonds and cash and cash equivalents indicates a change in the fund's portfolio liquidity. Unlike U.S. municipal bond funds, other types of funds tend to hold portfolio assets that are not as homogenous, and thus staff would not be able to assume that changes in relative holdings across asset classes could indicate a change in the fund's portfolio liquidity. With respect to U.S. municipal bond funds, the holdings of municipal bonds (as opposed to these funds' holdings of cash and cash equivalents) are relatively lower when flow volatility is higher; holdings of municipal bonds are higher and holdings of cash and cash equivalents are lower when flow volatility is lower.[634] Thus, like U.S. equity funds, U.S. municipal bond funds' portfolio liquidity tends to be higher when flow volatility is higher. Likewise, staff analysis of the cash and cash equivalent holdings of all funds (regardless of strategy) shows that funds with more volatile flows tend to hold more cash and cash equivalents.[635]

The results of staff's analysis on the relationship between portfolio liquidity and fund flow volatility are significant for several reasons. First, these results suggest that, as indicated by funds in the course of staff outreach and in funds' statements regarding their liquidity risk management, some funds actively manage their portfolio liquidity to respond to events that could challenge funds' ability to plan to meet redemption requests. These results also emphasize that flow volatility is a relevant factor that a fund should consider when assessing liquidity risk and managing the liquidity profile of its portfolio. Rule 22e–4 as proposed reflects this by requiring a fund to consider its cash flow projections in assessing its liquidity risk (and determining its three-day liquid asset minimum), including the volatility of historical purchases and redemptions of fund shares during normal and stressed periods.[636]

While increased flow volatility could make a fund less certain as to the extent of redemption requests it will be required to meet, changes in market liquidity (that is, the extent to which market factors affect the liquidity of a fund's portfolio holdings) could make a fund less certain that the assets its holds are sufficient to meet redemption requests, or meet such requests in a way that minimizes dilution of non-redeeming shareholders. Thus, both increased flow volatility and decreased market liquidity could increase a fund's liquidity risk. While staff analysis shows that U.S. equity fund liquidity decreased sharply during the 2007–2009 financial crisis, the cause of this decrease in liquidity is initially unclear.[637] Fund liquidity could have decreased because of a general decrease in the liquidity of all assets in the market, or fund liquidity could have decreased as a result trading activity—for instance, if the fund were to sell its most liquid assets to pay redeeming shareholders or if the fund were to buy less liquid assets because of perceived profit opportunities. Staff analysis, however, suggests that decreases in the liquidity of U.S. equity funds are generally driven by changes in market liquidity and that funds do limited trading to offset such decreases.[638] For the average U.S. equity fund, when market liquidity decreases by 1% from the previous quarter, fund liquidity decreases by 0.93% from the previous quarter. Conversely, when market liquidity increases by 1% from the previous quarter, fund liquidity increases by 0.82% from the previous quarter.[639] So, while the results are consistent with the view that U.S. equity funds actively manage their portfolio liquidity, funds appear to make only minor adjustment to their portfolio in response to changes in market liquidity.[640]

This analysis demonstrates that fund portfolio liquidity tends to be lower during periods of decreased market liquidity. Based on this analysis, if a shareholder were to redeem shares during a period of decreased market liquidity, funds would likely have a less liquid portfolio of assets available to sell to meet redemptions. To the extent that selling those relatively less liquid assets requires the fund to accept a discount from the assets' market value, the value of the fund's shares would be negatively affected. Our staff's analysis thus highlights a source of potential concern regarding investor protection, reinforcing our motivation to propose regulations to better protect investors by enhancing funds' liquidity risk management. A primary benefit of the proposed liquidity risk management program requirement, discussed below, is the potential for the requirement to improve investor protection by decreasing the likelihood that a fund would be unable to meet its redemption obligations, or meet such obligations by materially affecting the fund's NAV.[641]

d. Trends in Fund Strategies To Meet Redemption Requests

A fund may meet redemption requests in a variety of ways, including by using available cash to pay all redemptions. If a fund were to sell portfolio assets in order to meet redemption requests, the fund's portfolio liquidity will be affected by the choice of which assets will be sold. Subsequent rebalancing of the fund's portfolio after redemptions are met will also affect portfolio liquidity. For example, a fund facing a large redemption request can lessen the price impact of selling assets by selling the most liquid portion of the portfolio.[642] That choice benefits non-redeeming investors by minimizing the loss in fund value due to the price impact of selling, but it also could increase the liquidity risk of the fund portfolio.[643] If the fund instead were to

[632] DERA Study, *supra* note 39, at p. 37.

[633] *See supra* notes 622–623 and accompanying text.

[634] DERA Study, *supra* note 39, at pp. 39–40.

[635] DERA Study, *supra* note 39, at pp. 41–42.

[636] *See* proposed rule 22e–4(b)(2)(iii)(A)*(1).*

[637] DERA Study, *supra* note 39, at pp. 30–31.

[638] DERA Study, *supra* note 39, at Section 6. As discussed above, staff's analysis with respect to trends that reflect the liquidity of funds' non-cash (or cash equivalent) holdings is limited to an analysis of U.S. equity funds, on account of limitations in the availability of current data with respect to the holdings of funds that are not U.S. equity funds. *See also supra* notes 622–623 and accompanying text.

[639] DERA Study, *supra* note 39, at pp. 34–35.

[640] Funds may be unable to fully offset decreases in market liquidity because of their investment mandate. A small cap mutual fund cannot simply begin buying only large cap stocks just because the liquidity of small cap stocks has decreased.

[641] *See infra* section IV.C.1.b.

[642] We note that in some instances, selling only the most liquid assets to meet a large redemption could be inconsistent with the fund's investment mandate. For example, if a fund's investment mandate required it to hold a certain percentage of its portfolio in equities, the fund might not be able to sell a large portion of its equity holdings to meet redemption requests and still hold the required percentage of its portfolio in equities.

[643] *See, e.g., supra* note 37 (discussing recent circumstances in which, during a year of heavy redemptions that caused a high yield bond fund's

sell a ''strip'' of the portfolio (*i.e.,* a cross-section or representative selection of the fund's portfolio assets), the impact on fund value may be greater, but the liquidity of the fund portfolio would be unchanged as a result of the sale. Funds also could choose to meet redemptions by selling a range of assets in between its most liquid, on one end of the spectrum, and a perfect pro rata strip of assets, on the other end of the spectrum. Additionally, funds could choose to opportunistically pare back or eliminate holdings in a particular asset or sector to meet redemptions.

Staff analysis of the impact of large redemptions on portfolio liquidity suggests that the typical U.S. equity fund does not sell a strip of its portfolio assets to meet redemptions, but instead appears—based on changes in funds' portfolio liquidity following net outflows—to disproportionately sell the more liquid portion of its portfolio for this purpose.[644] Similarly, staff analysis shows that when a U.S. municipal bond fund encounters net outflows, the typical U.S. municipal bond fund will experience an increase in its holdings of municipal bonds (and a decrease in its holdings of cash and cash equivalents), thus decreasing the fund's overall portfolio liquidity.[645] This suggests that U.S. municipal bond funds tend to satisfy redemption requests with cash, and not by selling a strip of the fund's portfolio assets.

Holding all else equal, as the liquidity of a U.S. equity fund portfolio decreases, the price impact of selling a strip of that portfolio increases.[646] As a result, we would expect less liquid U.S. equity funds to have greater incentive to meet redemption requests by selling their most liquid assets rather than a strip of their portfolio. Staff analysis suggests that, as initial liquidity decreases, U.S. equity funds do become more likely to disproportionately sell their relatively more liquid assets, rather than strips of their portfolio, to meet redemptions.[647] That choice has the effect of decreasing the liquidity of the portfolio, which could potentially disadvantage non-redeeming shareholders by increasing the fund's liquidity risk.[648] As discussed below, we believe that a significant benefit of the liquidity risk management program requirement is the decreased possibility that a fund's actions taken in order to pay redemptions would result in negative effects on the fund's liquidity profile that could ultimately harm non-redeeming shareholders.[649]

3. Fund Industry Developments Highlighting the Importance of Funds' Liquidity Risk Management

a. Overview

Along with staff analysis of economic relationships regarding funds' portfolio liquidity, evaluating recent fund industry developments also point to concerns about the need for funds to have liquidity risk management programs that will reduce the risk that funds will be unable to meet redemption obligations without materially affecting the fund's NAV or risk profile and mitigate dilution of interests of fund shareholders.[650] These developments include the growth in assets managed by funds with strategies that are generally viewed as concentrating in relatively less liquid asset holdings, as well as the growth in assets managed by funds with strategies that tend to exhibit relatively high portfolio flow volatility, which could give rise to increased liquidity risk. This section provides details about these industry trends.

Below we discuss the size and growth of the U.S. fund industry generally, as well as the growth of various investment strategies within the industry. We show that the fund industry has grown significantly in the past two decades, and during this period, funds with international strategies, fixed income funds, and funds with alternative strategies have grown particularly quickly. We also examine trends regarding the volatility and predictability of fund flows, discussing in particular those types of funds that demonstrate notably volatile and unpredictable flows. Because volatility and predictability in a fund's flows can affect the extent to which the fund is able to meet expected and reasonably foreseeable redemption requests without materially affecting a fund's NAV or dilution of the interests of fund shareholders, assessing trends regarding these factors can provide information about sectors of the fund industry that could be particularly susceptible to liquidity risk.

While we believe that these trends are relevant from the perspective of addressing potential liquidity risk in the fund industry (and in funds' underlying portfolio assets), we emphasize that liquidity risk is not confined to certain types of funds or investment strategies. Although we recognize that certain fund characteristics could make a fund relatively more prone to liquidity risk, we believe that all types of funds entail liquidity risk to some extent.[651] Thus, while in this section we discuss certain types of funds and strategies that are generally considered to exhibit increased liquidity risk, we are not asserting that *only* these types of funds and strategies involve liquidity risk, or that a fund of the type and with the strategy discussed below necessarily demonstrates greater liquidity risk than a fund that does not have these same characteristics.

b. Size and Growth of the U.S. Fund Industry and Various Investment Strategies Within the Industry

Open-end funds and ETFs manage a significant and growing amount of assets in U.S. financial markets. As of the end of 2014, there were 8,734 open-end funds (excluding money market funds, but including ETFs), as compared to 5,279 at the end of 1996.[652] The assets of these funds were $15.05 trillion in 2014, having grown from about $2.63 trillion in 1996.[653] Within these figures, the number of ETFs and ETFs' assets have increased notably in the past decade. There were 1,411 ETFs in 2014, as opposed to a mere 119 in 2003, and ETFs' assets have increased from $151 billion in 2003 to $1.9 trillion in 2014.[654]

U.S. equity funds represent the greatest percentage of U.S. open-end fund industry assets.[655] Excluding ETFs, money market funds and variable annuities, open-end U.S. equity funds held 44.5% of U.S. fund industry assets as of the end of 2014. The investment

assets to shrink 33% in this period, the fund's holdings of bonds rated triple-C or below grew to 47% of assets, from 35% before the redemptions).

[644] DERA Study, *supra* note 39, at pp. 43–46.

[645] DERA Study, *supra* note 39, at pp. 47–49; *see also supra* notes 633–634 and accompanying text (discussing the staff's assumptions that a decrease in the holdings of municipal bonds by a U.S. municipal bond fund would increase the fund's liquidity, as well as the reasons that the staff does not make similar assumptions about funds other than U.S. municipal bond funds).

[646] DERA Study, *supra* note 39, at pp. 25–26. The Amihud liquidity measure used in this analysis measures price impact. When using this measure, price impact increases when liquidity decreases, by definition. However, using alternative measures of liquidity, this statement would not necessarily be true. *See supra* note 621.

[647] DERA Study, *supra* note 39, at pp. 45–46 and Table 19.

[648] While a holder of an illiquid asset receives compensation in the form of an illiquidity premium (*see, e.g.,* Amihud, *supra* note 621, at 31), non-redeeming investors might not be aware of the change in portfolio liquidity and would therefore maintain an allocation that does not reflect their liquidity risk preference.

[649] *See infra* section IV.C.1.b.

[650] *See supra* section IV.A.

[651] *See supra* section III.A.2.

[652] *See* 2015 ICI Fact Book, *supra* note 3, at 177, 184.

[653] *See* 2015 ICI Fact Book, *supra* note 3, at 175, 183.

[654] *See* 2015 ICI Fact Book, *supra* note 3, at 60.

[655] DERA Study, *supra* note 39, at Table 1.

strategies with the next-highest percentages of U.S. fund industry assets are foreign equity funds (15.4%), mixed strategy funds (13.7%), and general bond funds (13.3%).[656] Funds with alternative strategies only represent a small percentage of the U.S. fund industry assets, but as discussed below, the number of alternative strategy funds and the assets of this sector have grown considerably in recent years.[657]

While the overall growth rate of funds' assets has been generally high (about 8.0% per year, between the years 2000 and 2014 [658]), it has varied significantly by investment strategy.[659] U.S. equity funds' assets grew substantially in terms of dollars from the end of 2000 to 2014,[660] but this sector's assets as a percentage of total U.S. fund industry assets decreased from about 65% to about 45% during that same period.[661] Like U.S. equity funds, the assets of U.S. corporate bond funds, government bond funds, and municipal bond funds also increased in terms of dollars from 2000 to 2014, but each of these sectors' assets as a percentage of the fund industry decreased during this period.[662] On the other hand, the assets of foreign equity funds, general bond funds, and foreign bond funds increased steadily and substantially as a percentage of the fund industry over the same period.[663] For example, foreign equity funds increased steadily from 10.6% of total industry assets in 2000 to 15.4% in 2014. And within these three investment strategies, certain investment subclasses (emerging market debt and emerging market equity) have grown particularly quickly from 2000 to 2014.[664]

The assets of funds with alternative strategies [665] also have grown rapidly in recent years. From 2005 to 2014, the assets of alternative strategy funds grew from $366 million to $334 billion, and from the end of 2011 to the end of 2013, the assets of alternative strategy funds grew by almost 80% each year. However, as discussed above, funds with alternative strategies remain a relatively small portion of the U.S. fund industry as a percentage of total assets.[666] While growth in funds with alternative strategies has slowed over the past year, a rising interest rate environment could cause inflows to these funds to increase once again, as investors look to reduce their interest rate risk and/or increase income by investing in alternative strategies.[667]

c. Significance of Fund Industry Developments

The industry developments discussed above are notable for several reasons. The growth of funds generally over the past few decades demonstrates that investors have increasingly come to rely on investments in funds to meet their financial needs.[668] As investments in funds increase, the need for continued effective regulations to protect investors is paramount. Initiatives such as the proposed liquidity regulations, which aim to promote shareholder protection by enhancing funds' liquidity risk management, are important to decrease the risk that funds will be unable to meet redemption obligations and reduce potential dilution of the interests of fund shareholders.

These trends also demonstrate growth in particular types of funds that may entail increased liquidity risk. In particular, there has been significant growth in high-yield bond funds, emerging market debt funds, and funds with alternative strategies. Commissioners and Commission staff have previously spoken about the need to focus on potential liquidity risks relating to fixed income assets and fixed income funds,[669] and within this sector, funds that invest in high-yield bonds could be subject to greater liquidity risk as they invest in lower-rated bonds that tend to be less liquid than investment grade fixed income securities.[670] Emerging market debt funds may invest in relatively illiquid securities with lengthy settlement periods.[671] Likewise, funds with alternative strategies may invest in portfolio assets that are relatively illiquid.[672] Moreover, Commission staff economists have found that both foreign bond funds (including emerging market debt funds) and alternative strategy funds have historically experienced relatively more volatile and unpredictable flows than the average mutual fund,[673] which could increase these funds' liquidity risk by making it more difficult to plan to meet fund redemptions (and thus, more likely that a fund may need to sell portfolio assets in a manner that creates a market impact in order to pay redeeming shareholders).[674] On account of these characteristics of high-yield bond funds, emerging market debt

[656] *Id.* The figure for general bond funds does not include assets attributable to foreign bond funds (2.0%), U.S. corporate bond funds (0.8%), U.S. government bond funds (1.3%), and U.S. municipal bond funds (4.5%).

[657] DERA Study, *supra* note 39, at pp. 7–8.

[658] DERA Study, *supra* note 39, at Table 2.

[659] The figures in this paragraph and the following paragraph, discussing the variance in growth rate of funds' assets by investment strategy, exclude ETF assets.

[660] U.S. equity funds held about $5.6 trillion as the end of 2014, compared to about $2.9 trillion at the end of 2000. DERA Study, *supra* note 39, at Table 2.

[661] DERA Study, *supra* note 39, at Table 2.

[662] *Id.* U.S. corporate bond funds held about $99 billion at the end of 2014, as opposed to $66 billion in 2000; these funds' assets as a percentage of the U.S. fund industry decreased from 1.5% in 2000 to 0.8% in 2014. U.S. government bond funds held about $166 billion at the end of 2014, as opposed to $91 billion in 2000; these funds' assets as a percentage of the U.S. fund industry decreased from 2.1% in 2000 to 1.3% in 2014. U.S. municipal bond funds held about $565 billion at the end of 2014, as opposed to $278 billion in 2000; these funds' assets as a percentage of the U.S. fund industry decreased from 6.3% in 2000 to 4.5% in 2014.

[663] *Id.* Foreign equity funds held about $1.9 trillion in 2014, as opposed to $465 billion in 2000; these funds' assets as a percentage of the U.S. fund industry increased from 10.6% in 2000 to 15.4% in 2014. U.S. general bond funds held about $1.7 trillion at the end of 2014, as opposed to $240 billion in 2000; these funds' assets as a percentage of the U.S. fund industry increased from 5.4% in 2000 to 13.3% in 2014. Foreign bond funds held about $259 billion at the end of 2014, as opposed to $19 billion in 2000; these funds' assets as a percentage of the U.S. fund industry increased from 0.4% in 2000 to 2.0% in 2014.

[664] DERA Study, *supra* note 39, at p. 9. Emerging market debt and emerging market equity funds held about $334 billion at the end of 2014, as opposed to $20 billion in 2000. The assets of emerging market debt funds and emerging market equity funds grew by an average of 20.8% and 22.7%, respectively, each year from 2000 through 2014.

These investment subclasses represent a small portion of the U.S. mutual fund industry (the combined assets of these investment subclasses as a percentage of the U.S. fund industry was 2.6% at the end of 2014).

[665] *See supra* note 64 for a discussion of the primary investment strategies practiced by ''alternative strategy'' funds.

[666] *See supra* note 657 and accompanying text.

[667] *See supra* note 66.

[668] *See supra* note 6 and accompanying text.

[669] *See supra* note 62 and accompanying text.

[670] The Commission and Commission staff have cautioned that high yield securities may be considered to be illiquid, depending on the facts and circumstances. *See* Interval Fund Proposing Release, *supra* note 83; *see also* SEC Investor Bulletin, What Are High-Yield Corporate Bonds?, *available at http://www.sec.gov/investor/alerts/ib_high-yield.pdf* (noting that high-yield bonds may be subject to more liquidity risk than, for example, investment-grade bonds). *But see* BlackRock, Viewpoint, Who Owns the Assets?, *supra* note 79 (discussing the liquidity characteristics of high-yield bond funds in depth, and noting that these funds have weathered multiple market environments, and are generally managed with multiple sources of liquidity).

[671] *See, e.g., supra* note 197 and accompanying text (discussing the settlement cycles associated with transactions in certain foreign securities); *see also* Reuters, ''Fitch: Close Look at EM Corporate Bond Trading Reveals Liquidity Risks'' (Apr. 16, 2015), *available at http://www.reuters.com/article/2015/04/16/idUSFit91829620150416. But see* BlackRock, Viewpoint, Who Owns the Assets?, *supra* note 79 (discussing the liquidity characteristics of emerging market debt funds in depth, and noting that these funds tend to hold a portion of their assets in developed market government bonds (providing further liquidity), generally establish limits on less liquid issuers, and generally maintain allocations to cash for liquidity and rebalancing purposes).

[672] *See supra* notes 68–72 and accompanying text.

[673] DERA Study, *supra* note 39, at pp. 16–24.

[674] *See supra* notes 269–270 and accompanying text.

funds, and funds with alternative strategies, we are concerned that the growth in these strategies could give rise to increased concerns regarding these funds' liquidity risk.

C. Benefits and Costs, and Effects on Efficiency, Competition, and Capital Formation

Taking into account the goals of the proposed liquidity regulations and the economic baseline, as discussed above, this section explores the benefits and costs of the proposed liquidity regulations, as well as the potential effects of the proposed liquidity regulations on efficiency, competition, and capital formation. This section also discusses reasonable alternatives to proposed rule 22e–4, proposed rule 22c–1(a)(3), and the proposed disclosure and reporting requirements regarding funds' liquidity risk and liquidity risk management and swing pricing.

1. Proposed Rule 22e–4

a. Requirements of Proposed Rule 22e–4

Proposed rule 22e–4 would require each fund to establish a written liquidity risk management program. The proposed rule specifies that a fund's liquidity risk management program shall include the following required program elements: (i) Classification and ongoing review of the classification of the liquidity of each of the fund's positions in a portfolio asset (or portions of a position in a particular asset), taking into account certain specified factors set forth in the rule;[675] (ii) assessment and periodic review of the fund's liquidity risk taking into account certain specified factors set forth in the rule;[676] and (iii) management of the fund's liquidity risk.[677] A fund's policies and procedures for managing liquidity risk, in turn, must incorporate the determination and periodic review of the adequacy of a fund's three-day liquid asset minimum (that is, the percentage of the fund's net assets that must be invested in three-day liquid assets).[678] Proposed rule 22e–4 would also prohibit a fund from acquiring any: (i) Less liquid asset, if immediately after the acquisition, the fund would have invested less than its three-day liquid asset minimum in three-day liquid assets;[679] or (ii) 15% standard asset, if immediately after the acquisition, the fund would have invested more than 15% of its net assets in 15% standard assets.[680] In addition, proposed rule 22e–4 would require a fund to establish policies and procedures regarding redemptions in kind, to the extent that the fund engages in or reserves the right to engage in redemptions in kind.[681]

A fund's board, including a majority of the fund's independent directors, would be required to approve the fund's liquidity risk management program (including the fund's three-day liquid asset minimum), as well as any material change to the program.[682] The fund would be required to designate the fund's adviser or officers responsible for administering the program, and such designation is required to be approved by the fund's board of directors.[683] The fund's board would also be required to review, at least annually, a written report prepared by the fund's investment adviser or officers administering the liquidity risk management program reviewing the adequacy of the fund's liquidity risk management program, including the fund's three-day liquid asset minimum, and the effectiveness of its implementation.[684]

Proposed rule 22e–4 also includes certain recordkeeping requirements. A fund would be required to keep a written copy of its liquidity risk management policies and procedures, as well as copies of any materials provided to the fund's board in connection with the approval of the initial liquidity risk management program and any material changes to the program and annual board reporting requirement.[685] A fund also would be required to keep a written record of how its three-day liquid asset minimum, and any adjustments thereto, were determined.[686]

b. Benefits

We believe that proposed rule 22e–4 is likely to produce benefits for current and potential fund investors. Specifically, we believe that the proposed program requirement is likely to improve investor protection by decreasing the chance that a fund would be unable to meet its redemption obligations, would meet such obligations only by materially affecting the fund's NAV, or would meet such obligations through methods that would have other adverse impacts on non-redeeming investors (*e.g.,* increased risk exposure and decreased liquidity). Funds are not currently subject to specific requirements under the federal securities laws or Commission rules obliging them to manage their liquidity risk.[687] Also, with the exception of money market funds, funds are currently guided by Commission guidelines (not rules) that generally limit their investment in illiquid assets.[688] As discussed above, funds today employ notably different practices for assessing and classifying the liquidity of their portfolio assets, as well as for assessing and managing fund liquidity risk. Some of these practices take into account multiple aspects relating to portfolio assets' liquidity (including relevant market, trading, and asset-specific factors), involve comprehensive assessment and robust management of fund liquidity risk, and incorporate ongoing review of both portfolio liquidity and fund liquidity risk. Outreach by Commission staff has found that practices of some funds raise concerns regarding various funds' ability to meet their redemption obligations and lessen the effects of dilution. Also, while some funds have independent oversight of their liquidity risk outside of the portfolio management process, others do not. While a fund's portfolio management has access to a great deal of information relevant to the liquidity of the fund's portfolio assets, and thus pertinent to the fund's liquidity risk, a portfolio manager may have conflicts of interest that could impede effective liquidity risk management.[689] For example, because investments in relatively less liquid assets may result in higher total returns for a fund, fund managers may have incentive to increase their funds' investment in illiquid assets levels in a manner that is potentially inconsistent with the funds' expected and reasonably foreseeable redemptions. Consequently, to the extent that some funds do not currently meet the minimum baseline requirements for fund assessment and management of liquidity risk proposed in this rule, investor protection would be enhanced by reducing the risk that funds will be unable to meet redemption obligations and mitigating dilution of fund shareholders.

We believe that the proposed liquidity risk management program requirement would promote improved alignment of the liquidity of the fund's portfolio with the fund's expected (and reasonably foreseeable) levels of redemptions. As discussed above, proposed rule 22e–4 would require each fund to consider a

[675] Proposed rule 22e–4(b)(2)(i)–(ii).
[676] Proposed rule 22e–4(b)(2)(iii).
[677] Proposed rule 22e–4(b)(2)(iv).
[678] Proposed rule 22e–4(b)(2)(iv)(A)–(B).
[679] Proposed rule 22e–4(b)(2)(iv)(C).
[680] Proposed rule 22e–4(b)(2)(iv)(D).
[681] Proposed rule 22e–4(b)(2)(iv)(E).
[682] Proposed rule 22e–4(b)(3)(i).
[683] Proposed rule 22e–4(b)(3)(iii).
[684] Proposed rule 22e–4(b)(3)(ii).
[685] Proposed rule 22e–4(c)(1) and (2).
[686] Proposed rule 22e–4(c)(3).
[687] *See supra* section IV.B.1.a.
[688] *See id.*
[689] *See* text accompanying *supra* note 258.

standard set of factors, as applicable, in classifying the liquidity of its portfolio assets and in assessing its liquidity risk, and to determine a three-day liquid asset minimum to increase the likelihood that the fund will hold adequate liquid assets to meet redemption requests without materially affecting the fund's NAV. Each fund would have flexibility to determine the particular assets that it holds in connection with its three-day liquid asset minimum. Assets eligible for inclusion in a fund's three-day liquid asset minimum holdings could include a broad variety of securities, as well as cash and cash equivalents. While one fund may conclude that it is appropriate to hold a significant portion of its three-day liquid assets in cash and cash equivalents, another could decide it is appropriate to hold assets that are convertible to cash within longer periods (but not exceeding three business days) as the majority of its three-day liquid asset minimum holdings. We believe that the proposed three-day liquid asset minimum requirement would allow funds to continue to meet a wide variety of investors' investment needs by obliging funds to maintain appropriate liquidity in their portfolios, while permitting funds to remain substantially invested in portfolio assets that conform to their investment strategies. The limitation on acquisition of 15% standard assets would complement the three-day liquid asset minimum requirement to increase the likelihood that a fund's portfolio is not overly concentrated in assets whose liquidity is extraordinarily limited.

We believe that the proposed rule also would decrease the probability that a fund will be able to meet redemption requests only through activities that can materially affect the fund's NAV or risk profile or dilute the interests of fund shareholders. For example, when a fund does not effectively manage liquidity and is faced with significant redemptions, it may be forced to sell portfolio assets under unfavorable circumstances, which could create significant negative price pressure on those assets.[690] This, in turn, could disadvantage non-redeeming shareholders by decreasing the value of those shareholders' interests in the fund.[691] Even if a fund were to sell the most liquid portion of its portfolio to meet redemption requests, which would minimize the loss in fund value due to the price impact of selling, these asset sales could decrease the liquidity of the fund portfolio, potentially creating increased liquidity risk for non-redeeming shareholders. As discussed above, staff analysis suggests that U.S. equity funds may dispose of relatively more liquid assets first, as opposed to selling a pro rata ''strip'' of the fund's portfolio assets, which minimizes price impact on a fund in the short term, but ultimately decreases the liquidity of the fund's portfolio.[692] Short-term borrowings by a fund to meet redemption requests also could disadvantage non-redeeming shareholders by leveraging the fund and requiring the fund to pay interest on the borrowed funds (although, in some instances, the costs of borrowing may be less than the costs of selling assets to meet redemptions). For example, in a settled enforcement action, the Commission found that certain high-yield bond funds experienced liquidity problems and as a result, the funds borrowed heavily against a line of credit to meet fund redemption requests, which permitted shareholders to redeem fund shares at prices above the fair value of the fund's holdings. The result was a benefit to redeeming shareholders at the expense of remaining and new shareholders.[693] Moreover, the costs of borrowing (that is, the costs associated with maintaining a committed line of credit, as well as interest expenses associated with drawing on a credit line) could be passed on to fund shareholders in the form of fund operating expenses, which could adversely affect a fund's NAV. It is possible that such costs could exceed any price impact caused by asset sales conducted to generate liquidity, particularly since the costs of maintaining a committed line of credit are ongoing costs, whereas the price impact caused by asset sales could be only temporary. To the extent that the proposed program requirement results in liquidity risk assessment and management that enhance funds' ability to meet redemption obligations, it would be less likely that a fund takes actions to pay redemptions that would materially affect the fund's NAV or have other adverse impacts on non-redeeming shareholders.

The potential negative consequences of asset sales effected to pay fund redemptions could create incentives in times of liquidity stress in the markets for early redemptions, or a ''first-mover advantage.'' [694] For example, recent academic studies have suggested that an incentive exists for market participants to front-run trades conducted by a fund in response to significant changes in fund flows.[695] This suggests that sophisticated fund investors could anticipate that significant fund outflows could lead a fund to conduct trades that would disadvantage non-redeeming shareholders, which could create an incentive to redeem ahead of such trades. Among U.S. equity funds, staff analysis suggests that, as a fund's liquidity decreases, a fund will become more likely to sell its relatively more liquid assets to pay redemptions (thus resulting in decreased liquidity in the fund's portfolio).[696] Thus, if investors' redemptions are motivated by a first-mover advantage, this could lead to increasing levels of redemptions, and as the level of outflows from a fund increases, the incentive to redeem also increases. Any negative effects on non-redeeming shareholders thus could be magnified by a first-mover advantage to the extent that this dynamic produces growing redemptions and decreased portfolio liquidity. While we understand that fund investors may not have historically been motivated to redeem on account of a perceived (or actual) first-mover advantage during previous periods of stress,[697] we cannot predict how investors may behave in the future. The first-mover advantage is more commonly referenced with respect to money market funds, but the incentives that have been argued to create the first-mover advantage among those funds exist (in possibly weaker form) among other open-end funds. To the extent that economic incentives exist to redeem fund shares prematurely, this could lead to investor dilution as discussed above, and the possibility of protecting against this potential dilution is one motivating aspect (but not the only or key

[690] *See* Coval & Stafford, *supra* note 51 (discussing how mutual fund fire sales impact asset prices).

[691] While the impact of fire sales on asset prices may be short lived in some instances, Coval and Stafford show that the impact of fire sales can often take many months to dissipate. *Id.*

[692] *See supra* note 39 and accompanying discussion.

[693] Heartland Release, *supra* note 47.

[694] *See supra* note 49 and accompanying text (discussing the possibility of a first-mover advantage with respect to the timing of shareholder redemption from funds). *But see supra* note 50 (discussing arguments that such a first-mover advantage does not exist in funds, as well as arguments that even if incentives to redeem ahead of other shareholders do exist, this does not necessarily imply that investors will in fact redeem *en masse* in times of market stress).

[695] *See* Coval & Stafford, *supra* note 51; Dyakov & Verbeek, *supra* note 51.

[696] *See supra* section II.B.2.

[697] *See, e.g.,* Comment Letter of Wellington Management Group LLP on the FSOC Notice (Mar. 25, 2015), at 4; ICI FSOC Notice Comment Letter, *supra* note 16, at 7; Nuveen FSOC Notice Comment Letter, *supra* note 45, at 10 (all arguing that evidence shows that fund shareholders' redemptions are largely driven by other concerns rather than a theoretical first-mover advantage).

motivating aspect [698]) of the overall goal of investor protection that we believe the proposed rule 22e–4 would accomplish.

We recognize that certain funds already engage in fairly comprehensive liquidity risk management practices, and the proposed program requirement would likely benefit these funds' shareholders less than it would benefit the shareholders of funds that do not employ equally rigorous practices. The proposed program requirement aims to promote a minimum baseline in the fund industry, both in the assessment of portfolio assets' liquidity and the evaluation of factors relevant to liquidity risk management. This, in turn, we believe would promote investor protection by elevating the overall quality of liquidity risk management across the fund industry, reducing the likelihood that funds will meet redemption obligations only through activities that could materially affect fund NAVs or risk profiles, and mitigating dilution of shareholder interests. We cannot quantify the total benefits to fund operations and investor protection that we discuss above, but to the extent that staff outreach has noted that some funds currently have no (or very limited) formal liquidity risk management programs in place, proposed rule 22e–4 would enhance current liquidity risk management practices.

We also believe that the liquidity risk management program requirement, as proposed, would not adversely impact fund diversity and investor choice. While the proposed liquidity risk management program requirement would include certain required elements, and would require a fund to consider certain specified factors in classifying the liquidity of its portfolio assets and assessing its liquidity risk, it would not produce a de facto prohibition against certain investment strategies. We anticipate that the proposed three-day liquid asset minimum requirement would be sufficiently flexible to permit funds with different investment strategies, and whose cash flow and liquidity needs vary notably from one fund to the next, to manage their individual levels of liquidity risk. This proposed requirement would not mandate a standard level of minimum liquid asset holdings across the fund industry. Proposed rule 22e–4 thus would allow a fund with a relatively less liquid investment strategy to continue operating under that strategy, so long as the fund determines a three-day liquid asset minimum that takes into account the factors required to be considered under the proposed rule, and invests its assets in compliance with its three-day liquid asset minimum. (We recognize, however, that the proposed rule could result in a fund modifying its portfolio composition if it determines that the three-day liquid asset minimum that it should hold, as a result of its consideration of the required factors specified in the proposed rule, does not correspond with the fund's current portfolio composition.[699]) The proposed requirement would not adversely impact the diversity of investment strategies within the fund industry and would permit a fund investor to choose appropriate investment options for his or her risk tolerance and risk preferences.[700]

Finally, to the extent that the proposed program requirement results in funds less frequently needing to sell portfolio assets in unfavorable market conditions in order to meet redemptions, the proposed requirement also could lower potential spillover risks that funds could pose to the financial markets generally. For example, the proposed approach could decrease the risk that all investors holding an asset would be affected if a fund facing heavy redemptions were forced to sell portfolio assets under unfavorable circumstances, which in turn could create significant negative price pressure on those assets. If, as a result of the proposed program requirement, a fund was prepared to meet redemption requests in other ways, the proposed rule could decrease the risk that the fund might indirectly transmit stress to other market sectors and participants. While there have been examples of funds' liquidity risk management preventing spillover market effects that could have arisen in the face of significant shareholder redemptions, this prevention of larger market effects has occurred because of funds' organic liquidity risk management practices, and not because of any specific liquidity risk management requirements. It is unclear whether such organic practices will be sufficient to prevent future spillover market events of similar or greater magnitude. The proposed rule should help all funds, not just funds with liquidity risk management practices currently in place, operate in a manner that lessens the chance of spillover risks. We are unable to quantify this potential benefit because we cannot predict the extent to which funds would enhance their current liquidity risk management practices as a result of proposed rule 22e–4, or predict the precise circumstances that could entail negative spillover effects in light of less-comprehensive liquidity risk management by funds.[701]

c. Costs

One-Time and Ongoing Costs Associated With Program Establishment and Implementation

Funds would incur one-time costs to establish and implement a liquidity risk management program in compliance with proposed rule 22e–4, as well as ongoing program-related costs. As discussed above, funds today employ a range of different practices, with varying levels of comprehensiveness, for assessing and classifying the liquidity of their portfolio assets, as well as for assessing and managing fund liquidity risk. Accordingly, funds whose practices regarding portfolio asset liquidity classification and liquidity risk assessment and management most closely align with the proposed liquidity risk management program requirements would incur relatively lower costs to comply with proposed rule 22e–4. Funds whose practices for classifying the liquidity of their portfolio assets and for assessing and managing liquidity risk are less comprehensive or not closely aligned with our proposals, on the other hand, may incur relatively higher initial compliance costs.

Our staff estimates that the one-time costs necessary to establish and implement a liquidity risk management program would range from $1.3 million to $2.25 million [702] per fund complex,

[698] *See supra* notes 690–693 and accompanying text.

[699] *See infra* section IV.C.1.c.

[700] We also believe that investor choice would be facilitated by the proposed enhanced disclosure requirements, as discussed below at section IV.C.3.b.

[701] The ability of the Commission to perform such analysis is limited by difficulties in both gathering data about funds' liquidity risk management practices and quantifying such data.

[702] These cost estimates are based in part on the staff's recent estimates of the one-time systems costs associated with implementing the fees and gates provisions of the 2014 amendments to rule 2a–7 under the 1940 Act. *See* 2014 Money Market Fund Reform Adopting Release, *supra* note 85, at section III.A.5.b. Although the substance and content of systems associated with establishing and implementing a liquidity risk management program (including any systems changes associated with classifying the liquidity of funds' portfolio positions) would be different from the substance and content of systems associated with implementing the rule 2a–7 fees and gates provisions, the one-time costs associated with proposed rule 22e–4, like the one-time costs associated with the fees and gates provisions, would entail: Srafting relevant procedures; planning, coding, testing, and installing relevant

Continued

depending on the particular facts and circumstances and current liquidity risk management practices of the funds comprising the fund complex.[703] These estimated costs are attributable to the following activities, as applicable to each of the funds within the complex: (i) Developing policies and procedures relating to each of the required program elements,[704] and the related recordkeeping requirements of the proposed rule; (ii) planning, coding, testing, and installing any system modifications relating to each of the required program elements; (iii) integrating and implementing policies and procedures relating to each of the required program elements (including classifying the liquidity of each of the fund's positions in a portfolio asset (or portions of a position in a particular asset) in a portfolio asset pursuant to proposed rule 22e–4(b)(2)(i)), as well as the recordkeeping requirements of the proposed rule; (iv) preparing training materials and administering training sessions for staff in affected areas; and (v) board approval of the program. We anticipate that if there is demand to develop policies and procedures relating to each of the required program elements, third parties may develop programs that fund complexes could purchase for less than our estimated cost to develop the programs themselves. Indeed, we understand that third parties have already developed programs to classify the liquidity of portfolio assets, which are currently available for purchase.[705] Because the proposed requirement for a fund to limit acquisition of 15% standard assets under certain circumstances is similar to existing Commission guidelines, we assume that a fund complex would incur minimal costs associated with implementing the proposed requirement to limit acquisition of 15% standard assets with respect to each of its respective funds.[706]

We anticipate that, depending on the personnel (and/or third party service providers) involved with respect to the activities associated with establishing and implementing a liquidity risk management program, certain of the estimated one-time costs could be borne by the fund, and others could be borne by the fund's adviser. This cost allocation would be dependent on the facts and circumstances of a particular fund's liquidity risk management program, and thus we cannot specify the extent to which the estimated costs would typically be allocated to the fund as opposed to the adviser. Estimated costs that are allocated to the fund would be borne by fund shareholders in the form of fund operating expenses.

Staff estimates that each fund complex would incur ongoing program-related costs, as a result of proposed rule 22e–4, that range from 10% to 25% of the one-time costs necessary to establish and implement a liquidity risk management program.[707] Thus, staff estimates that a fund complex would incur ongoing annual costs associated with proposed rule 22e–4 that would range from $130,000 to $562,500.[708] These costs are attributable to the following activities, as applicable to each of the funds within the complex: (i) Classification and ongoing review of the classification of the liquidity of each of the fund's positions in a portfolio asset (or portions of a position in a particular asset) (proposed rule 22e–4(b)(2)(i)–(ii)); (ii) ongoing review of the fund's liquidity risk (proposed rule 22e–4(b)(2)(iii)); (iii) periodic review of the adequacy of the fund's three-day liquid asset minimum (proposed rule 22e–4(b)(2)(iv)(B)); (iv) systems maintenance; (v) additional staff training; (vi) approval by the board of any material change to the fund's liquidity risk management program (including a change to the fund's three-day liquid asset minimum) (proposed rule 22e–4(b)(3)(i)); (vii) periodic reports to the board of directors reviewing the adequacy of the fund's three-day liquid asset minimum (proposed rule 22e–4(b)(3)(ii)); and (viii) recordkeeping relating to the fund's liquidity risk management program (proposed rule 22e–4(c)).[709]

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system modifications; integrating and implementing relevant procedures; and preparing training materials and administering training sessions for staff in affected areas. *See id.* However, in estimating the one-time costs associated with proposed rule 22e–4, staff has adjusted the estimated one-time systems costs associated with implementing the fees and gates provisions to reflect that the estimated costs associated with implementing the fees and gates provisions include costs to be incurred by the fund and others in the distribution chain (including transfer agents, accountants, custodians, and intermediaries), whose services would be needed if a fund were to impose a fee or gate, whereas we anticipate that the proposed rule 22e–4 requirements would be borne primarily by a fund complex and not by others in the distribution chain.

We note that the estimated one-time systems costs associated with implementing the fees and gates provisions of the 2014 amendments to rule 2a–7 are generally similar to the proposed estimated one-time systems costs associated with implementing the floating NAV provisions of the 2014 rule 2a–7 amendments. *See id.* at section III.B.8.a. However, the proposed estimated one-time systems costs associated with implementing the floating NAV provisions were adjusted downward at adoption, to account for certain considerations specific to the floating NAV reforms. Thus, staff believes that the one-time costs associated with the fees and gates provisions would provide a closer analogue to the estimated costs associated with proposed rule 22e–4 than the one-time costs associated with the floating NAV provisions.

[703] This estimate assumes that each fund would not bear all of the estimated costs (particularly, the costs of systems modification) on an individual basis, but instead that these costs would likely be allocated among the multiple users of the systems, that is, each of the members of a fund complex. Accordingly, we expect that, in general, funds within large fund complexes would incur fewer costs on a per fund basis than funds within smaller fund complexes, due to economies of scale in allocating costs among a group of users.

[704] Specifically, a fund would be required to establish policies and procedures relating to: (i) Classification and ongoing review of the classification of the liquidity of each of the fund's positions in a portfolio asset (or portions of a position in a particular asset) (proposed rule 22e–4(b)(2)(i)–(ii)); (ii) assessment and ongoing review of the fund's liquidity risk (proposed rule 22e–4(b)(2)(iii)); (iii) determination and periodic review of the adequacy of the fund's three-day liquid asset minimum (proposed rule 22e–4(b)(2)(iv)(A)–(B)); (iv) the requirement for the fund not to acquire any less liquid asset if, immediately after the acquisition, the fund would have invested less than its three-day liquid asset minimum in three-day liquid assets (proposed rule 22e–4(b)(2)(iv)(C)); (v) the requirement for the fund not to acquire any 15% standard asset if, immediately after the acquisition, the fund would have invested more than 15% of its net assets in 15% standard assets (proposed rule 22e–4(b)(2)(iv)(D)); and (vi) the requirement to establish policies and procedures regarding redemptions in kind, to the extent that the fund engages in or reserves the right to engage in redemptions in kind (proposed rule 22e–4(b)(2)(iv)(E)).

[705] *See* text accompanying *supra* note 205 (discussing proposed Commission guidance on a fund's use of third-party service providers to obtain data to inform or supplement its consideration of the proposed liquidity classification factors).

We understand, based on staff outreach, that annual costs to subscribe to the liquidity classification services provided by third-party data and analytics providers currently range from $50,000–$500,000.

[706] *See supra* section III.C.4.a.

[707] These cost estimates are based in part on the staff's recent estimates of the ongoing costs associated with implementing the fees and gates provisions of the 2014 amendments to rule 2a–7 under the 1940 Act. *See supra* note 702 (discussing why staff believes that the costs associated with the fees and gates provisions could be useful to estimate the costs associated with proposed rule 22e–4). In estimating the ongoing costs associated with proposed rule 22e–4, staff has adjusted the ongoing costs associated with implementing the fees and gates provisions to reflect that we anticipate that the costs associated with classifying the liquidity of a fund's portfolio positions would entail the majority of the ongoing costs associated with proposed rule 22e–4. Staff estimates that these costs, in conjunction with other ongoing costs, would exceed the estimated ongoing costs associated with the fees and gates provisions, and thus staff has adjusted these estimates upward (based in part on staff knowledge of costs associated with liquidity analyses prepared by third-party service providers, as well as knowledge of the costs associated with board approval to the extent that a fund's board were required to approve a modified three-day liquid asset minimum).

[708] This estimate is based on the following calculations: $0.10 \times \$1{,}300{,}000 = \$130{,}000$; $0.25 \times \$2{,}250{,}000 = \$562{,}500$.

[709] We anticipate that, depending on the personnel (and/or third party service providers) involved in the activities associated with administering a liquidity risk management program, certain of the estimated ongoing costs associated with these activities could be borne by the fund,

For purposes of this analysis, Commission staff estimates, based on outreach conducted with a variety of funds regarding funds' current liquidity risk management practices, that approximately ⅓ of currently-operational fund complexes (or 289 complexes [710]) would incur one-time and ongoing costs on the high end of the range of costs associated with establishing and implementing a liquidity risk management program, and ⅔ of currently-operational fund complexes (or 578 complexes [711]) would incur one-time and ongoing costs on the low end of the range. Based on these estimates, staff further estimates that the total aggregate one-time costs for all funds to establish and implement a liquidity risk management program would be approximately $1.4 billion.[712] In addition, staff estimates that the aggregate annual costs associated with the liquidity risk management program requirement would be approximately $240 million.[713]

Certain elements of the program requirement may entail marked variability in related compliance costs, depending on a fund's particular circumstances and sources of potential liquidity risk. The process of classifying the liquidity of each of a fund's positions in a portfolio asset, taking into account the factors specified under proposed rule 22e–4(b)(2)(ii), could give rise to varying costs depending on the fund's particular investment strategy. For example, a U.S. large cap equity fund would likely incur relatively few costs to obtain the data necessary to consider the required factors. On the other hand, a fund that invests in assets for which relevant market, trading, and other liquidity-relevant data is less readily available would incur relatively greater costs associated with the classification, and ongoing review of the classification, of the funds' portfolio positions' liquidity. Certain of the factors that a fund would be required to consider in assessing its liquidity risk also could entail relatively greater costs, depending on the fund's circumstances. For instance, a fund with a relatively short operating history could incur greater costs in assessing the fund's cash flow projections than a similarly situated fund with a relatively long operating history. This is because the newer fund could find it appropriate to assess redemption activity in similar funds during normal and stressed periods (to predict its future cash flow patterns), which could entail additional costs to gather and analyze relevant data about these comparison funds. Also, a fund whose shares are held largely through omnibus accounts may wish to periodically request shareholder information from financial intermediaries in order to determine how the fund's ownership concentration may affect its cash flow projections. These data requests, and related analyses, could cause a fund to incur costs that another fund, whose shares are largely held directly, would not. A fund that deems it appropriate to establish and implement additional liquidity risk management policies and procedures beyond those specifically required under the proposed rule also would incur additional related costs. While we recognize that, as described above, the costs to establish and implement a liquidity risk management program in compliance with proposed rule 22e–4 will depend to some degree on the level of liquidity risk facing the fund, we are unable to discuss in detail all of the ways in which a fund's individual risks and circumstances could affect the costs associated with establishing a liquidity risk management program.

A fund may incur costs if it decides to reallocate portfolio assets to correspond with its initial or subsequently modified three-day liquid asset minimum. While we are unable to anticipate how many funds may reallocate portfolio assets in this way, or the extent of such reallocation by any fund that does so, we anticipate that the transaction-related costs of any such reallocation will not be significant for most funds. This is because some funds may not need to reallocate portfolio assets at all to correspond with their three-day liquid asset minimum, and those that decide to do so would be able to gradually adjust their portfolios in order to buy and sell portfolio positions during times that are financially advantageous. We note that the three-day liquid asset minimum requirement would limit the *acquisition* of less liquid assets when such acquisition would result in a fund investing less than its three-day liquid asset minimum in three-day liquid assets, but would not require funds always to maintain a certain portion of their portfolio assets in three-day liquid assets.[714] Thus, while a fund may decide to reallocate its portfolio to correspond with its three-day liquid asset minimum by the time of the proposed compliance date or at any time the fund determined to modify the three-day liquid asset minimum, a fund would not be required to conduct transactions in portfolio assets in any particular timeframe, so long as it were to limit its acquisition of less liquid assets in compliance with its three-day

and others could be borne by the adviser. *See* paragraph following *supra* note 706.

[710] In developing the estimate that 289 fund complexes would incur one-time and ongoing costs on the high end of the range of costs associated with establishing and implementing a liquidity risk management program, the staff assumed that that fund complexes that include investment grade bond funds, high yield bond funds, world bond funds (including emerging market bond funds), multi-sector bond funds, state municipal funds, alternative strategy funds, and emerging market equity funds, as well as ETFs with any of these strategies, would incur costs on the high end of the range, and all other complexes would incur costs on the low end of the range. The staff assumed that the percentage of fund complexes that includes these selected investment strategies, as a fraction of all fund complexes, is the same as the percentage of all mutual funds (excluding money market funds) and ETFs that these strategies represent. The actual number of fund complexes that includes these selected strategies could be higher or lower than the number calculated using this assumption.

605 investment grade bond mutual funds + 241 high yield bond mutual funds + 347 world bond mutual funds + 139 multi-sector bond mutual funds + 322 state municipal mutual funds + 376 alternative strategy funds that are equity funds (alternative strategy funds that are bond funds are included in our estimates of the number of bond mutual funds) + 469 emerging market equity mutual funds + 264 bond ETFs + 165 emerging market ETFs = 2,928 funds. 2,928 funds ÷ 8,734 open-end funds (excluding money market funds, and including ETFs) = approximately 33% = approximately ⅓. ⅓ × 867 currently-operational fund complexes = 289 fund complexes. These estimates are based on figures included in the 2015 ICI Fact Book. See 2015 ICI Fact Book, supra note 3, at Fig. 1.8.

[711] In developing the estimate that 578 fund complexes would incur one-time and ongoing costs on the high end of the range of costs associated with establishing and implementing a liquidity risk management program, the staff assumed that that fund complexes that include investment grade bond funds, high yield bond funds, world bond funds (including emerging market bond funds), multi-sector bond funds, state municipal funds, alternative strategy funds, and emerging market equity funds, as well as ETFs with any of these strategies, would incur costs on the high end of the range, and all other complexes would incur costs on the low end of the range. The staff assumed that the percentage of fund complexes that includes these selected investment strategies, as a fraction of all fund complexes, is the same as the percentage of all mutual funds (excluding money market funds) and ETFs that these strategies represent. The actual number of fund complexes that includes these selected strategies could be higher or lower than the number calculated using this assumption.

8,734 open-end funds (excluding money market funds, and including ETFs) − 2,928 funds (see supra note 710) = 5,806 funds. 5,806 funds ÷ 8,734 open-end funds (excluding money market funds, and including ETFs) = approximately 66% = approximately ⅔. ⅔ × 867 currently-operational fund complexes = 578 fund complexes. These estimates are based on figures included in the 2015 ICI Fact Book. See 2015 ICI Fact Book, supra note 3, at Fig. 1.8.

[712] This estimate is based on the following calculation: (578 fund complexes × $1,300,000 = $751,400,000) + (289 fund complexes × $2,250,000 = $650,250,000) = $1,401,165,000.

[713] This estimate is based on the following calculation: (578 fund complexes × $130,000 = $75,140,000) + (289 fund complexes × $562,500 = $162,562,500) = $237,702,500.

[714] *See supra* notes 346–348 and accompanying text.

liquid asset minimum. If a fund wishes to reallocate its portfolio by the proposed compliance date, we anticipate that the proposed compliance date would provide sufficient time to do so with relatively few associated transaction costs. We request comment on this point in section III.H above. Along with the transaction-related costs associated with any portfolio reallocation, we recognize that this reallocation in turn could affect the performance and/or risk profiles of funds that modify their composition, which in turn could result in costs associated with decreased investment options available to investors and any changes to the market for relatively less liquid assets; these costs are discussed below.[715]

Potential for Decreased Investment Options and Adverse Effects

Under the proposed rule, a fund would be required to determine its three-day liquid asset minimum based on a consideration of certain specified factors relating to the fund's liquidity risk.[716] Because a fund is currently not required to consider any particular factors relating to its portfolio liquidity, we recognize that this requirement could result in a fund newly determining its existing portfolio liquidity profile given the fund's liquidity needs. This could lead a fund to modify its portfolio composition if it determines that the three-day liquid asset minimum that it should hold, as a result of its liquidity risk assessment, does not correspond with the fund's current portfolio composition. The proposed rule thus could result in certain funds increasing their investments in relatively more liquid assets, which in turn could affect the performance and/or risk profiles of funds that modify their portfolio composition in this way. This impact may be particularly strong for funds that plan to meet redemptions within seven days after receiving them (rather than a shorter period of time). Such modifications to funds' portfolio composition consequently could decrease certain investment options available to investors or reduce investor returns. However, because these portfolio composition shifts would occur only if a fund were to determine that it needs to adjust its existing liquidity level based on consideration of the factors in the proposed rule, we anticipate that the potential for decreased yield would likely only affect funds currently holding portfolios whose liquidity levels have the potential to create redemption-related liquidity risk for fund investors. Thus, the potential for decreased investment options for certain investors (and any related decrease in investment yield) has the corollary benefit of potential decreased liquidity risk in the funds in which these investors hold shares. Currently we are not able to quantify the number of funds that would need to significantly modify their portfolios' risk profile as a result of the proposed rule because of the lack of information necessary to provide a reasonable estimate. Such an estimate would depend on the number of funds that might need to modify their current portfolio composition as a result of the proposed rule, as well as the availability of relatively liquid assets that can act as adequate substitutes to existing assets for those affected funds. Because funds are not required to report or disclose information concerning the liquidity of their assets, because we cannot anticipate the three-day liquid asset minimum that each fund would determine to be appropriate based on its liquidity risk, and because we cannot determine what relatively more liquid assets funds would purchase as substitutes, we are unable to quantify the total potential costs discussed in this section. However, individual funds would only incur these costs if their current portfolio construction lacks sufficient liquidity to allow the offering of daily redemption without creating significant negative impact on investors.

Market for Relatively Less Liquid Assets

As discussed above, the proposed rule could result in certain funds increasing their investments in relatively more liquid assets, which would effectively mean that these funds would decrease their investments in relatively less liquid assets. If funds decrease their investments in relatively less liquid assets, the market for those assets could become even less liquid. This could discourage new issuances of similar assets and decrease the liquidity of relatively less liquid assets that are still outstanding. The impact of decreased activity from funds in less liquid markets will depend on how much current activity in those markets is driven by the funds, which varies between markets. Further, these market effects could be partially offset if other opportunistic investors with greater capacity to hold less liquid assets are attracted to the market by any lower prices for these assets that result if funds decrease their holdings of less liquid assets.[717] In addition, if the proposed rule leads funds to better assess the liquidity risk associated with certain asset holdings, any decrease in the prices of these assets could reflect more efficient pricing of the assets (that is, risk would be better reflected in asset prices than it is currently). Because funds currently are not required to report or disclose information concerning the liquidity of their assets, and because we cannot anticipate the three-day liquid asset minimum that each fund would determine to be appropriate based on its liquidity risk, it is difficult to predict the extent to which the proposed rule could lead funds to modify their portfolio holdings, or whether such modifications would discourage the issuance of certain assets. As a result, we cannot quantify the potential costs discussed in this section. However, these costs will only exist to the extent that some funds lack sufficient liquidity in their current portfolio to allow the offering of daily redemption without creating significant negative impact on investors.

d. Effects on Efficiency, Competition, and Capital Formation

The proposed liquidity risk management program requirement would require a fund to assess its liquidity risk and to determine its three-day liquid asset minimum based on this risk assessment. We believe that the proposed requirements would improve the alignment between fund portfolio liquidity and fund liquidity needs. This improved alignment could enhance funds' ability to meet redemptions in a manner that mitigates potential dilution of shareholders' interests, and thus this improved alignment could be viewed as increasing efficiency to the extent that dilution is viewed as a drag on the ability of a fund's NAV to reflect the performance of its portfolio. Additionally, the requirement for a fund to classify the liquidity of its portfolio assets (along with the related reporting and disclosure requirements, discussed below) also could increase allocative efficiency by assisting investors in making investment choices that better match their risk tolerances.

By enhancing funds' liquidity risk assessment and risk management, the proposed program requirement also could promote pricing efficiency in the sense that it would decrease the likelihood that a fund would be forced

[715] *See infra* paragraphs accompanying notes 716–717.

[716] Proposed rule 22e–4(b)(2)(iv)(A).

[717] Relatively less liquid assets have a higher expected return compared to relatively more liquid assets, thereby compensating longer-term investors for holding relatively less liquid assets. *See* Yakov Amihud & Haim Mendelson, *Asset Pricing and the Bid-Ask Spread*, 17 J. Fin. Econ. 223 (1986).

to sell portfolio assets under unfavorable circumstances in order to meet redemptions (thus creating significant negative price pressure on those assets) without materially affecting the fund's NAV or risk profile. If a fund's asset sales were to temporarily move asset prices away from their market value, this could create a temporary pricing inefficiency. By decreasing the likelihood that these types of price movements would occur, the program requirement could decrease pricing inefficiency. However, the proposed program requirement could negatively affect the efficient pricing of relatively less liquid assets if it indirectly discourages funds from investing in them (for example, if a fund were to decrease its investments in less liquid assets if it determines that the three-day liquid asset minimum that it should hold, as a result of its liquidity risk assessment, does not correspond with the fund's current portfolio composition). But as discussed above, this market effect could be partially offset if other investors are incentivized to buy relatively less liquid assets on account of any lower prices for these assets that result if funds decrease their holdings of these assets.[718] Alternatively, any price decreases experienced as a result of decreased mutual fund investment could be considered efficient price adjustments given the reduction in liquidity of the assets.

If the proposed liquidity risk management program requirement results in a material decrease in funds' investment in relatively less liquid assets, competition for these assets would be negatively affected. Under this scenario, the relatively less liquid assets in which funds formerly would have invested may become even less liquid, since the number of current or potential market participants would be reduced. This decrease in competition may be partially offset if some other investors become willing to invest in relatively less liquid assets because of the larger illiquidity discount now associated with the price of those assets. As a corollary, if the proposed liquidity risk management program requirement results in a material increase in funds' investment in three-day liquid assets, competition for these assets would be positively affected. As funds increase their investment in relatively more liquid assets, the liquidity of those assets should increase. However, that increase may be partially offset if some other investors decrease their investment in relatively more liquid assets because of the larger liquidity premium now associated with the price of those assets.

The size of a fund, or the family of funds to which a fund belongs, could have certain competitive effects with respect to the fund's implementation of its liquidity risk management program. If there are economies of scale in creating and administrating multiple liquidity risk management programs, funds in large families would have a competitive advantage. For a fund in a smaller complex, however, a greater portion of the fund's (and/or adviser's [719]) resources may be needed to create and administer a liquidity risk management program, which may increase barriers to entry in the fund industry, and lead to an adverse effect on competition. The size of a fund family also could produce competitive advantages or disadvantages with respect to a fund's use of products developed by third parties to classify the liquidity of their portfolio assets, or to assess the fund's liquidity risk. Funds in a large complex also could receive relatively more favorable pricing for third-party liquidity risk management tools, if the fund complex were to purchase discounted bulk services from the developer or receive relationship-based pricing discounts. To the extent that they choose to use liquidity risk management tools such as committed lines of credit and interfund lending,[720] funds in larger complexes likewise could receive more favorable rates on committed lines of credit than funds in smaller complexes, and could have opportunities to establish interfund lending agreements that may not be available to funds in smaller complexes.

Any changes in certain assets' or asset classes' liquidity that could indirectly result from the proposed liquidity risk management program requirement (for example, as discussed above, if the number of buyers and sellers for certain assets becomes significantly reduced as a result of the program requirement) could also affect capital formation among issuers of these assets. Some firms could be discouraged from issuing new securities in particular asset classes because of price discounts associated with lower liquidity. Or if changes in liquidity are not equal across all asset classes, firms may begin to shift their capital structure (*e.g.*, begin to issue equity instead of debt) or to change the terms of certain securities that they issue in order to increase their liquidity (*e.g.*, by standardizing the terms of certain debt securities, or modifying the securities' terms to promote electronic trading).

e. Reasonable Alternatives

In formulating our proposal, we have considered various alternatives to the individual elements of proposed rule 22e–4. Those alternatives are outlined above in the sections discussing the proposed rule elements, and we have requested comment on these alternatives.[721] The following discussion addresses significant alternatives to proposed rule 22e–4, which involve broader issues than the more granular alternatives to the individual rule elements discussed above.

Instead of proposing rule 22e–4, we could issue guidance surrounding the classification of portfolio assets' liquidity and the assessment and management of liquidity risk. However, on account of the significant diversity in liquidity risk management practices that we have observed in the fund industry, we believe that the need exists for an enhanced comprehensive baseline requirement instead of only guidance for fund liquidity risk management. Also, an approach that involves rulemaking, as opposed to merely guidance, would permit us to examine registrants' compliance with the requirements and bring enforcement actions relating to non-compliance and hence make it more likely that the benefits discussed above would be realized.

We considered proposing liquidity requirements similar to those imposed on money market funds—that is, the requirement to hold a minimum level of highly liquid asset holdings, and the ability to impose redemption fees and gates.[722] The requirements imposed on money market funds, and the tools available to these funds to manage heavy redemptions, are specifically tailored to the assets held by money market funds and the behavior of money market fund investors.[723] Imposing similar regulatory requirements on funds that are not money market funds would ignore significant differences between money market funds and other funds. We discuss below why we decided not to propose that funds hold a minimum level of highly liquid asset holdings (similar to the portfolio liquidity requirements applicable to

[718] *See supra* section IV.C.1.c.

[719] *See* paragraph following *supra* note 706.

[720] *See supra* section III.C.5.a (discussing and providing guidance on the use of these tools).

[721] *See supra* sections III.A.3, III.B.1.b, III.B.2.j, III.B.3.b, III.C.1.e, III.C.2.b, III.C.3.d, III.C.4.b, III.C.5.e, III.D.4, III.E.

[722] *See supra* notes 154–155 and accompanying text.

[723] *See* 2014 Money Market Fund Reform Adopting Release, *supra* note 85, at section II.

money market funds). While funds are currently permitted under rule 22c–2 to impose redemption fees under certain circumstances, we understand based on fund outreach that funds are generally moving away from the use of fees to manage short-term trading risk, and we are not proposing that the use of fees be expanded in light of this, as well as the potential operational complexity that could accompany the use of fees.[724] We are not proposing that funds be permitted to impose redemption gates because funds that are not money market funds have not demonstrated the same risk of significant redemptions during times of market stress that money market funds may face, and which redemption gates are meant to prevent in money market funds. For example, while there is some evidence of a first-mover advantage among money market funds during the financial crisis, there is currently no matching evidence of first-mover advantage among funds that are not money market funds.[725]

The Commission considered, but ultimately decided against, proposing to exclude certain types of funds from proposed rule 22e–4. For example, the proposed rule could have carved out exemptions for funds with investment strategies that historically have entailed relatively little liquidity risk, or funds with relatively low assets. We are not proposing to exclude any subset of open-end funds, other than money market funds, from the scope of the proposed rule. As discussed above, even funds with investment strategies that historically have involved little liquidity risk could experience liquidity stresses in certain environments.[726] And investors in small funds could suffer from insufficient liquidity risk management just as investors in larger funds could. Indeed, staff analysis suggests that funds with relatively low total assets can experience greater flow volatility, including more volatility in unexpected flows, than funds with higher assets, which could indicate increased liquidity risk.[727] The proposed program requirement is meant to permit a fund to customize and calibrate its liquidity risk management program to reflect the liquidity risks that it typically faces (and that it could face in stressed market conditions). This flexibility is meant to result in programs whose scope, and related costs and burdens, are appropriate to manage the actual liquidity risks facing a particular fund.

We considered multiple alternatives to the proposed requirements regarding a fund's classification of the liquidity of its portfolio assets. Under proposed rule 22e–4, a fund would be required to classify and review the liquidity of each of the fund's positions in a portfolio asset (or a portion of a fund's position in a portfolio asset) based on the number of days within which a fund's position in a particular portfolio asset could be converted to cash at a price that does not materially affect the value of that asset assessed immediately prior to sale, and considering certain specified factors.[728] Instead of these proposed requirements, we could have codified a definition of illiquid asset that reflects the current 15% guideline. Because we believe most funds generally adhere to the 15% guideline, this approach would have had the benefit of already being accepted and understood by the industry, and would have entailed few additional implementation costs for funds. However, we understand, based on staff outreach, that the 15% guideline has generally caused funds to limit their exposures to particular types of securities that generally cannot be sold or sold quickly and that the Commission and staff have indicated are often illiquid, depending on the facts and circumstances. We also understand that it is not uncommon for a fund to consider very few (or none) of its portfolio assets to be 15% guideline assets. Given the parameters of the 15% guideline, we also do not believe that this approach would require the typical fund to consider the liquidity characteristics of a significant percentage of its portfolio.[729] Thus, this approach alone would not have provided as comprehensive a view of the relative liquidity of portfolio assets as our proposed approach, or strengthen funds' ability to meet redemption obligations and mitigate dilution of the interests of shareholders.

Instead of proposing an approach whereby a fund would be required to assign each portfolio position to one of several liquidity categories, we could have proposed a classification framework under which a fund would simply be required to classify a portfolio position as ''liquid'' or ''illiquid,'' based on a number of specified factors. As discussed above, Commission staff has found, based on outreach to a variety of funds, that funds with relatively comprehensive liquidity classification procedures tend to view the liquidity of their portfolio positions in terms of a liquidity spectrum rather than simply as wholly liquid or wholly illiquid. This ''spectrum''-based approach to liquidity can greatly facilitate a fund's portfolio manager in engaging in portfolio construction that takes into account potential varying liquidity needs of the fund over time. Our proposed approach to liquidity classification reflects our understanding that funds commonly evaluate assets' liquidity across such a liquidity spectrum, as opposed to making a binary determination of whether an asset is liquid or illiquid. It also more accurately conveys to investors that liquidity tends to be a matter of degree.

We also considered several alternatives to the proposed requirement for each fund to determine its three-day liquid asset minimum and limit its acquisition of less liquid assets in contravention of that minimum. We instead could have proposed that each fund be required to determine a minimum buffer level of cash (or cash equivalents) that it would hold, or alternatively, to determine a minimum level of one-day liquid asset holdings. The cash buffer alternative would help ensure that a fund would be able to meet redemptions immediately, without the need to sell any portfolio assets. Likewise, a one-day liquid asset minimum requirement would help ensure that a fund would be able to meet redemptions within a very quick period, and could encourage a fund to hold a comparatively more liquid portfolio than the proposed three-day liquid asset minimum. But we believe that these options have a number of disadvantages. Namely, these options would not necessarily match a fund's liquidity needs with its redemption obligations, and could result in a fund being underinvested in assets that reflect the fund's investment strategy (and concurrent risks and performance potential).[730] We considered proposing a ''seven-day liquid asset minimum'' requirement—that is, requiring a fund to invest in a certain amount of assets that

[724] *See infra* paragraph accompanying note 777 for a discussion of why we are proposing swing pricing, instead of a framework involving purchase fees or redemption fees, to address potential dilution of existing shareholder interests when a fund encounters significant net purchases or net redemptions and for a discussion of the operational differences between swing pricing and purchase and redemption fees.

[725] *See* 2014 Money Market Fund Reform Adopting Release, *supra* note 85, at section III.A.1.

[726] *See supra* notes 123–125 and accompanying text.

[727] DERA Study, *supra* note 39, at pp. 16–24.

[728] *See* rule 22e–4(b)(2)(i)–(ii).

[729] *See supra* section III.C.4.

[730] We note above that if a fund's redemption practices require it to pay redeeming shareholders within a period shorter than three business days, we expect the fund would consider whether a specified portion of its three-day liquid asset minimum should consist of portfolio positions that are convertible to cash within a period shorter than three business days.

could be converted to cash within seven calendar days or less—which would correspond with a fund's redemption obligations under section 22(e) of the Act. However, we were concerned that a seven-day liquid asset minimum would not provide sufficient minimum liquidity given the regulatory requirements and disclosures that require most funds to meet redemptions obligations in shorter time periods and market practices that effectively require all funds to meet redemption requests within time periods shorter than seven calendar days.

We also considered proposing to require a standard level of three-day liquid asset minimum holdings for all funds. This alternative approach would have the advantage of being simple for investors to understand and our examination staff to verify. However, this alternative fails to account for notable differences between funds with respect to investment strategy, fund flow patterns, and other characteristics that contribute to funds' liquidity risk, which in turn would make it reasonable for funds' portfolios to have varying liquidity profiles. We believe that the proposed three-day liquid asset minimum requirement would promote consistency in funds' consideration of the factors relevant to their liquidity risk management, while also permitting flexibility in implementation, which we believe is appropriate in light of the significant diversity within the fund industry. This approach includes elements that would help our staff to ascertain that funds are indeed considering the required factors: Each fund would be required to maintain a written record of how its three-day liquid asset minimum was determined, as well as copies of materials submitted to the fund's board in connection with the board's approval of the three-day liquid asset minimum and reports provided to the board that review the adequacy of the fund's three-day liquid asset minimum.[731] And as discussed above, although a fund would be permitted to determine its own three-day liquid asset minimum under the proposed rule, we believe that the requirement for a fund to consider certain specified factors in determining its three-day liquid asset minimum would likely preclude a fund from concluding that zero holdings of three-day liquid assets would be appropriate.[732]

Instead of requiring funds to determine and invest their assets in compliance with a three-day liquid asset minimum, we could require funds to conduct stress tests of their own design relating to the extent the fund has liquid assets to cover possible levels of redemptions. This would have the benefit of permitting a fund flexibility in determining whether its portfolio liquidity profile is appropriate given its liquidity needs. Also, since the three-day liquid asset minimum requirement implicitly also involves the requirement for a fund to classify its portfolio assets' liquidity in a particular manner (since compliance with a fund's three-day liquid asset minimum would require knowing which assets are three-day liquid assets), not requiring funds to determine a three-day liquid asset minimum would permit a fund to not incur the costs associated with the proposed liquidity classification requirements. As discussed above, some funds already conduct stress testing incorporating the factors that a fund would be required to consider in assessing their liquidity risk and determining their three-day liquid asset minimum based on this assessment.[733] But, because the quality and comprehensiveness of funds' liquidity risk management currently varies significantly, we believe that requiring a certain set of factors to be considered in assessing and managing liquidity risk (including determining the fund's three-day liquid asset minimum) is important in reducing the risk that funds will be unable to meet their redemption obligations under the Investment Company Act and elevating the overall quality of liquidity risk management across the fund industry. Also, we believe that it would be difficult to determine, depending on the level of discretion a fund would have in developing stress scenarios, whether these scenarios would accurately depict liquidity risk and lead funds to determine the appropriate level of portfolio liquidity they should hold. For example, if a fund's liquidity needs were generally high during normal periods, but were not correspondingly extreme during stress events, basing this fund's portfolio liquidity on the results of stress testing alone could cause a fund to hold too little liquidity during non-stressed periods. Therefore we do not believe that a general stress testing requirement would be an adequate substitute for the three-day liquid asset minimum requirement.[734]

Finally, we considered proposing a liquidity risk management program requirement that would not incorporate a three-day liquid asset minimum requirement (or one of the alternatives to this requirement discussed in the preceding paragraphs). Under this alternative, a fund would be required to adopt and implement a liquidity risk management program, which would include the proposed requirements regarding a fund's classification of the liquidity of its portfolio assets (and related reporting and disclosure regarding its portfolio assets' liquidity) and the proposed requirements limiting investments in 15% standard assets, but a fund would not be required to establish a minimum level of three-day liquid assets. This alternative would have the benefit of permitting funds to have a large amount of flexibility in managing their liquidity risk. Although a fund would need to ensure that it is able to meet its redemption obligations and would be subject to the proposed limitations on investments in 15% standard assets, it would be subject to no other requirements regarding its portfolio liquidity. This would provide flexibility, for example, for a fund to adjust its liquidity profile very quickly in light of changing market conditions, whereas a fund subject to the three-day liquid asset minimum requirement might not be able to do so as quickly, to the extent the fund's board would be required to approve a change in the fund's three-day liquid asset minimum. It also would permit a fund to calibrate portfolio liquidity based on the factors the fund or its adviser considers appropriate, instead of the factors that the proposed rule would require a fund to consider in determining its three-day liquid asset minimum. To the extent that a fund's portfolio liquidity was not in line with investors' risk tolerances, investors could decide not to invest in the fund, based on information about the fund's portfolio liquidity reported on Form N–PORT.

We do not believe, however, that this alternative would adequately respond to primary goals of this rulemaking, that is, reducing the risks that funds will be unable to meet their redemption obligations and reducing potential dilution of non-redeeming shareholders. We believe that the three-day liquid asset minimum requirement is a critical element of the proposed liquidity risk management program requirement that is designed to provide investors with increased protections regarding how

[731] *See* proposed rule 22e–4(c)(2)–(3).

[732] *See supra* section III.C.3.a.

[733] *See supra* note 257 and accompanying text.

[734] We do note, however, that section 165(i)(2) of the Dodd-Frank Act obligates the Commission to specify certain stress testing requirements for certain large non-bank financial companies we regulate, including investment companies. *See supra note* 104 and accompanying text regarding initiatives to address the impact of open-end fund investment activities on investors and the financial markets.

fund portfolio liquidity is managed. As discussed above, we believe that the proposed three-day liquid asset minimum requirement would result in a portfolio liquidity standard that fosters consistency in funds' consideration of the factors relevant to their liquidity risk management, while simultaneously permitting flexibility in implementation.[735] While the board approval requirement associated with the three-day liquid asset minimum could add a layer of process if a fund wished to change its liquidity profile, we believe that this requirement is necessary because it would add independent oversight over funds' liquidity risk management.[736] Although we believe that reporting and disclosure regarding a fund's portfolio liquidity are important, we do not believe that they would be sufficient to promote a high quality of liquidity risk management across the fund industry because they would not necessarily require a fund to consider its portfolio liquidity in relation to its liquidity needs.

2. Swing Pricing

a. Requirements of Proposed Rule 22c–1(a)(3)

Under proposed rule 22c–1(a)(3), a fund (with the exception of a money market fund or ETF) would be permitted to establish and implement swing pricing policies and procedures that would, under certain circumstances, require the fund to use swing pricing to adjust its current NAV as an additional tool to lessen potential dilution of the value of outstanding redeemable securities caused by shareholder purchase or redemption activity. In order to use swing pricing under the proposed rule, a fund would be required to establish and implement swing pricing policies and procedures.[737] These policies and procedures must: (i) Provide that the fund will adjust its NAV by an amount designated as the ''swing factor'' once the level of net purchases or net redemptions from the fund has exceeded a specified percentage of the fund's net asset value known as the ''swing threshold''; [738] (ii) specify the fund's swing threshold, considering certain specified factors; [739] (iii) provide for the periodic review (at least annually) of the fund's swing threshold, considering certain specified factors; [740] (iv) specify how a swing factor that would be used to adjust the fund's NAV when the fund's swing threshold is breached, which determination must take into account certain specified factors.[741]

A fund's board, including a majority of the fund's independent directors, would be required to approve the fund's swing pricing policies and procedures (including the fund's swing threshold, and any swing factor upper limit specified under the fund's swing pricing policies and procedures), and any material change to these policies and procedures.[742] However, the board would be required to designate the fund's investment adviser or officers responsible for administration of the fund's swing pricing policies and procedures and for determining a swing factor that would be used to adjust the fund's NAV when the fund's swing threshold is breached.[743]

A fund that adopts swing pricing policies and procedures also would be required to keep certain records, including a written copy of its swing pricing policies and procedures,[744] and records of support for each computation of an adjustment to the fund's NAV based on these policies and procedures.[745] A fund that engages in swing pricing would be required to make certain disclosures and reflect its use of swing pricing in its financial statements.[746]

b. Benefits

We believe proposed rule 22c–1(a)(3) would promote investor protection by providing funds with a tool to reduce the potentially dilutive effects of shareholder purchase or redemption activity. Rule 22c–1 under the Investment Company Act, the ''forward pricing'' rule, requires a fund to price its shares based on the current market prices of its portfolio assets next computed after receipt of an order to buy or redeem shares.[747] When a fund trades portfolio assets in order to meet purchases or redemptions, the fund's current NAV on the trade date would reflect any changes to the value of the fund's assets that occurs as a result of trading on that day. But as discussed above, when a fund trades portfolio assets in order to satisfy purchase or redemption requests, certain costs associated with this trading activity currently may not be taken into account in the price that the purchasing or redeeming shareholder receives for his or her fund shares.[748] The NAV of the fund shares held by existing shareholders, however, will eventually reflect all of these costs, including those that were not passed on to the purchasing or redeeming shareholders.[749] Swing pricing provides funds with an additional tool—as a supplement to the pricing conventions required by the forward pricing rule—to pass estimated near-term costs stemming from shareholder purchase or redemption activity on to the shareholders associated with that activity.[750] Swing pricing thus could lessen dilution of existing shareholders and limit redemptions motivated by a potential first-mover advantage.

We recognize that swing pricing may involve potential disadvantages to funds as well as potential advantages, and the provisions of proposed rule 22c–1(a)(3) are designed to maximize the relative advantages and respond to potential concerns associated with swing pricing. While swing pricing may reduce dilution at the fund level and could act as a deterrent against redemptions motivated by any first-mover advantage, the potential disadvantages to swing pricing (described in more detail below) include increased performance volatility and the fact that the precise impact of swing pricing on particular purchase or redemption requests would not be known in advance and thus may not be fully transparent to investors. In addition, the swing factor used by a fund on a particular day may not capture all costs incurred by the fund resulting from purchases or redemptions that day.

Commission rules and guidance do not currently address the ability of a fund to use swing pricing to mitigate potential dilution of fund shareholders, and the Commission's current valuation guidance could raise questions about making such NAV adjustment.[751] The proposed swing pricing rule would provide the regulatory framework that a fund would apply to adjust its NAV in order to effectively pass on estimated trading costs to purchasing or redeeming shareholders. The proposed rule would require a fund that conducts swing pricing to do so in accordance with policies and procedures and other restrictions designed to promote all shareholders' interests.[752] Because we

[735] *See supra* section III.C.3.

[736] *See supra* section III.D.1.

[737] Proposed rule 22c–1(a)(3)(i).

[738] Proposed rule 22c–1(a)(3)(i)(A).

[739] Proposed rule 22c–1(a)(3)(i)(B).

[740] Proposed rule 22c–1(a)(3)(i)(C).

[741] Proposed rule 22c–1(a)(3)(i)(D).

[742] Proposed rule 22c–1(a)(3)(ii)(A).

[743] Proposed rule 22c–1(a)(3)(ii)(B).

[744] Proposed rule 22c–1(a)(3)(iii).

[745] Proposed amendment to rule 31a–2(a)(2).

[746] *See* proposed amendments to Items 11, 13 and 26 of Form N–1A and proposed amendments to Regulation S–X.

[747] *See* rule 22c–1(a).

[748] *See supra* notes 410–413 and accompanying text.

[749] *See id.*

[750] *See supra* paragraph accompanying note 424.

[751] *See supra* note 423 and accompanying text.

[752] *See supra* note 424 and accompanying text.

cannot prospectively measure the extent to which the swing pricing policies and procedures that a fund may adopt would mitigate potential dilution, we are unable to quantify the total potential benefits discussed in this section.[753] However, analysis by fund groups of their funds domiciled in regions that allow swing pricing indicates that investor dilution is significantly reduced through swing pricing for some funds.[754]

c. Costs

A primary cost of implementing swing pricing is an increase in fund return volatility. The implementation of swing pricing also could increase tracking error relative to a fund's benchmark. However, the impact of swing pricing on volatility and tracking error would decrease as a function of time: For example, the impact of swing pricing on daily return volatility and tracking error would likely be much greater than the impact on monthly volatility and tracking error. The use of ''partial'' swing pricing also lessens the impact on volatility and tracking error. When deciding whether or not to implement swing pricing, a fund would have to weigh the cost of increased volatility and tracking error (along with the other costs discussed below) against the previously-discussed benefits of swing pricing.

In addition, a swing pricing regime that uses a fund's daily net purchases or net redemptions to determine when the fund will adjust its NAV could create costs for fund investors. For example, an investor who purchases fund shares on a day when a fund adjusts its NAV downward will pay less to enter the fund than if the fund had not adjusted its NAV on that day. However, investors would not be able to purposefully take advantage of this lower purchase price without knowledge of contemporaneous intraday flows, which funds do not publicly disclose. Further, we believe that investors who purchase shares on a day that a fund adjusts its NAV downward would not create dilution for non-redeeming shareholders. Shareholders' purchase activity would provide liquidity to the fund, which could reduce the fund's liquidity costs and thereby could also decrease the swing factor. This could potentially help redeeming shareholders to receive a more favorable redemption price than they otherwise would have if there had been less purchase activity on that day, but would not affect the interests of non-redeeming investors. Similarly, adjusting a fund's NAV when the fund's daily net redemptions cross a certain threshold, regardless of the size of the component shareholder redemptions that comprise the daily net redemptions, could produce costs to individual redeeming shareholders whose redemptions alone would not result in redemption-related costs to the fund. For instance, a small investor's redemption request would not create any significant liquidity costs for the fund on its own, but if this investor were to redeem on the same day that the fund's net redemptions are high, his or her redemption proceeds would be reduced by the NAV adjustment.

We are not proposing to exempt certain investors from the NAV adjustments permitted under proposed rule 22c–1(a)(3). We believe that the costs of exempting certain investors from the NAV adjustment could be significant, particularly the operational costs that we believe could result from the relatively complex process of applying the NAV adjustment only to some investors and not to others. Exempting small investors from the NAV adjustment also may not be beneficial to a fund because such exemption could lead to large investors engaging in gaming behavior—that is, structuring their investments in funds using multiple small accounts—in order to use the exemption. This could contravene the purpose of the exemption and be costly for funds to detect.

Each fund that chooses to adopt swing pricing policies and procedures pursuant to proposed rule 22c–1(a)(3) would incur one-time costs to develop and implement the policies and procedures, as well as ongoing costs relating to administration of the policies and procedures. Those costs will directly impact the fund and may indirectly impact fund investors if the fund passes along its costs to investors through increased fees. As discussed above, while U.S. registered funds do not currently use swing pricing to mitigate potential dilution, certain foreign funds affiliated with U.S. fund families currently do use swing pricing.[755] U.S. registered funds in fund complexes that also include foreign-domiciled funds that use swing pricing may incur relatively lower costs to implement swing pricing policies and procedures pursuant to the proposed rule. These funds may only need to modify current swing pricing policies, procedures, and systems used for foreign-domiciled funds to comply with proposed rule 22c–1(a)(3), instead of developing them from scratch.

Just as the costs associated with proposed rule 22e–4 could depend largely on the level of liquidity risk facing the fund, as well as the sources of the fund's liquidity risk, the costs of implementing swing pricing policies and procedures likewise could vary depending on these factors. As discussed above, there are multiple ways in which the costs associated with classifying portfolio positions' liquidity and assessing a fund's liquidity risk could vary based on a fund's individual risks and circumstances.[756] To determine a fund's swing threshold, proposed rule 22c–1(a)(3) would require a fund to consider certain of the factors required to be considered as part of the liquidity risk assessment required under proposed rule 22e–4.[757] Therefore, the costs associated with developing policies and procedures for determining the swing threshold could also vary according to similar factors that could cause differences in the costs to funds associated with proposed rule 22e–4.[758]

Our staff estimates that the one-time costs necessary to establish and implement swing pricing policies and procedures pursuant to proposed rule 22c–1(a)(3) would range from $1.3 million to $2.25 million [759] per fund

[753] There is no database currently available that identifies whether a foreign-domiciled fund uses swing pricing or the structure of a fund's swing pricing program (*e.g.*, full swing pricing versus partial swing pricing).

[754] *See* BlackRock Swing Pricing Paper, *supra* note 412.

[755] *See supra* notes 417–420 and accompanying text.

[756] *See supra* section IV.C.1.c.

[757] *See* proposed rule 22c–1(a)(3)(i)(B). Specifically, the requirement for a fund to consider: (i) The size, frequency, and volatility of historical purchases and redemptions of fund shares during normal and stressed periods, (ii) the fund's investment strategy and the liquidity of the fund's portfolio assets, and (ii) the fund's holdings of cash and cash equivalents, as well as borrowing arrangements and other funding sources overlap with certain of the proposed liquidity risk assessment factors. *See* proposed rule 22e–4(b)(iii)(A), (B), and (D).

[758] *See supra* section IV.C.1.c.

[759] These cost estimates are based in part on the staff's recent estimates of the one-time systems costs associated with implementing the fees and gates provisions of the 2014 amendments to rule 2a–7 under the 1940 Act. *See* 2014 Money Market Fund Reform Adopting Release, *supra* note 85, at section III.A.5.b. Although the substance and content of systems associated with establishing and implementing swing pricing policies and procedures would be different from the substance and content of systems associated with implementing the rule 2a–7 fees and gates provisions, the one-time costs associated with establishing and implementing swing pricing policies and procedures, like the one-time costs associated with the fees and gates provisions, would entail: Drafting relevant procedures; planning, coding, testing, and installing relevant system modifications; integrating and implementing relevant procedures; and preparing training materials and administering training sessions for

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complex, depending on the particular facts and circumstances applicable to the funds comprising the fund complex.[760] These estimated costs are attributable to the following activities, as applicable to each of the funds within the complex that adopts swing pricing policies and procedures: (i) Developing swing pricing policies and procedures that include all of the elements required under the proposed rule,[761] as well as policies and procedures relating to the recordkeeping requirements associated with swing pricing; [762] (ii) planning, coding, testing, and installing any system modifications for adjusting the fund's NAV pursuant to the fund's swing pricing policies and procedures; (iii) integrating and implementing the fund's swing pricing policies and procedures, as well as policies and procedures relating to the financial reporting and recordkeeping requirements associated with swing pricing; (iv) preparing training materials and administering training sessions for staff in affected areas; and (v) board approval of the fund's swing pricing policies and procedures.

We anticipate that, depending on the personnel (and/or third party service providers) involved in the activities associated with establishing and implementing swing pricing policies and procedures, certain of the estimated one-time costs associated with these activities could be borne by the fund, and others could be borne by the adviser. This cost allocation would depend on the facts and circumstances of a particular fund's swing pricing policies and procedures, and thus we cannot specify the extent to which the estimated costs would typically be allocated to the fund as opposed to the adviser. Estimated costs that are allocated to the fund would be borne by fund shareholders in the form of fund operating expenses.

Staff estimates that, on average, a fund complex that includes funds that adopt swing pricing policies and procedures pursuant to proposed rule 22c–1(a)(3) would incur ongoing annual costs that range from 5% to 15% of the one-time costs necessary to establish and implement swing pricing policies and procedures pursuant to proposed rule 22c–1(a)(3).[763] Thus, staff estimates that a fund complex that includes funds that adopt swing pricing policies and procedures would incur ongoing annual costs associated with proposed rule 22c–1(a)(3) that would range from $65,000 to $337,500.[764] These estimated costs are attributable to the following activities, as applicable to each of the funds within the complex that adopts swing pricing policies and procedures: (i) Costs associated with monitoring whether the fund's net purchases or net redemptions cross the swing threshold (which could include, to the extent a fund determines appropriate, costs associated with obtaining interim feeds of flows from its transfer agent or distributor in order to reasonably estimate its daily net flows) (implicated by proposed rule 22c–1(a)(3)(i)(A)); (ii) adjusting the fund's NAV when the fund's net purchases or net redemptions cross the swing threshold, including costs associated with determining a swing factor that would be used to adjust the fund's NAV when the fund's swing threshold is breached (proposed rule 22c–1(a)(3)(i)(A), proposed rule 22c–1(a)(3)(i)(D)); (iii) periodic review of the fund's swing threshold (proposed rule 22c–1(a)(3)(i)(C)); (iv) systems maintenance; (iv) additional staff training; (v) board approval of any material changes to the program (proposed rule 22c–1(a)(3)(ii)(A)); and (vi) recordkeeping (proposed rule 22c–1(a)(3)(iii), proposed amendments to rule 31a–2(a)(2)).[765]

A fund would be permitted, but not required, to establish and implement swing pricing policies and procedures under proposed rule 22c–1(a)(3), and for purposes of this cost analysis, staff estimates that 167 fund complexes would adopt swing pricing policies and procedures. In developing this estimate, staff assumed that complexes including certain mutual fund strategies (high-yield bond funds, world bond funds (including emerging market debt funds), multi-sector bond funds, state municipal funds, alternative strategy funds, and emerging market equity funds) would be relatively more likely to adopt swing pricing policies and procedures, and of complexes with funds following these strategies, 75% would actually adopt swing pricing policies and procedures.[766] Staff estimates that the aggregate one-time costs for fund complexes to establish and implement swing pricing policies

staff in affected areas. *See id*. However, in estimating the one-time costs associated with establishing and implementing swing pricing policies and procedures, staff has adjusted the estimated one-time systems costs associated with implementing the fees and gates provisions to reflect that the estimated costs associated with implementing the fees and gates provisions include costs to be incurred by the fund and others in the distribution chain (including transfer agents, accountants, custodians, and intermediaries), whose services would be needed if a fund were to impose a fee or gate, whereas we anticipate that the requirements associated with establishing and implementing swing pricing policies and procedures would be borne primarily by a fund complex and not by others in the distribution chain.

We note that the estimated one-time systems costs associated with implementing the fees and gates provisions of the 2014 amendments to rule 2a–7 are generally similar to the proposed estimated one-time systems costs associated with implementing the floating NAV provisions of the 2014 rule 2a–7 amendments. *See id*. at section III.B.8.a. However, the proposed estimated one-time systems costs associated with implementing the floating NAV provisions were adjusted downward at adoption, to account for certain tax considerations specific to the floating NAV reforms. Thus, staff believes that the one-time costs associated with the fees and gates provisions would provide a closer analogue to the estimated costs associated with establishing and implementing swing pricing policies and procedures than the one-time costs associated with the floating NAV provisions.

[760] This estimate assumes that each fund would not bear all of the estimated costs (particularly, the costs of systems modification) on an individual basis, but instead that these costs would likely be allocated among the multiple users of the systems, that is, each of the members of a fund complex that adopts swing pricing policies and procedures.

[761] Proposed rule 22c–1(a)(3)(i).

[762] Proposed rule 22c–1(a)(3)(iii); proposed amendment to rule 31a–2(a)(2).

[763] These cost estimates are based in part on the staff's recent estimates of the ongoing costs associated with implementing the fees and gates provisions of the 2014 amendments to rule 2a–7 under the 1940 Act. *See supra* note 759 (discussing why staff believes that the costs associated with the fees and gates provisions could be useful to estimate the costs associated with establishing and implementing swing pricing policies and procedures).

[764] This estimate is based on the following calculations: $0.05 \times \$1{,}300{,}000 = \$65{,}000$; $0.15 \times \$2{,}250{,}000 = \$337{,}500$.

[765] We anticipate that, depending on the personnel (and/or third party service providers) involved in the activities associated with administering a fund's swing pricing policies and procedures, certain of the estimated ongoing costs associated with these activities could be borne by the fund, and others could be borne by the adviser. *See* paragraph following *supra* note 762.

[766] In developing the estimate that 167 fund complexes would adopt swing pricing policies and procedures, the staff assumed that the percentage of fund complexes that includes high-yield bond funds, world bond funds (including emerging market debt funds), multi-sector bond funds, state municipal funds, alternative strategy funds, and emerging market equity funds, as a fraction of all fund complexes, is the same as the percentage of all mutual funds (excluding money market funds) that these strategies represent. The actual number of fund complexes that includes these selected strategies could be higher or lower than the number calculated using this assumption. 241 high yield bond mutual funds + 347 world bond mutual funds (estimate includes emerging market bond funds) + 139 multi-sector bond mutual funds + 322 state municipal mutual funds + 376 alternative strategy funds that are equity funds (alternative strategy funds that are bond funds are included in our estimates of the number of bond mutual funds) + 469 emerging market equity mutual funds = 1,894 funds with strategies that staff assumed would be relatively more likely to adopt swing pricing policies and procedures. 1,894 funds with selected strategies ÷ 7,395 mutual funds (excluding money market funds) = approximately 25.6%. 0.256×867 fund complexes = approximately 222 fund complexes. Assuming that 75% of these fund complexes would actually adopt swing pricing policies and procedures, 0.75×222 fund complexes = approximately 167 fund complexes. These estimates are based on figures included in the 2015 ICI Fact Book. *See* 2015 ICI Fact Book, *supra* note 3.

and procedures, and to comply with the recordkeeping requirements of the proposed amendments to rule 31a–2(a)(2) and the financial reporting requirements in Form N–1A and Regulation S–X, would be approximately $296 million.[767] In addition, staff estimates that the annual aggregate costs associated with the proposed regulations relating to swing pricing would be approximately $34 million.[768]

d. Effects on Efficiency, Competition, and Capital Formation

Proposed rule 22c–1(a)(3) would permit a fund, under certain circumstances, to adjust its NAV to effectively pass on costs stemming from shareholder purchase or redemption activity to the shareholders associated with that activity. Adjusting a fund's NAV in this way could reduce dilution to existing shareholders arising from trading costs. We therefore believe that the proposed rule could increase the efficiency of cost allocation among shareholders of funds that adopt swing pricing policies and procedures, provided that a fund's swing threshold and swing factor are appropriately calculated.[769] If investors believe swing pricing to be valuable, funds that decide to implement swing pricing will be at a competitive advantage. Fund complexes currently using swing pricing in other domiciles may be able to implement swing pricing more quickly and more effectively.

We anticipate that proposed rule 22c–1–1(a)(3) could indirectly foster capital formation by bolstering investor confidence. Investors may be more inclined to invest in funds if they understand that funds will be able to use swing pricing to prevent the purchase or redemption activity of certain investors from diluting the interests of other investors (particularly long-term investors, who represent the majority of fund shareholders). To the extent that swing pricing preserves investment returns to investors, particularly long-term investors,[770] this could incentivize investment in funds that use swing pricing. If proposed rule 22c–1(a)(3) enhances investor confidence in funds, investors are more likely to invest in funds, thus making additional assets available for investment in the capital markets. On the other hand, investors could be discouraged from investing in funds that use swing pricing if swing pricing produces increased performance volatility, which could increase tracking error, and could make a fund's short-term performance appear relatively poor compared to other funds and the fund's benchmark. Because we do not have the information necessary to determine how investors will perceive swing pricing, or how they will evaluate the relative benefits or detriments of investing in funds that use swing pricing, we are unable to draw conclusions about the precise effects of proposed rule 22c–1(a)(3) on capital formation. However, to the extent that investors perceive swing pricing improves fund performance by decreasing investor dilution, capital formation could be encouraged.

e. Reasonable Alternatives

The following discussion addresses significant alternatives to proposed rule 22c–1(a)(3). More detailed alternatives to the individual elements of the proposed rule are discussed in detail above, and we have requested comment on these alternatives.[771]

Instead of permitting, but not requiring, funds to adopt swing pricing policies and procedures under proposed rule 22c–1(a)(3), we could have proposed a rule that would require all funds to adopt swing pricing policies and procedures. This alternative approach would have the benefit of establishing a uniform regulatory framework to prevent potential shareholder dilution. But because funds differ notably in terms of their particular circumstances and risks, as well as with respect to the tools funds use to manage risks relating to liquidity and shareholder purchases and redemptions, we decided to propose a rule that would permit swing pricing as a voluntary tool for funds. Our chosen approach would allow funds to weigh the advantages of swing pricing (*e.g.,* improved allocation of trading costs[772]) against potential disadvantages (*e.g.,* the potential for swing pricing to increase the volatility of a fund's NAV in the short term[773]).

While proposed rule 22c–1(a)(3) envisions partial swing pricing (that is, a NAV adjustment would not be permitted unless net purchases or redemptions exceed a threshold set by the fund), the Commission instead could have proposed a rule that would permit full swing pricing (that is, a NAV adjustment would be permitted any time the fund experiences net purchases or net redemptions). Full swing pricing would result in *any* costs associated with purchases or redemptions being passed along to the shareholders whose actions created those costs, whereas the partial swing pricing contemplated by the proposed rule would only allocate trading costs to purchasing or redeeming shareholders when net purchases or net redemptions exceed the fund's swing threshold. Nevertheless, we believe that the partial swing pricing alternative is, on balance, preferable to the full swing pricing option. We expect that partial swing pricing, as opposed to full swing pricing, would reduce any performance volatility potentially associated with swing pricing.[774] Also, the use of partial swing pricing recognizes that purchases or redemptions below a certain threshold might not require a fund to trade portfolio assets, and therefore a NAV adjustment might not be appropriate if purchases or redemptions would not result in costs associated with asset purchases or sales (in which case, a NAV adjustment could unfairly penalize purchasing or redeeming shareholders).[775]

We considered permitting funds to use swing pricing only to adjust their NAV downward in the event that net redemptions exceeded a particular threshold, as there may be more significant issues regarding potential dilution for non-redeeming shareholders in connection with shareholder redemptions, because funds are obligated to satisfy redemption requests pursuant to section 22(e) of the Act. In this regard, we note that unlike redemptions, funds may reserve the right to decline purchase requests. For example, a fund may decline purchase requests from shareholders who engaged in frequent trading, and it also may decline large purchase requests that would negatively impact the fund.

[767] Because staff is unable to estimate how many fund complexes would incur one-time costs on the low end of the estimated range versus the high end of the estimated range, this estimate is based on the assumption that each fund complex would incur one-time costs of $1,775,000, which represents the middle of the range of estimated one-time costs ($1,300,000 + $2,250,000 = $3,550,000; $3,550,000 ÷ 2 = $1,775,000). 167 fund complexes × $1,775,000 = $296,425,000.

[768] Because staff is unable to estimate how many fund complexes would incur ongoing costs on the low end of the estimated range versus the high end of the estimated range, this estimate is based on the assumption that each fund complex would incur ongoing costs of $201,250, which represents the middle of the range of estimated ongoing costs ($65,000 + $337,500 = $402,500; $402,500 ÷ 2 = $201,250). 167 fund complexes × $201,250 = $33,608,750.

[769] *See supra* notes 748–749 (discussing cost allocation among shareholders with respect to funds that do not use swing pricing).

[770] *See supra* notes 440–441 and accompanying text.

[771] See *supra* Requests for Comment in sections III.F.1.a, III.F.1.b, III.F.1.c, III.F.1.d, III.F.1.e, III.F.1.f, III.F.1.g, III.F.2.d, and III.F.3.

[772] *See supra* sections III.F.1.a, III.F.1.c, III.F.1.e.

[773] *See supra* paragraphs accompanying note 446.

[774] *See supra* paragraph accompanying notes 447–449.

[775] *See supra* note 449 and accompanying text.

However, we are proposing to permit funds to use swing pricing to adjust their NAV upward or downward because we believe that swing pricing could be a useful tool in mitigating dilution associated with shareholder purchase activity as well.

We also considered limiting the swing factor, but we recognize that there could be circumstances in which limiting the swing factor would prevent a fund from capturing the costs associated with purchase or redemption activity in a fund.[776] We believe it is appropriate to provide flexibility to funds to determine the appropriate swing factor that takes into account estimated trading costs. As part of their swing pricing policies and procedures, funds may decide to limit the swing factor.

Lastly, instead of proposing to permit funds to use swing pricing, we considered clarifying that a fund (other than a money market fund) could impose a purchase fee or redemption fee to address potential dilution.[777] Swing pricing and purchase and redemption fees could pass on transaction-related costs to transacting shareholders. Purchase fees and redemption fees, as opposed to swing pricing, would have the benefit of being simple for investors to understand, and they would not produce the same volatility and tracking error concerns as swing pricing. However, on balance we believe that the operational costs and difficulty of imposing a fee would be significantly higher than those associated with swing pricing. Implementing a fee requires coordination with the fund's service providers, which could entail operational complexity. On the other hand, we anticipate that swing pricing would be simpler to implement than a fee because the NAV adjustment would occur pursuant to the fund's own procedures and would be factored into the process by which a fund strikes its NAV.

3. Disclosure and Reporting Requirements Regarding Liquidity Risk and Liquidity Risk Management

a. Proposed Disclosure and Reporting Requirements

We are proposing amendments to Form N–1A, Regulation S–X, proposed Form N–PORT, and proposed Form N–CEN to enhance fund disclosure and reporting regarding liquidity and redemption practices. Specifically, proposed amendments to Form N–1A would require a fund to disclose: (i) The number of days in which the fund will pay redemption proceeds to redeeming shareholders[778] and (ii) the methods the fund uses to meet redemption requests in stressed and non-stressed market conditions.[779] A fund also would be required to file as an exhibit to its registration statement any credit agreements for the benefit of the fund.[780] Regarding swing pricing, a fund would be required to disclose in Form N–1A a statement as to whether the fund uses swing pricing, and an explanation of the circumstances under which it will use swing pricing and the effects of using swing pricing.[781] The NAV reported on a fund's financial statements would reflect swing pricing, if applicable. Proposed amendments to proposed Form N–PORT would require a fund to disclose: (i) For each portfolio asset, whether that security is a 15% standard asset;[782] (ii) the fund's three-day liquid asset minimum;[783] and (iii) for each of the fund's positions in a portfolio asset, the liquidity classification of that position as determined pursuant to proposed rule 22e–4(b)(2)(i).[784] Finally, proposed amendments to proposed Form N–CEN would require a fund to disclose certain information regarding the use of lines of credit, interfund borrowing and lending, and swing pricing.[785] We have also proposed amendments to Form N–CEN that would require an ETF to report whether it required that an authorized participant post collateral to the ETF or any of its designated service providers in connection with the purchase or redemption of ETF shares.[786]

b. Benefits

The proposed disclosure and reporting requirements would promote investor protection by improving the availability of information regarding funds' liquidity risks and risk management practices, as well as funds' redemption practices. As discussed above, funds' disclosures to shareholders regarding their redemption practices are currently quite varied in content and comprehensiveness.[787] While some funds voluntarily include disclosure regarding fund limitations on illiquid asset holdings that track the 15% guideline, a fund is not currently required to disclose information about the liquidity of its portfolio assets. A fund is also not currently required to disclose information about liquidity risk management practices such as the use of lines of credit. In light of the relatively few disclosure requirements regarding funds' liquidity risks, liquidity risk management practices, and redemption practices, as well as the current inconsistency in funds' liquidity-related disclosures, we believe that the proposed disclosure and reporting requirements would increase shareholder understanding of particular funds' liquidity-related risks and redemption policies. This in turn would assist investors in making investment choices that better match their risk tolerances.

We note that, while proposed Form N–PORT and proposed Form N–CEN are designed primarily to assist the Commission and its staff, we believe that the information in these proposed forms (including the liquidity-related information proposed to be included in these forms) also would be valuable to investors.[788] In particular, we believe that both sophisticated institutional investors and third-party users that provide services to investors may find the proposed liquidity-related information to be useful. And we believe that individual investors would benefit indirectly from the information collected on reports on Form N–PORT, through analyses prepared by third-party service providers, and through enhanced Commission monitoring and oversight of the fund industry.

The liquidity-related information that funds would be required to provide on proposed Form N–PORT and proposed Form N–CEN would enhance investor protection by improving the Commission's ability to monitor funds' liquidity using relevant and targeted data. This monitoring would permit us to analyze liquidity trends in individual funds, and among certain types of funds and the fund industry as a whole, as well as to better understand funds' liquidity risk management practices. As

[776] *See supra* paragraph accompanying notes 502–504.

[777] As discussed above, funds are currently permitted under rule 22c–2 to impose redemption fees under certain circumstances. *See supra* notes 421–422 and accompanying text; *see also* Rule 22c–2 Adopting Release, *supra* note 421 (noting that the redemption fee permitted under rule 22c–2 ''is intended to allow funds to recoup some of the direct and indirect costs incurred as a result of short-term trading strategies, such as market timing'').

[778] Proposed Item 11(c)(7) of Form N–1A.

[779] Proposed Item 11(c)(8) of Form N–1A.

[780] Proposed Item 28(h) of Form N–1A.

[781] Proposed Item 6(d) of Form N–1A.

[782] Proposed Item C.7 of proposed Form N–PORT.

[783] Proposed Item B.7 of proposed Form N–PORT.

[784] Proposed Item C.13 of proposed Form N–PORT. If a fund were to determine that different portions of a position in a particular asset would receive different liquidity classifications pursuant to proposed rule 22e–4(b)(2)(i) (*see supra* paragraph accompanying note 172), the fund would be required to indicate the dollar amount of that position attributable to each classification.

[785] Proposed Item 44 of proposed Form N–CEN.

[786] Proposed Item 60g of proposed Form N–CEN.

[787] *See supra* section III.G.1.a.

[788] *See* Investment Company Reporting Modernization Release, *supra* note 104, at sections IV.B.b, IV.E.b.

discussed in our recent proposal to modernize investment company reporting, the information we receive on these reports would facilitate the oversight of funds and would assist the Commission, as the primary regulatory of such funds, to better effectuate its mission to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation.[789]

Because we cannot predict the extent to which the proposed requirements would enhance investors' awareness of funds' portfolio liquidity and liquidity risk, or that this enhanced awareness would influence investors' investments in certain funds, we are unable to quantify the potential benefits discussed in this section.

c. Costs

Funds would incur one-time and ongoing annual costs to comply with the proposed disclosure and reporting requirements regarding liquidity and shareholder redemption practices.

We estimate that the one-time costs to comply with the proposed amendments to Form N–1A would be approximately $637 per fund (plus printing costs).[790] We estimate that each fund would incur an ongoing cost associated with compliance with the proposed amendments to Form N–1A of approximately $80 [791] each year to review and update the proposed disclosure regarding swing pricing and redemptions.

The proposed amendments to proposed Form N–PORT would require funds to report on Form N–PORT the liquidity classification of each portfolio asset position (or portion of a position in a particular asset), and we estimate that the average one-time compliance costs associated with this reporting would be $15,330 per fund.[792] Furthermore, we estimate that 8,734 funds would be required to file, on a monthly basis, additional information on Form N–PORT as a result of the proposed amendments.[793] Assuming that 35% of funds (3,057 funds) would choose to license a software solution to file reports on Form N–PORT in house,[794] we estimate an upper bound on the initial annual costs to file the additional information associated with the proposed amendments for funds choosing this option of $780 per fund [795] with annual ongoing costs of $260 per fund.[796] We further assume that 65% of funds (5,677 funds) would choose to retain a third-party service provider to provide data aggregation and validation services as part of the preparation and filing of reports on Form N–PORT,[797] and we estimate an upper bound on the initial costs to file the additional information associated with the proposed amendments for funds choosing this option of $1,040 per fund [798] with annual ongoing costs of $130 per fund.[799]

Likewise, compliance with the proposed amendments to proposed Form N–CEN would involve ongoing costs as well as one-time costs. We estimate that 8,734 funds would be required to file responses on Form N–CEN as a result of the proposed amendments to the form. We estimate that the one-time and ongoing annual compliance costs associated with providing additional responses to Form N–CEN as a result of the proposed amendments would be approximately $160 per fund.[800]

Based on these estimates, staff further estimates that the total one-time costs to comply with the proposed disclosure and reporting requirements would be

[789] *See id.*

[790] This estimate is based on the following calculation: 2 hours (1 hour to update registration statement to include swing pricing-related disclosure statements + 1 hour to update registration statement disclosure about redemption procedures and file credit agreements as exhibits, if applicable) × $318.50 (blended rate for a compliance attorney ($334) and a senior programmer ($303)) = $637. This figure incorporates the costs we estimated for each fund to update its registration statement to include the required disclosure about: (i) The number of days in which the fund will pay redemption proceeds to redeeming shareholders; (ii) the methods the fund uses to meet redemption requests in stressed and non-stressed market conditions; and (iii) if the fund uses swing pricing, an explanation of the circumstances under which it will use swing pricing and the effects of using swing pricing. This figure also includes the costs we estimate for each fund to file any applicable credit agreements as exhibits to the fund's registration statement. The costs associated with these activities are all paperwork-related costs and are discussed in more detail *infra* at section V.G.

[791] This estimate is based on the following calculations: 0.25 hours (⅛ hour to update swing pricing-related disclosure statements + ⅛ hour to update disclosures about redemption procedures) × $318.50 (blended hourly rate for a compliance attorney ($334) and a senior programmer ($303)) = $79.63.

[792] This estimate is based on the following calculation: (i) Project planning and systems design (24 hours × $260 (hourly rate for a senior systems analyst) = $6,240) and (ii) systems modification integration, testing, installation and deployment (30 hours × $303 (hourly rate for a senior programmer) = $9,090). $6,240 + $9,090 = $15,330. Estimates for drafting, integrating, implementing policies and procedures are addressed in the discussion of proposed rule 22e–4. This figure incorporates the costs that we estimated associated with preparing the section of the fund's report on Form N–PORT that would incorporate the information that would be required under proposed Item C.13. The costs associated with these activities are all paperwork-related costs and are discussed in more detail *infra* at section V.E. As discussed in section V.E *infra,* we believe that any external annual costs associated with filing Form N–PORT would be only incrementally affected by compliance with proposed Item C.13 to proposed Form N–PORT, and thus proposed Item C.13 does not affect our previous estimates of these costs.

[793] There were 8,734 open-end funds (excluding money market funds, and including ETFs) as of the end of 2014. *See* 2015 ICI Fact Book, *supra* note 3, at 177, 184.

[794] This assumption tracks the assumption made in the Investment Company Reporting Modernization Release that 35% of funds would choose to license a software solution to file reports on Form N–PORT. *See* Investment Company Reporting Modernization Release, *supra* note 104, at nn.658–659 and accompanying text.

[795] This estimate is based upon the following calculations: $780 in internal costs = ($780 = 3 hours × $260 (blended hourly rate for senior programmer ($303), senior database administrator ($312), financial reporting manager ($266), senior accountant ($198), intermediate accountant ($157), senior portfolio manager ($301), and compliance manager ($283)). We do not anticipate any change to external annual costs as a result of the proposed amendments. *See infra* at section V.E. The hourly wage figures in this and subsequent footnotes are from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead.

[796] This estimate is based upon the following calculations: $260 in internal costs ($260 = 1 hour × $260 (blended hourly rate for senior programmer ($303), senior database administrator ($312), financial reporting manager ($266), senior accountant ($198), intermediate accountant ($157), senior portfolio manager ($301), and compliance manager ($283)). We do not anticipate any change to external annual costs as a result of the proposed amendments. *See infra* at section V.E.

[797] This assumption tracks the assumptions made in the Investment Company Reporting Modernization Release that 65% of funds would choose to retain a third-party service provider to provide data aggregation and validation services as part of the preparation and filing of reports on Form N–PORT. *See* Investment Company Reporting Modernization Release, *supra* note 104, at nn.660–661 and accompanying text.

[798] This estimate is based upon the following calculations: $1,040 in internal costs ($1,040 = 4 hours × $260 (blended hourly rate for senior programmer ($303), senior database administrator ($312), financial reporting manager ($266), senior accountant ($198), intermediate accountant ($157), senior portfolio manager ($301), and compliance manager ($283)). We do not anticipate any change to external annual costs as a result of the proposed amendments.

[799] This estimate is based upon the following calculations: $130 in internal costs ($130 = (0.5 hours × $260 (blended hourly rate for senior programmer ($303), senior database administrator ($312), financial reporting manager ($266), senior accountant ($198), intermediate accountant ($157), senior portfolio manager ($301), and compliance manager ($283)). We do not anticipate any change to external annual costs as a result of the proposed amendments.

[800] This estimate is based on the following calculation: 0.5 hour × $318.50 (blended hourly rate for a compliance attorney ($334) and a senior programmer ($303)) = $159.25. This figure incorporates the costs that we estimated associated with preparing the section of the fund's report on Form N–CEN that would incorporate the information that would be required under proposed Item 44. We do not estimate any additional costs in connection with proposed Item 60(g) of Form N–CEN because the proposed new item only requires a yes or no response. We do not estimate any change to the external costs associated with Form N–CEN. The costs associated with these activities are all paperwork-related costs and are discussed in more detail *infra* at section V.F.

approximately $51 million for all funds that would file reports on proposed Form N–PORT in house [801] and approximately $96 million for all funds that would use a third-party service provider to prepare and file reports on proposed Form N–PORT.[802] In addition, staff estimates that the total ongoing annual costs associated with the proposed disclosure and reporting requirements would be approximately $1.5 million for all funds that would file reports on proposed Form N–PORT in house [803] and approximately $2.1 million for all funds that would use a third-party service provider to prepare and file reports on proposed Form N–PORT.[804]

We appreciate that the proposed amendments to proposed Form N–PORT would increase the amount and availability of public information about investment companies' portfolio positions and that more frequent portfolio disclosure could potentially harm fund shareholders by expanding the opportunities for professional traders to exploit this information by engaging in predatory trading practices, such as ''front-running'' and ''copycatting.'' [805] Both front-running and copycatting can reduce the returns of shareholders who invest in actively managed funds.[806] Thus, the proposed amendments to proposed Form N–PORT could entail costs to funds and market participants associated with any reduced profitability of funds that could result from the increase in publicly available information.[807] We believe that these costs cannot be separated from the overall costs to funds and market participants that could result from the increased disclosure of currently non-public information associated with Form N–PORT in its entirety.[808] The effects of the proposed liquidity-related disclosures are intertwined with the effects of the other proposed Form N–PORT disclosures. For example, any analyses of the liquidity-related disclosure proposed to be required could be affected by the enhanced reporting of information concerning the pricing of funds' investments, information on fund flows, and disclosure of additional information that could more clearly reveal the investment strategy and risk exposures of reporting funds (*e.g.,* information pertaining to derivatives and securities lending activities). The potential costs associated with the increased disclosure of currently non-public information on Form N–PORT are discussed in detail in our recent proposal to modernize investment company reporting.[809] This proposal also discusses the ways in which we have endeavored to mitigate these costs, including by proposing to maintain the status quo for the frequency and timing of disclosure of publicly available portfolio information.[810] While proposed Form N–PORT would be required to be filed monthly, it would be required to be disclosed quarterly and would not be made public until 60 days after the close of the period at issue. Because funds are currently required to disclose their portfolio investments quarterly (and this disclosure is made public with a 60-day lag), we believe that maintaining the status quo with regard to the frequency and the time lag of publicly available portfolio reporting would permit the Commission (as well as the fund industry generally) to assess the impact of the Form N–PORT filing requirement on the mix of information available to the public, and the extent to which these changes might affect the potential for predatory trading, before determining whether more frequent or more timely public disclosure would be beneficial to investors in funds.[811] We cannot currently predict the extent to which the proposed enhancements to funds' disclosures on Form N–PORT would give rise to front-running, predatory trading, and other activities that could be detrimental to a fund and its investors, and thus we are unable to quantify potential costs related to these activities.

d. Effects on Efficiency, Competition, and Capital Formation

We believe the proposed requirements could increase informational efficiency by providing additional information about the liquidity of funds' portfolio positions to investors, third-party service providers, and the Commission. This in turn could assist investors in evaluating the risks associated with certain funds, which could increase allocative efficiency by assisting investors in making investment choices that better match their risk tolerances. Enhanced disclosure regarding funds' liquidity and liquidity risk management practices could positively affect competition by permitting investors to choose whether to invest in certain funds based on this information. However, if investors were to move their assets among funds as a result of the disclosure requirements (for example, if the disclosure made clear that a certain fund was able to generate higher returns than its peers through high exposure to relatively less liquid positions, which then led investors with limited risk tolerance to move assets out of this fund), this could negatively affect the competitive stance of certain funds.

Increased investor awareness of funds' portfolio liquidity and liquidity risk management practices also could promote capital formation if investors find certain funds' liquidity profiles and/or risk management practices attractive, and this awareness promotes increased investment in these funds and in turn in the assets in which the funds invest. For example, disclosure that reveals liquidity risk in funds' portfolios could negatively impact capital formation if this disclosure leads investors to decide that such funds pose too great of an investment risk, and consequently decide not to invest in these funds or to decrease their investment in these funds. Conversely, to the extent that investors assume that funds investing in relatively less liquid assets could obtain a liquidity risk premium in the form of higher returns over some period of time, the potential for higher returns could draw certain investors to funds investing in relatively less liquid asset classes, which could positively affect capital formation for these funds. If investors shift their invested assets between funds based on liquidity, there could be capital formation effects stemming from increased (or decreased) investment in the funds' portfolio assets, even if the total capital invested in funds remains constant. For example, if fund investors move assets from an investment strategy that entails relatively high liquidity risk

[801] This estimate assumes that 35% of funds (3,057 funds) would choose to file reports on proposed Form N–PORT in house (*see infra* section V.E) and is based on the following calculation: 3,057 funds × $16,587.75 ($318.50 + $15,330 + $780 + $159.25) = $50,708,751.75.

[802] This estimate assumes that 65% of funds (5,677) would choose to file reports on proposed Form N–PORT with the assistance of third-party service providers (*see infra* section V.E) and is based on the following calculation: 5,677 funds × $16,847.75 ($318.50 + $15,330 + $1,040 + $159.25) = $95,644,676.75.

[803] This estimate is based on the following calculation: 3,057 funds × $498.88 ($79.63 + $260 + $159.25) = $1,525,076.16.

[804] This estimate is based on the following calculation: 5,677 funds × $368.88 ($79.63 + $130 + $159.25) = $2,094,131.76.

[805] *See* Investment Company Reporting Modernization Release, *supra* note 104, at n.170 and accompanying and following text.

[806] *See* Russ Wermers, *The Potential Effects of More Frequent Portfolio Disclosure on Mutual Fund Performance,* 7 Investment Company Institute Perspective No. 3 (June 2001), *available at http://www.ici.org/pdf/per07–03.pdf.*

[807] *See* Investment Company Reporting Modernization Release, *supra* note 104, at nn.663–667 and accompanying text.

[808] *See id.* at paragraphs accompanying nn.663–673.

[809] *See id.*

[810] *See id.* at section II.A.4 and paragraph accompanying n. 670.

[811] *See id.*

to one whose investment strategy involves relatively low liquidity risk, less liquid portfolio asset classes could experience an adverse impact on capital formation while the more liquid portfolio asset classes could experience a positive impact on capital formation, although the total capital invested in funds would remain constant.

e. Reasonable Alternatives

The following discussion addresses significant alternatives to proposed disclosure and reporting requirements. More detailed alternatives to the individual elements of the proposed requirements are discussed in detail above, and we have requested comment on these alternatives.[812]

The Commission considered proposing to require each fund to disclose information about the liquidity of its portfolio positions in the fund's prospectus or on the fund's Web site, in addition to in reports filed on Form N–PORT. For example, we could have proposed to require a fund to disclose its three-day liquid asset minimum, or the percentage of the fund's portfolio invested in each of the liquidity categories specified under proposed rule 22e–4(b)(2)(i), in its prospectus or on its Web site. This additional disclosure could further increase transparency with respect to funds' portfolio liquidity and liquidity-related risks. But we had concerns that this additional disclosure could create investor confusion; for example, an investor could mistakenly understand statements about the liquidity of the fund's *portfolio* to implicate the redeemability of the fund's *shares.* We also had concerns that this additional disclosure could inappropriately emphasize risks relating to a fund's portfolio liquidity over other significant risks associated with an investment in the fund. We therefore determined that this alternative could lead to poor investor allocation and that its costs would likely outweigh its potential benefits.

Conversely, the Commission also considered limiting the proposed enhancements to funds' liquidity-related disclosures on proposed Form N–PORT. As discussed above, we are sensitive to the possibility that the proposed amendments to the proposed form could facilitate front-running, predatory trading, and other activities that could be detrimental to a fund and its investors. Limiting the required disclosure about information concerning the liquidity of funds' portfolio positions could allow funds to shelter certain information that they may consider a source of competitive advantage. As discussed in our recent proposal to modernize investment company reporting, the items included on proposed Form N–PORT reflect our careful consideration of what information we believe to be important for our oversight activities and to the public, and the costs to investment companies to provide the information.[813] We likewise carefully weighed costs and benefits with respect to the new liquidity-related disclosures proposed to be required under proposed Form N–PORT and concluded that these disclosures appropriately balance related costs with the benefits that could arise from the ability of the Commission, and members of the public, to monitor and analyze the liquidity of individual funds, as well as liquidity trends within the fund industry.

D. Request for Comment

The Commission requests comment on all aspects of this initial economic analysis, including whether the analysis has: (i) Identified all benefits and costs, including all effects on efficiency, competition, and capital formation; (ii) given due consideration to each benefit and cost, including each effect on efficiency, competition, and capital formation; and (iii) identified and considered reasonable alternatives to the proposed new rule and rule amendments. We request and encourage any interested person to submit comments regarding the proposed rule and proposed amendments, our analysis of the potential effects of the proposed rule and proposed amendments, and other matters that may have an effect on the proposed rule and proposed amendments. We request that commenters identify sources of data and information as well as provide data and information to assist us in analyzing the economic consequences of the proposed rule and proposed amendments. We also are interested in comments on the qualitative benefits and costs we have identified and any benefits and costs we may have overlooked. We also request comments on all data and empirical analyses used in support of the proposed rule and proposed amendments.

In addition to our general request for comment on the economic analysis associated with the proposed rule and proposed amendments, we request specific comment on certain aspects of the proposal:

- To what extent do funds' current practices regarding portfolio asset liquidity classification and liquidity risk assessment and management currently align with the proposed liquidity risk management program requirements, and what operational and other costs would funds incur in modifying their current practices to comply with the proposed requirements?
- What factors, with respect to a fund's particular risks and circumstances, would cause particular variance in funds' compliance costs related to the liquidity risk management program requirement?
- We note that rule 22e–4 as proposed is meant to provide flexibility in permitting a fund to customize its liquidity risk management program, and thus we anticipate that the costs and burdens relating to the program requirement will vary based on the fund's risks and circumstances. Does this flexibility (and the attendant requirement for each fund to adopt liquidity risk management policies and procedures based on an assessment of the fund's individual liquidity risk) affect the extent to which a fund family could lower costs by developing procedures, or implementing systems modifications, that could be used by all funds within the fund family? Does this flexibility enhance the potential effectiveness of the proposed liquidity risk management program?
- We request comment on our estimates of the one-time and ongoing costs associated with the proposed program requirement. Do commenters agree with our cost estimates? If not, how should our estimates be revised, and what changes, if any, should be made to the assumptions forming the basis for our estimates? Are there any significant costs that have not been identified within our estimates that warrant consideration? To what degree would economies of scale affect compliance costs for larger entities, and is the longer proposed compliance period for small entities [814] appropriate in light of any relatively larger burden that would be borne by smaller entities that are not able to take advantage of economies of scale? How do commenters anticipate that these estimated costs might be allocated between a fund and its adviser?
- To what extent do commenters anticipate that the proposed liquidity risk management program requirement could lead funds to modify their investment strategies or increase their

[812] *See supra* sections III.G.1.a, III.G.1.b, III.G.2.d, and III.G.3.c.

[813] *See* Investment Company Reporting Modernization Release, *supra* note 104, at section IV.B.

[814] *See supra* section III.H.1.

investments in relatively more liquid assets? Do commenters believe that the proposed program requirement could significantly affect the market for relatively more liquid assets (or, conversely, the market for relatively less liquid assets) and if so, to what extent would these markets be affected?

• We request comment on our estimate of the number of funds that would adopt swing pricing policies and procedures under proposed rule 22c–1(a)(3). For what reasons would a fund decide not to adopt swing pricing policies and procedures, and would funds with certain investment strategies be relatively more likely to adopt swing pricing policies and procedures?

• What operational and other costs would a fund incur in adopting swing pricing policies and procedures, and would these costs be significantly lower if a fund is a member of a fund complex that also includes foreign-domiciled funds that currently use swing pricing? Do commenters agree with our cost estimates associated with proposed rule 22c–1(a)(3)? If not, how should our estimates be revised, and what changes, if any, should be made to the assumptions forming the basis for our estimates? Are there any significant costs that have not been identified within our estimates that warrant consideration? How do commenters anticipate that these estimated costs might be allocated between a fund and its adviser?

• Would fund shareholders be more inclined or less inclined to invest in a fund that has adopted swing pricing policies and procedures as contemplated by proposed rule 22c–1(a)(3)? Do commenters believe that swing pricing could preserve investment returns to fund investors? If so, please provide any available data regarding the relationship between the use of swing pricing and the preservation of investment returns.

• Do commenters agree with our statement that swing pricing would be simpler and less costly to implement than purchase fees or redemption fees?

• Do the proposed disclosure and reporting requirements raise any concerns about confidentiality relating to a fund's portfolio holdings, investor confusion, the potential misallocation of invested funds, or other concerns? To what extent would the proposed portfolio liquidity-related enhancements to funds' disclosures on Form N–PORT give rise to front-running, predatory trading, and other activities that could be detrimental to a fund and its investors?

• Would additional prospectus disclosure about funds' portfolio liquidity, beyond that which would be required under the proposed Form N–1A amendments, be useful to investors? If so, what additional disclosure would be most useful, and what disclosure methods would permit funds to appropriately balance disclosure about liquidity-related risks with disclosure regarding other risks facing the fund?

V. Paperwork Reduction Act Analysis

A. Introduction

Proposed rule 22e–4 and the proposed amendments to rule 22c–1 contain ''collections of information'' within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[815] In addition, the proposed amendments to rule 31a–2, Form N–1A and Regulation S–X would impact the collections of information burden under those rules and form.[816] The proposed amendments to proposed Form N–CEN and proposed Form N–PORT would impact the collections of information burdens associated with these proposed forms described in the Investment Company Reporting Modernization Release.[817]

The title for the existing collections of information are: ''Rule 31a–2 Records to be preserved by registered investment companies, certain majority-owned subsidiaries thereof, and other persons having transactions with registered investment companies'' (OMB Control No. 3235–0179); and ''Form N–1A under the Securities Act of 1933 and under the Investment Company Act of 1940, Registration Statement of Open-End Management Investment Companies'' (OMB Control No. 3235–0307). In the Investment Company Reporting Modernization Release, we submitted new collections of information for proposed Form N–CEN and proposed Form N–PORT.[818] The titles for these new collections of information are: ''Form N–CEN Under the Investment Company Act, Annual Report for Registered Investment Companies'' and ''Form N–PORT Under the Investment Company Act, Monthly Portfolio Investments Report.'' We are submitting new collections of information for proposed new rule 22e–4 and the proposed amendments to rule 22c–1 under the Investment Company Act of 1940. The titles for these new collections of information would be: ''Rule 22e–4 Under the Investment Company Act of 1940, Liquidity risk management programs,'' and ''Rule 22c–1 Under the Investment Company Act of 1940, Pricing of redeemable securities for distribution, redemption and repurchase.'' The Commission is submitting these collections of information to the OMB for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The Commission is proposing new rule 22e–4 and amendments to rule 22c–1, rule 31a–2, Regulation S–X and Form N–1A. The Commission also is proposing to amend proposed Form N–CEN and proposed Form N–PORT. The new rule and proposed amendments are designed to promote effective liquidity risk management throughout the open-end fund industry, prevent potential dilution of interests of fund shareholders in light of redemption activity, and enhance disclosure regarding fund liquidity and shareholder redemption practices. We discuss below the collection of information burdens associated with these reforms.

B. Rule 22e–4

Proposed rule 22e–4 would require funds to establish a written liquidity risk management program that is reasonably designed to assess and manage the fund's liquidity risk. This program would include policies and procedures adopted by the fund that incorporate certain program elements, including: (i) Classification, and ongoing review of the classification, of the liquidity of a fund's portfolio positions; (ii) assessment and periodic review of a fund's liquidity risk; and (iii) management of the fund's liquidity risk, including determination and periodic review of the fund's three-day liquidity asset minimum and establishment of policies and procedures regarding redemptions in kind, to the extent that the fund engages in or reserves the right to engage in redemptions in kind. The rule also would require board approval and oversight of the program and recordkeeping. The proposed requirements that funds adopt a written liquidity risk management program, report to the board, maintain a written record of how the three-day liquid asset minimum and any adjustments were determined, and retain certain records are collections of information under the

[815] 44 U.S.C. 3501 through 3521.

[816] The paperwork burden from Regulation S–X is imposed by the rules and forms that relate to Regulation S–X and, thus, is reflected in the analysis of those rules and forms. To avoid a PRA inventory reflecting duplicative burdens and for administrative convenience, we have previously assigned a one-hour burden to Regulation S–X.

[817] *See* Investment Company Reporting Modernization Release, *supra* note 104, at section V.

[818] *See id.*

PRA. The respondents to proposed rule 22e–4 would be open-end management investment companies (other than money market funds), and we estimate that funds within 867 fund complexes would be subject to proposed rule 22e–4.[819] Compliance with proposed rule 22e–4 would be mandatory for all such funds. Information regarding the fund's three-day liquid asset minimum would be confidential until publicly reported on Form N–PORT, as described below. Other information provided to the Commission in connection with staff examinations or investigations would be kept confidential subject to the provisions of applicable law.

1. Preparation of Written Liquidity Risk Management Program

We believe that most funds regularly monitor the liquidity of their portfolios as part of the portfolio management function, but they may not have written policies and procedures regarding liquidity management. Proposed rule 22e–4 would require funds to have a written liquidity risk management program. We believe such a program would promote efficient liquidity risk management, reduce the probability that a fund will be able to meet redemption requests only through activities that could materially affect the fund's NAV or risk profile or dilute the interests of fund shareholders, and respond to risks associated with increasingly complex portfolio investments and operations.

For purposes of this PRA analysis, we estimate that a fund complex would incur a one-time average burden of 40 hours associated with documenting the liquidity risk management programs adopted by each fund within the complex. Proposed rule 22e–4 requires fund boards to approve the liquidity risk management program and any material changes to the program (including the three-day liquid asset minimum), and we estimate a one-time burden of nine hours per fund complex associated with fund boards' review and approval of the funds' liquidity risk management programs and preparation of board materials. Amortized over a 3 year period, this would be an annual burden per fund complex of about 16 hours. Accordingly, we estimate that the total burden for initial documentation and review of funds' written liquidity risk management program would be 42,483 hours.[820] We also estimate that it would cost a fund complex approximately $38,466 to document, review and initially approve these policies and procedures, for a total cost of approximately $33,350,022.[821]

2. Reporting Regarding the Three-Day Liquid Assets Minimum

Under proposed rule 22e–4(b)(2)(iv), each fund would be required as part of its liquidity risk management program to determine and periodically review its three-day liquid asset minimum. The fund's investment adviser or officer that administers the liquidity risk management program must provide a written report to the fund's board at least annually that reviews the adequacy of the fund's liquidity risk management program, including the fund's three-day liquid asset minimum, and the effectiveness of its implementation.

For purposes of this PRA analysis, we estimate that, for each fund complex, compliance with the reporting requirement would entail: (i) Five hours of portfolio management time, (ii) five hours of compliance time, (iii) five hours of professional legal time and (iv) 2.5 hours of support staff time, requiring an additional 17.5 burden hours at a time cost of approximately $5,193 per fund complex to draft the required report to the board.[822] We estimate that the total burden for preparation of the board report would be 15,173 hours, at an aggregate cost of $4,502,331.[823]

3. Recordkeeping

Proposed rule 22e–4(c) would require a fund to maintain a written copy of policies and procedures adopted pursuant to its liquidity risk management program for five years in an easily accessible place. The proposed rule also would require a fund to maintain copies of materials provided to the board, as well as a written record of how the three-day liquid asset minimum and any adjustments to the minimum were determined, for five years, the first two years in an easily accessible place. The retention of these records would be necessary to allow the staff during examinations of funds to determine whether a fund is in compliance with the required liquidity risk management program. We estimate that the burden would be five hours per fund complex to retain these records, with 2.5 hours spent by a general clerk and 2.5 hours spent by a senior computer operator. We estimate a time cost per fund complex of $361.[824] We estimate that the total burden for recordkeeping related to the liquidity risk management program would be 4,335 hours, at an aggregate cost of $312,987.[825]

4. Estimated Total Burden

Amortized over a three-year period, the hour burdens and time costs associated with proposed rule 22e–4, including the burden associated with (a) funds' initial documentation and review of the required written liquidity risk management program, (b) reporting to a fund's board regarding the fund's three-day liquid asset minimum, and (c) recordkeeping requirements, would result in an average aggregate annual burden of 28,611 hours and average aggregate time costs of $14,431,215.[826]

[819] *See* 2015 ICI Fact Book, *supra* note 3, at Fig. 1.8.

[820] This estimate is based on the following calculation: (40 + 9) hours × 867 fund complexes = 42,483 hours.

[821] These estimates are based on the following calculations: 20 hours × $301 (hourly rate for a senior portfolio manager) = $6,020; 20 hours × $455.5 (blended hourly rate for assistant general counsel ($426) and chief compliance officer ($485) = $9,110; 5 hours × $4,400 (hourly rate for a board of 8 directors) = $22,000; 4 hours (for a fund attorney's time to prepare materials for the board's determinations) × $334 (hourly rate for a compliance attorney) = $1,336. $6,020 + $9,110 + $22,000 + $1,336 = $38,466; $38,466 × 867 fund complexes = $33,350,022. The hourly wages used are from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead. The staff previously estimated in 2009 that the average cost of board of director time was $4,000 per hour for the board as a whole, based on information received from funds and their counsel. Adjusting for inflation, the staff estimates that the current average cost of board of director time is approximately $4,400.

[822] This estimate is based on the following calculation: 5 hours × $301 (hourly rate for a senior portfolio manager) = $1,505; 5 hours × $283 (hourly rate for compliance manager) = $1,415; 5 hours × $426 (hourly rate for assistant general counsel) = $2,130; and 2.5 hours × $57 (hourly rate for general clerk) = $143. $1,505 + $1,415 + $2,130 + $143 = $5,193. The hourly wages used are from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead. The hourly wage used for the general clerk is from SIFMA's Office Salaries in the Securities Industry 2013, modified to account for an 1800-hour work-year and multiplied by 2.93 to account for bonuses, firm size, employee benefits, and overhead.

Because each fund within a fund complex would be required to determine its own three-day liquid asset minimum, this estimate assumes that the report at issue would incorporate an assessment of the three-day liquid asset minimum for each fund within the fund complex.

[823] These estimates are based on the following calculations: 867 fund complexes × 17.5 hours = 15,173 hours; and $5,193 × 867 fund complexes = $4,502,331.

[824] This estimate is based on the following calculations: 2.5 hours × $57 (hourly rate for a general clerk) = $143; 2.5 hours × $87 (hour rate for a senior computer operator) = $218. $143 + $218 = $361.

[825] This estimate is based on the following calculations: 867 fund complexes × 5 hours = 4,335 hours. 867 fund complexes × $361 = $312,987.

[826] These estimates are based on the following calculations: 42,483 hours (year 1) + (2 × 15,173 hours) (years 2 and 3) + (3 × 4,335 hours) (years 1, 2 and 3) ÷ 3 = 28,611 hours; $33,350,022 (year 1)

Continued

We estimate that there are no external costs associated with this collection of information.

C. Rule 22c–1

We are proposing to amend rule 22c–1 and establish new collection of information burdens under the rule. The proposed amendments would permit a fund (with the exception of a money market fund or ETF) to establish and implement policies and procedures that would require the fund, under certain circumstances, to use swing pricing to mitigate dilution of the value of outstanding redeemable securities stemming from shareholder purchase or redemption activity. We believe the proposed amendments to rule 22c–1 would promote investor protection by providing funds with an additional tool to mitigate the potentially dilutive effects of shareholder purchase or redemption activity and provide a set of operational standards that would allow funds to gain comfort using swing pricing as a new means of mitigating potential dilution.[827]

In order to use swing pricing under the proposed amendments, a fund would be required to establish and implement swing pricing policies and procedures that meet certain requirements.[828] The proposed amendments also would require a fund's board of directors to approve the fund's swing pricing policies and procedures, including any material change to these policies and procedures,[829] and funds would be required to maintain a written copy of the fund's swing pricing policies and procedures.[830] The requirements that funds adopt policies and procedures, obtain board approval and retain certain records related to swing pricing are collections of information under the PRA. The respondents to the proposed amendments to rule 22c–1 would be open-end management investment companies (other than money market funds or ETFs) that engage in swing pricing. We estimate that 167 fund complexes include funds that would adopt swing pricing policies and procedures pursuant to the rule.[831] Compliance with rule 22c–1 would be mandatory for any fund that chose to use swing pricing to adjust its NAV in reliance on the proposed amendments. The information when provided to the Commission in connection with staff examinations or investigations would be kept confidential subject to the provisions of applicable law.

For purposes of this PRA analysis, we estimate that each fund complex would incur a one-time average burden of 24 hours to document swing pricing policies and procedures. The proposed amendments to rule 22c–1 would require fund boards initially to approve the swing pricing policies and procedures (including the swing threshold) and any material changes to them, and we estimate a one-time burden of five hours per fund complex associated with the fund board's review and approval of swing pricing policies and procedures. Amortized over a 3 year period, this would be an annual burden per fund complex of about 10 hours. Accordingly, we estimate that the total burden associated with the preparation and approval of swing pricing policies and procedures by those fund complexes that we believe would use swing pricing would be 4,843 hours.[832] We also estimate that it would cost a fund complex $21,710 to document, review and initially approve these policies and procedures, for a total cost of $3,625,570.[833]

The proposed amendments to rule 22c–1 also would require a fund that uses swing pricing to retain a written copy of the fund's swing policies and procedures that are in effect, or at any time within the past six years were in effect, in an easily accessible place.[834] The retention of these records would be necessary to allow the staff during examinations of funds to determine whether a fund is in compliance with its swing pricing policies and procedures, and whether the policies and procedures comply with the proposed amendments to rule 22c–1. We estimate that the burden would be three hours per fund complex to retain these records, with 1.5 hours spent by a general clerk and 1.5 hours spent by a senior computer operator. We estimate a time cost per fund complex of $216.[835] We estimate that the total for recordkeeping related to swing pricing would be 501 hours, at an aggregate cost of $36,072 for all fund complexes that we believe include funds that would adopt swing pricing policies and procedures.[836]

Amortized over a three-year period, the hour burdens and time costs associated with the proposed amendments to rule 22c–1, including the burden associated with the requirements that funds adopt policies and procedures, obtain board approval and retain certain records related to swing pricing, would result in an average aggregate annual burden of 2,115 hours and average aggregate time costs of $1,244,595.[837] We estimate that there are no external costs associated with this collection of information.

D. Rule 31a–2

Section 31(a)(1) of the Investment Company Act requires registered investment companies and certain of their majority-owned subsidiaries to maintain and preserve records as prescribed by Commission rules. Rule 31a–1 under the Act specifies the books and records that must be maintained. Rule 31a–2 under the Act specifies the time periods that entities must retain certain books and records, including those required to be maintained under rule 31a–1. The retention of records, as required by rule 31a–2, is necessary to ensure access by Commission staff to material business and financial information about funds and certain related entities. This information is used by the staff to evaluate fund compliance with the Investment Company Act and regulations thereunder. The Commission currently estimates that the annual burden associated with rule 31a–2 is 220 hours per fund, with 110 hours spent by a general clerk at a rate of $52 per hour and 110 hours spent by a senior computer operator at a rate of $81 per hour.[838] The current estimate of the

+ (2 × $4,502,331) (years 2 and 3) + (3 × $312,987) (years 1, 2 and 3) ÷ 3 = $14,431,215.

[827] *See supra* section IV.C.2.b.

[828] *See* proposed rule 22c–1(a)(3)(i).

[829] *See* proposed rule 22c–1(a)(3)(ii).

[830] *See* proposed rule 22c–1(a)(3)(iii).

[831] *See supra* section IV.C.2.c.

[832] This estimate is based on the following calculation: (24 + 5) hours × 167 fund complexes = 4,843 hours.

[833] These estimates are based on the following calculations: 12 hours × $198 (hourly rate for a senior accountant) = $2,376; 12 hours × $455.5 (blended hourly rate for assistant general counsel ($426) and chief compliance officer ($485) = $5,466; 3 hours × $4,400 (hourly rate for a board of 8 directors) = $13,200; 2 hours (for a fund attorney's time to prepare materials for the board's determinations) × $334 (hourly rate for a compliance attorney) = $668; ($2,376 + $5,466 + $13,200 + $668) = $21,710; $21,710 × 167 fund complexes = $3,625,570. The hourly wages used are from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead. *See also supra* note 821 (discussing basis for estimated hourly rate for a board of directors).

[834] Proposed rule 22c–1(a)(3)(iii).

[835] This estimate is based on the following calculations: 1.5 hours × $57 (hourly rate for a general clerk) = $85.5; 1.5 hours × $87 (hour rate for a senior computer operator) = $130.5. $85.5 + $130.5 = $216.

[836] These estimates are based on the following calculation: 3 hours × 167 fund complexes = 501 hours. 167 fund complexes × $216 = $36,072.

[837] These estimates are based on the following calculations: 4,843 hours (year 1) + (3 × 501 hours) (years 1, 2 and 3) ÷ 3 = 2,115 hours; $3,625,570 (year 1) + (3 × $36,072) (years 1, 2 and 3) ÷ 3 = $1,244,595.

[838] The estimated salary rates were derived from SIFMA's Office Salaries in the Securities Industry 2011, modified to account for an 1800-hour work-

total annual burden for all funds to comply with rule 31a–2 is approximately 766,480 hours at an estimated cost of $50,970.920.[839]

We are proposing to amend rule 31a–2 to require a fund that chooses to use swing pricing to create and maintain a record of support for each computation of an adjustment to the NAV of the fund's shares based on the fund's swing policies and procedures.[840] This collection of information requirement would be mandatory for any fund that chooses to use swing pricing to adjust its NAV in reliance on the proposed amendments to rule 22c–1. To the extent that the Commission receives confidential information pursuant to this collection of information, such information would be kept confidential, subject to the provisions of applicable law.

We estimate that approximately 947 funds would use swing pricing pursuant to the proposed amendments to rule 22c–1. We also estimate that each fund that uses swing pricing generally would incur an additional burden of 1 hour per year in order to comply with the proposed amendments to rule 31a–2. Accordingly, we estimate that the total average annual hour burden associated with the proposed amendments to rule 31a–2 would be an additional 947 hours at a cost of $68,169.[841]

The Commission currently estimates that the average external cost of preserving books and records required by rule 31a–2 is approximately $70,000 per fund at a total cost of approximately $243,880,000 per year,[842] but that funds would already spend approximately half this amount to preserve these same books and records, as they are also necessary to prepare financial statements, meet various state reporting requirements, and prepare their annual federal and state income tax returns. Therefore, the Commission estimated that the total annual cost burden for all funds as a result of compliance with rule 31a–2 is approximately $121,940,000.[843] We estimate that the annual external cost burden of compliance with the information collection requirements of rule 31a–2 would increase by $300 per fund that engages in swing pricing, for an increase in the total annual cost burden of $284,100.[844]

E. Form N–PORT

On May 20, 2015, the Commission proposed Form N–PORT, which would require funds to report information within thirty days after the end of each month about their monthly portfolio holdings to the Commission in a structured data format. Preparing a report on Form N–PORT is mandatory and a collection of information under the PRA, and the information required by Form N–PORT would be data-tagged in XML format. Responses to the reporting requirements would be kept confidential for reports filed with respect to the first two months of each quarter; the third month of the quarter would not be kept confidential, but made public sixty days after the quarter end.

In the Investment Company Reporting Modernization Release, we estimated that, for the 35% of funds that would file reports on proposed Form N–PORT in house, the per fund average aggregate annual hour burden was estimated to be 178 hours per fund, and the average cost to license a third-party software solution would be $4,805 per fund per year.[845] For the remaining 65% of funds that would retain the services of a third party to prepare and file reports on proposed Form N–PORT on the fund's behalf, we estimated the average aggregate annual hour burden to be 125 hours per fund, and each fund would pay an average fee of $11,440 per fund per year for the services of third-party service provider. In sum, we estimated that filing reports on proposed Form N–PORT would impose an average total annual hour burden of 1,537,572 hours on applicable funds, and all applicable funds would incur on average, in the aggregate, external annual costs of $97,674,221.[846]

We are proposing amendments to Form N–PORT that would require each fund to report its three-day liquid asset minimum,[847] the liquidity classification for each portfolio asset position (or portion thereof),[848] and whether an asset is a 15% standard asset.[849] For portfolio assets with multiple liquidity classifications, the proposed amendments would require funds to indicate the dollar amount attributable to each classification. We believe that requiring funds to report information about the liquidity of portfolio investments would assist the Commission in better assessing liquidity risk in the open-end fund industry. Moreover, we believe that this information would help investors and potential users better understand the liquidity risks in funds.

1. Liquidity Classification

Under proposed rule 22e–4(b)(2)(i), an open-end management investment company (other than a money market fund) would be required as part of its liquidity risk management program to classify the liquidity of each of its positions in a portfolio asset (or portions of a position in a particular asset) based the number of days that the fund's position in the asset (or portion thereof) would be convertible to cash at a price that does not materially affect the value of that asset immediately prior to sale. We estimate that 8,734 funds would be required to file, on a monthly basis, additional information on Form N–PORT as a result of the proposed amendments.[850] Funds also would be required to conduct an ongoing review of the liquidity of their assets. Proposed rule 22e–4(b)(2)(ii) includes factors that funds must take into account when classifying the liquidity of their assets. The liquidity classifications of each portfolio asset position would be reported on Item C. 13 of proposed Form N–PORT.

Based on staff outreach, we understand that many funds currently categorize assets based on their liquidity, but this proposal would require a specific type of classification and the determination of a three-day liquid asset minimum. We expect that funds would incur a one-time internal burden to initially classify a fund's

year and multiplied by 2.93 to account for bonuses, firm size, employee benefits, and overhead.

[839] These estimates were based on the following calculations: 220 hours × 3,484 funds (the estimated number of funds the last time the rule's information collections were submitted for PRA renewal in 2012) = 766,480 total hours; 776,480 hours ÷ 2 = 383,240 hours; 383,240 × $52/hour for a clerk = $19,928,480; 383,240 × $81 rate per hour for a computer operator = $31,042,440; $19,928,480 + $31,042,440 = $50,970,920 total cost.

[840] Proposed amendment to rule 31a–2(a)(2).

[841] These estimates are based on the following calculations: 1 hour × 947 funds = 947 total hours; 474 hours × $57 rate per hour for a general clerk = $27,018; 473 hours × $87 rate per hour for a senior computer operator = $41,151; $27,018 + $41,151 = $68,169 total cost.

[842] This estimate is based on the following calculation: 3,484 funds (the estimated number of funds the last time the rule's information collections were submitted for PRA renewal in 2012) × $70,000 = $243,880,000.

[843] *See Submission of OMB Review; Comment Request, Extension: Rule 31a–2, OMB Control No. 3235–0179,* Securities and Exchange Commission 77 FR 66885 (Nov. 7, 2012).

[844] This estimate is based on the following calculation: 947 funds × $300 = $284,100.

[845] *See* Investment Company Reporting Modernization Release, *supra* note 104, at nn.736–741, 749 and accompanying text.

[846] *See* Investment Company Reporting Modernization Release, *supra* note 104, at nn.748 and 751 and accompanying text.

[847] *See* proposed Item B.7 of proposed Form N–PORT.

[848] *See* proposed Item C.13 of proposed Form N–PORT.

[849] *See* proposed Item C.7 of proposed Form N–PORT.

[850] There were 8,734 open-end funds (excluding money market funds, and including ETFs (for purposes of these calculations, we exclude non-1940 Act ETFs)) as of the end of 2014. *See* 2015 ICI Fact Book, *supra* note 3, at 177, 184.

portfolio securities and program existing systems to conduct the ongoing classifications and reviews required by the proposed rule for reporting purposes. We estimate that each fund would incur an average one-time burden of 54 hours at a time cost of $15,330.[851] Amortized over a three year period, this would result in an average annual hour burden of approximately 18 burden hours and a time cost of $5,110.[852]

2. Reporting on Proposed Form N–PORT

In addition to the classification and review of securities, we estimate that 8,734 [853] funds would be required to file, on a monthly basis, additional information on Form N–PORT as a result of the proposed amendments. We estimate that each fund that files reports on Form N–PORT in house (35%, or 3,057 funds) would require an average of approximately 3 burden hours to compile (including review of the information), tag, and electronically file the additional information in light of the proposed amendments for the first time and an average of approximately 1 burden hours for subsequent filings. Therefore, we estimate the per fund average annual hour burden associated with the incremental changes to Form N–PORT as a result of the proposed amendments for these funds would be an additional 14 hours for the first year [854] and an additional 12 hours for each subsequent year.[855] Amortized over three years, the average annual hour burden would be an additional 12.67 hours per fund.[856]

We estimate that 65% of funds (5,677) would retain the services of a third party to provide data aggregation, validation and/or filing services as part of the preparation and filing of reports on proposed Form N–PORT on the fund's behalf. For these funds, we estimate that each fund would require an average of approximately 4 hours to compile and review the information with the service provider prior to electronically filing the report for the first time and an average of 0.5 burden hours for subsequent filings. Therefore, we estimate the per fund average annual hour burden associated with the incremental changes to proposed Form N–PORT as a result of the proposed amendments for these funds would be an additional 9.5 hours for the first year [857] and an additional 6 hours for each subsequent year.[858] Amortized over three years, the average aggregate annual hour burden would be an additional 7.17 hours per fund.[859] In sum, we estimate that the proposed amendments to Form N–PORT would impose an average total annual hour burden of an additional 79,436.28 hours on applicable funds.[860] We do not anticipate any change to the total external annual costs of $97,674,221.[861]

F. Form N–CEN

On May 20, 2015, we proposed to amend rule 30a–1 to require all funds to file reports with certain census-type information on proposed Form N–CEN with the Commission on an annual basis. Proposed Form N–CEN would be a collection of information under the PRA, and is designed to facilitate the Commission's oversight of funds and its ability to monitor trends and risks. The collection of information under Form N–CEN would be mandatory for all funds, and responses would not be kept confidential.

In the Investment Company Reporting Modernization Release, we estimated that the average annual hour burden per response for proposed Form N–CEN for the first year would be 32.37 hours and 12.37 hours in subsequent years.[862] Amortizing the burden over three years, we estimated that the average annual hour burden per fund per year would be 19.04 and the total average annual hour burden would be 59,900 hours.[863] We also estimated that all applicable funds would incur, in the aggregate, external annual costs of $1,748,637, which would include the costs of registering and maintaining LEIs for funds.

We are proposing amendments to Form N–CEN to enhance the reporting of a fund's liquidity risk management practices. Specifically, the proposed amendments to Form N–CEN would require a fund to disclose information about committed lines of credit, including the size of the line of credit, the number of days that the line of credit was used, and the identity of the institution with whom the line of credit is held. The proposed amendments to Form N–CEN also would require a fund to report whether it engaged in interfund lending or interfund borrowing. Funds other than money market funds and ETFs would be required to report whether they used swing pricing during the reporting period. In addition, proposed amendments to Form N–CEN would require an ETF to report whether it required that an authorized participant post collateral to the ETF or any of its designated service providers in connection with the purchase or redemption of ETF shares during the reporting period.[864]

We estimate that 8,734 funds would be required to file responses on Form N–CEN as a result of the proposed amendments to the form. We estimate that the average annual hour burden per additional response to Form N–CEN as a result of the proposed amendments would be 0.5 hour per fund per year for a total average annual hour burden of 4,367 hours.[865] We do not estimate any change to the external costs associated with proposed Form N–CEN.

G. Form N–1A

Form N–1A is the registration form used by open-end investment companies. The respondents to the proposed amendments to Form N–1A are open-end management investment companies registered or registering with the Commission. Compliance with the disclosure requirements of Form N–1A is mandatory, and the responses to the disclosure requirements are not confidential. We currently estimate for Form N–1A a total hour burden of 1,579,974 hours, and the total annual external cost burden is $124,820,197.[866]

We are proposing amendments to Form N–1A that would require funds

[851] We estimate that these systems modifications would include the following costs: (i) Project planning and systems design (24 hours × $260 (hourly rate for a senior systems analyst) = $6,240) and (ii) systems modification integration, testing, installation and deployment (30 hours × $303 (hourly rate for a senior programmer) = $9,090. $6,240 + $9,090 = $15,330.

[852] $15,330 ÷ 3 = $5,110.

[853] There were 8,734 open-end funds (excluding money market funds, and including ETFs) as of the end of 2014. *See* 2015 ICI Fact Book, *supra* note 3, at 177, 184.

[854] The estimate is based on the following calculation: (1 filing × 3 hours) + (11 filings × 1 hour) = 14 burden hours in the first year.

[855] This estimate is based on the following calculation: 12 filings × 1 hour = 12 burden hours in each subsequent year.

[856] The estimate is based on the following calculation: (14 + (12 × 2)) ÷ 3 = 12.67.

[857] The estimate is based on the following calculation: (1 filing × 4 hours) + (11 filings × 0.5 hour) = 9.5 burden hours in the first year.

[858] This estimate is based on the following calculation: 12 filings × 0.5 hour = 6 burden hours in each subsequent year.

[859] The estimate is based on the following calculation: (9.5 + (6 × 2)) ÷ 3 = 7.17.

[860] The estimate is based on the following calculation: (3,057 funds × 12.67 hours) + (5,677 funds × 7.17 hours) = 79,436.28 hours.

[861] *See* Investment Company Reporting Modernization Release, *supra* note 104, at n. 751 and accompanying text.

[862] *Id.* at n. 762 and accompanying text.

[863] *Id.* at n. 765 and accompanying text.

[864] We do not estimate any change in burden as a result of proposed Item 60(g) of Form N–CEN because the proposed new item only requires a yes or no response.

[865] This estimate is based on the following calculation: 8,734 funds × 0.5 hours = 4,367 hours.

[866] These estimates are based on the last time the rule's information collections were submitted for PRA renewal in 2014.

that use swing pricing to disclose that they use swing pricing, and, if applicable, an explanation of the circumstances under which swing pricing is used, and the effects of using swing pricing.[867] We also are proposing amendments to Form N–1A that would require funds to disclose on their balance sheet the NAV as adjusted pursuant to swing pricing policies and procedures. The proposed amendments to Form N–1A also would require funds to disclose additional information concerning the procedures for redeeming a fund's shares. Funds would be required to describe the number of days following receipt of shareholder redemption requests in which the fund will pay redemption proceeds to redeeming shareholders.[868] Funds also would be required to describe the methods used to meet redemption requests in stressed and non-stressed market conditions.[869] Finally, funds would be required to file as exhibits to their registration statements credit agreements for the benefit of the funds. Overall, we believe that requiring funds to provide this additional disclosure regarding swing pricing and redemption procedures, and requiring the filing of credit agreements would provide Commission staff, investors, and market participants with improved information about the procedures funds use to meet their redemption obligations and the conditions under which swing pricing procedures will be used to mitigate the effects of dilution as a result of shareholder purchase or redemption activity.

Form N–1A generally imposes two types of reporting burdens on investment companies: (i) The burden of preparing and filing the initial registration statement; and (ii) the burden of preparing and filing post-effective amendments to a previously effective registration statement (including post-effective amendments filed pursuant to rule 485(a) or 485(b) under the Securities Act, as applicable). We estimate that each fund would incur a one-time burden of an additional 2 hours,[870] at a time cost of an additional $637,[871] to draft and finalize the required disclosure and amend its registration statement. In aggregate, we estimate that funds would incur a one-time burden of an additional 17,468 hours,[872] at a time cost of an additional $5,563,558,[873] to comply with the proposed Form N–1A disclosure requirements. Amortizing the one-time burden over a three-year period results in an average annual burden of an additional 5,823 hours at a time cost of an additional $1,854,519.[874]

We estimate that each fund would incur an ongoing burden of an additional 0.25 hours, at a time cost of an additional $80,[875] each year to review and update the proposed disclosure in response to Item 11 and Item 28 of Form N–1A regarding the pricing and redemption of fund shares and the inclusion of credit agreements as exhibits, respectively. In aggregate, we estimate that funds would incur an annual burden of an additional 2,184 hours,[876] at a time cost of an additional $695,604,[877] to comply with the proposed Form N–1A disclosure requirements.

Amortizing these one-time and ongoing hour and cost burdens over three years results in an average annual increased burden of approximately 0.50 hours per fund,[878] at a time cost of $265.42 per fund.[879]

In total, we estimate that funds would incur an average annual increased burden of approximately 8,007 hours,[880] at a time cost of approximately $2,550,123,[881] to comply with the proposed Form N–1A disclosure requirements. We do not estimate any change to the external costs associated with the proposed amendments to Form N–1A.

H. Request for Comments

We request comment on whether our estimates for burden hours and any external costs as described above are reasonable. Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments in order to: (i) Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (ii) evaluate the accuracy of the Commission's estimate of the burden of the proposed collections of information; (iii) determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and (iv) determine whether there are ways to minimize the burden of the collections of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

The agency has submitted the proposed collection of information to OMB for approval. Persons wishing to submit comments on the collection of information requirements of the proposed amendments should direct them to the Office of Management and Budget, Attention Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and should send a copy to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549 1090, with reference to File No. S7–16–15. OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication of this release; therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days after publication of this release. Requests for materials submitted to OMB by the Commission with regard to these collections of information should be in writing, refer to File No. S7–16–15, and be submitted to the Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

VI. Initial Regulatory Flexibility Act Analysis

This Initial Regulatory Flexibility Analysis has been prepared in accordance with section 3 of the

[867] *See* proposed Item 6(d) of Form N–1A.

[868] *See* proposed Item 11(c)(7) of Form N–1A.

[869] *See* proposed Item 11(c)(8) of Form N–1A.

[870] This estimate is based on the following calculation: 1 hour to update registration statement to include swing pricing-related disclosure statements + 1 hour to update registration statement disclosure about redemption procedures = 2 hours.

[871] This estimate is based on the following calculation: 2 hours × $318.5 (blended rate for a compliance attorney ($334) and a senior programmer ($303)) = $637.

[872] This estimate is based on the following calculations: 2 hours × 8,734 funds = 17,468 hours.

[873] This estimate is based on the following calculation: 17,468 hours × $318.50 (blended rate for a compliance attorney ($334) and a senior programmer ($303)) = $5,563,558.

[874] This estimate is based on the following calculation: 17,468 hours ÷ 3 = 5,823 average annual burden hours; $5,563,558 burden costs ÷ 3 = $1,854,519 average annual burden cost.

[875] This estimate is based on the following calculations: 0.25 hours × $318.50 (blended hourly rate for a compliance attorney ($334) and a senior programmer ($303)) = $79.63.

[876] This estimate is based on the following calculation: 0.25 hours × 8,734 funds = 2,183.5 hours.

[877] This estimate is based on the following calculation: 2,184 hours × $318.50 (blended hourly rate for a compliance attorney ($334) and a senior programmer ($303)) = $695,604.

[878] This estimate is based on the following calculation: 1 burden hour (year 1) + 0.25 burden hour (year 2) + 0.25 burden hour (year 3) ÷ 3 = 0.50 hours.

[879] This estimate is based on the following calculation: $637 (year 1 monetized burden hours) + $79.63 (year 2 monetized burden hours) + $79.63 (year 3 monetized burden hours) ÷ 3 = $265.42.

[880] This estimate is based on the following calculation: 5,823 hours + 2,184 hours = 8,007 hours.

[881] This estimate is based on the following calculation: $1,854,519 + $695,604 = $2,550,123.

Regulatory Flexibility Act (''RFA'').[882] It relates to: Proposed rule 22e–4; proposed amendments to rule 22c–1(a)(3) and rule 31a–2; and proposed amendments to Form N–1A, Regulation S–X, proposed Form N–PORT, and proposed Form N–CEN.

A. Reasons for and Objectives of the Proposed Actions

Funds are not currently subject to requirements under the federal securities laws or Commission rules that specifically require them to manage their liquidity risk.[883] Also, with the exception of money market funds, there are guidelines (not rules) stating that an open-end fund should limit its investments in illiquid assets.[884] Moreover, funds are only subject to limited disclosure and reporting requirements concerning a fund's liquidity risk and risk management.[885] We understand that funds today engage in a variety of different practices, with varying levels of comprehensiveness, for classifying the liquidity of their portfolio assets, assessing and managing liquidity risk, and disclosing information about their liquidity risk, redemption practices, and liquidity risk management practices to investors.[886]

The Commission is proposing a new rule, amendments to current rules, and amendments to current and proposed forms that are designed to promote effective liquidity risk management throughout the open-end fund industry and thereby reduce the risk that funds will be unable to meet redemption obligations and mitigate dilution of the interests of fund shareholders. The proposed amendments also seek to enhance disclosure regarding fund liquidity and redemption practices. Specifically, a primary objective of these proposed liquidity regulations is to promote shareholder protection by elevating the overall quality of liquidity risk management across the fund industry, as well as by increasing transparency of funds' liquidity risks and risk management. The proposed liquidity regulations are also intended to lessen the possibility of early redemption incentives (and investor dilution) created by insufficient liquidity risk management, as well as the possibility that investors' share value will be diluted by costs incurred by the fund as a result of other investors' purchase and redemption activity. Finally, the proposed liquidity regulations are meant to address recent industry developments that have underscored the significance of funds' liquidity risk management practices. Each of these objectives is discussed in detail in section IV above.

B. Legal Basis

The Commission is proposing new rule 22e–4 under the authority set forth in sections 22(c), 22(e) and 38(a) of the Investment Company Act [15 U.S.C. 80a–37(a)]. The Commission is proposing amendments to rule 22c–1 under the authority set forth in sections 22(c) and 38(a) of the Investment Company Act [15 U.S.C. 80a–22(c) and 80a–37(a)]. The Commission is proposing amendments to rule 31a–2 under the authority set forth in section 31(a) of the Investment Company Act [15 U.S.C. 80a–31(a)]. The Commission is proposing amendments to Form N–1A, Regulation S–X, proposed Form N–PORT, and proposed Form N–CEN under the authority set forth in the Securities Act, particularly section 19 thereof [15 U.S.C. 77a *et seq.*], the Trust Indenture Act, particularly, section 19 thereof [15 U.S.C. 77aaa *et seq.*], the Exchange Act, particularly sections 10, 13, 15, and 23, and 35A thereof [15 U.S.C. 78a *et seq.*], and the Investment Company Act, particularly, sections 8, 30, and 38 thereof [15 U.S.C. 80a *et seq.*].

C. Small Entities Subject to the Proposed Liquidity Regulations

An investment company is a small entity if, together with other investment companies in the same group of related investment companies, it has net assets of $50 million or less as of the end of its most recent fiscal year.[887] Commission staff estimates that, as of December 2014, there were 134 small open-end investment companies (comprising 85 fund complexes) that would be considered small entities; this number includes open-end ETFs.

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

1. Proposed Rule 22e–4

Proposed new rule 22e–4 would require each fund, including each small entity, to establish a written liquidity risk management program.[888] A fund's liquidity risk management program would be required to include the following elements: (i) A fund must classify, and review the classification on an ongoing basis, the liquidity of each of the fund's positions in a portfolio asset (or portions of a position in a particular asset), taking into account certain specified factors; [889] (ii) a fund must assess and periodically review its liquidity risk, taking into account certain specified factors; [890] and (iii) a fund must manage its liquidity risk, including by maintaining a prescribed minimum portion of net assets in three-day liquid assets.[891] A fund's board, including a majority of the fund's independent directors, would be required to approve the fund's liquidity risk management program, as well as any material change to the program.[892] Proposed rule 22e–4 also includes certain recordkeeping requirements.[893] All of these requirements are discussed in detail above in sections III.A. and III.E. For smaller funds and fund groups (*i.e.,* funds that together with other investment companies in the same ''group of related investment companies'' have net assets of less than $1 billion as of the end of the most recent fiscal year), which would include small entities, we have proposed an extra 12 months (or 30 months after the effective date) to comply with the proposed liquidity risk management program requirement.[894]

We estimate that 85 fund complexes are small fund groups that have funds that would be required to comply with the proposed liquidity risk management program requirement.[895] As discussed above, we estimate that, on average, a fund complex would incur one-time costs ranging from $1,300,000 to $2,250,000, depending on the fund's particular circumstances and current liquidity risk management practices, to establish and implement a liquidity risk management program.[896] We further estimate that a fund complex would incur ongoing annual costs associated with proposed rule 22e–4 that would range from $130,000 to $562,500.[897] For purposes of this analysis, Commission staff estimates, based on outreach conducted with a variety of funds regarding funds' current liquidity risk management practices, that approximately two-thirds of small fund groups would incur one-time and ongoing costs on the low end of the range of costs associated with establishing and implementing a liquidity risk management program,[898]

[882] 5 U.S.C. 603.

[883] *See supra* sections II.D, IV.B.1.a.

[884] *See id.*

[885] *See supra* sections II.D, IV.B.1.c.

[886] *See supra* sections II.D, IV.B.1.a, IV.B.1.c.

[887] *See* rule 0–10(a) under the Investment Company Act.

[888] Proposed rule 22e–4(b)(1).

[889] Proposed rule 22e–4(b)(2)(i)–(ii).

[890] Proposed rule 22e–4(b)(2)(iii).

[891] Proposed rule 22e–4(b)(2)(iv).

[892] Proposed rule 22e–4(b)(3).

[893] Proposed rule 22e–4(c).

[894] *See supra* section III.H.

[895] *See supra* section VI.C.

[896] *See supra* section IV.C.1.c.

[897] *See id.*

[898] *See id.*

and one-third of small fund groups would incur one-time and ongoing costs on the high end of the range.[899]

2. Swing Pricing

Under proposed rule 22c–1(a)(3), all funds (except money market funds and ETFs), including small entities, would be permitted (but not required) to use swing pricing to adjust the fund's current NAV to prevent potential dilution of the value of outstanding redeemable securities caused by shareholder purchase or redemption activity. In order to use swing pricing, a fund would be required to adopt swing pricing policies and procedures that must: (i) Provide that the fund will adjust its NAV by an amount designated as the ''swing factor'' once the level of net purchases or net redemptions from the fund has exceeded a specified percentage of the fund's net asset value known as the ''swing threshold''; [900] (ii) specify the fund's swing threshold, considering certain specified factors; [901] (iii) provide for the periodic review (at least annually) of the fund's swing threshold considering certain specified factors; [902] (iv) specify how the swing factor to be used to adjust the fund's NAV when the fund's swing threshold is breached will be determined, which determination must take into account certain specified factors.[903] A fund's board, including a majority of the fund's independent directors, would be required to approve the fund's swing pricing policies and procedures.[904] A fund that adopts swing pricing policies and procedures also would be subject to certain recordkeeping requirements under proposed rule 22c–1(a)(3) and proposed amendments to rule 31a–2(a)(2).[905] Because proposed rule 22c–1(a)(3) would permit, but not require, a fund to adopt swing pricing policies and procedures, there is no compliance date associated with this proposed rule. Thus, while we anticipate that the compliance dates for proposed rule 22e–4 and the proposed disclosure and reporting requirements regarding liquidity risk and liquidity risk management would be tiered to permit a longer compliance period for smaller funds and fund groups, there would be no need for tiered compliance with respect to proposed rule 22c–1(a)(3) and the proposed amendments to rule 31a–2(a)(2), because a fund would be permitted to adopt swing pricing policies and procedures within whatever period the fund chooses.[906]

As discussed above, we estimate that, on average, a fund complex would incur one-time costs ranging from $1,300,000 to $2,250,000, depending on the fund complex's particular circumstances, to adopt swing pricing policies and procedures and comply with related record retention requirements, as well as ongoing annual costs ranging from $65,000 to $337,500 per year associated with the proposed swing pricing (and related recordkeeping) regulations.[907] We estimate that 24 fund complexes that are small complexes would adopt swing pricing policies and procedures under proposed rule 22c–1(a)(3).[908] Because staff is unable to estimate how many small fund complexes would incur one-time and ongoing costs on the low end of the estimated range versus the high end of the estimated range, staff estimates that each small fund complex would incur one-time costs of $1,775,000 (which represents the middle of the range of estimated one-time costs) [909] and ongoing costs of $201,250 (which represents the middle of the range of estimated ongoing costs).[910]

3. Disclosure and Reporting Requirements Regarding Liquidity Risk and Liquidity Risk Management

We are proposing amendments to Form N–1A, proposed Form N–PORT, and proposed Form N–CEN to enhance fund disclosure and reporting regarding the fund's redemption practices, portfolio liquidity, and certain liquidity risk management practices. Specifically, proposed amendments to Form N–1A would require new disclosure regarding a fund's redemption practices and its use of swing pricing (as applicable); [911] and proposed amendments to proposed Form N–PORT would require a fund to report certain information about the liquidity of the fund's portfolio assets.[912] Proposed amendments to proposed Form N–CEN would require a fund to report certain information about the fund's use of lines of credit, interfund lending and borrowing, and swing pricing, and also would require an ETF to report whether it requires authorized participants to post collateral in connection with the purchase or redemption of ETF shares.[913]

All funds would be subject to the proposed disclosure and reporting requirements, including funds that are small entities. For smaller funds and fund groups (*i.e.,* funds that together with other investment companies in the same ''group of related investment companies'' have net assets of less than $1 billion as of the end of the most recent fiscal year), which would include small entities, we proposed an extra 12 months (or 30 months after the effective date) to comply with the proposed Form N–PORT reporting requirements.[914] We estimate that 134 funds are small entities that would be required to comply with the proposed disclosure and reporting requirements.[915]

As discussed above, we estimate that each fund, including funds that are small entities, would incur a one-time burden of an additional 2 hours, at a time cost of an additional $637 (plus printing costs), to comply with the proposed amendments to Form N–1A.[916] We also estimate that each fund, including small entities, would incur an ongoing burden of an additional 0.25 hours, at a time cost of approximately an additional $80 each year associated with compliance with the proposed amendments to Form N–1A.[917] We do not estimate any change to the external costs associated with the proposed amendments to Form N–1A.[918]

We also estimate that the one-time disclosure- and reporting-related compliance costs for a fund that files reports in compliance with the proposed amendments to Form N–PORT in house would be approximately $780, and the one-time costs for a fund that uses a third-party service provider to prepare and file reports on proposed Form N–PORT would be approximately

[899] *See id.*

[900] Proposed rule 22c–1(a)(3)(i)(A).

[901] Proposed rule 22c–1(a)(3)(i)(B).

[902] Proposed rule 22c–1(a)(3)(i)(C).

[903] Proposed rule 22c–1(a)(3)(i)(D).

[904] Proposed rule 22c–1(a)(3)(ii).

[905] Proposed rule 22c–1(a)(3)(iii); proposed amendments to rule 31a–2(a)(2).

[906] *See supra* section III.H.

[907] *See supra* section IV.C.2.c.

[908] We assume that certain types of mutual fund strategies (high-yield bond funds, world bond funds (including emerging market debt funds), multi-sector bond funds, state municipal funds, alternative strategy funds, and emerging market equity funds would be relatively more likely to adopt swing pricing policies and procedures, and of the fund complexes with funds comprising these strategies, 75% would actually adopt swing pricing policies and procedures. Staff estimates that there are 32 fund complexes that are small fund groups with funds that use these stated strategies. 0.75 × 32 funds = 24 funds.

[909] This estimate is based on the following calculations: $1,300,000 + $2,250,000 = $3,550,000; $3,550,000 ÷ 2 = $1,775,000.

[910] This estimate is based on the following calculations: $65,000 + $337,500 = $402,500; $402,500 ÷ 2 = $201,250.

[911] Proposed Items 6(d), 11(c)(8), 11(c)(9) of Form N–1A.

[912] Proposed Items B.7, C.7, and C.13 of proposed Form N–PORT.

[913] Proposed Items 44 and 60(g) of proposed Form N–CEN.

[914] *See supra* section III.H.

[915] *See supra* section VI.C.

[916] *See supra* notes 790, 870–871 and accompanying text.

[917] *See supra* notes 791, 875 and accompanying text.

[918] *See supra* section V.G.

$1,040.[919] We estimate that the ongoing disclosure- and reporting-related compliance costs for a fund that files reports to comply with the proposed amendments to Form N–PORT in house would be approximately $260, and the ongoing costs for a fund that uses a third-party service provider to prepare and file reports on proposed Form N–PORT would be approximately $130.[920] These compliance cost estimates would not vary based on the fund's size. We assume that 35% of funds that are small entities, or approximately 47 funds, would file reports on proposed Form N–PORT in house, and 65% of funds that are small entities, or approximately 87 funds, would use a third-party service provider to prepare and file reports on proposed Form N–PORT.[921]

As discussed above, we also estimate that the average annual burden per additional response to Form N–CEN as a result of the proposed amendments would be 0.5 hour per year per fund, including funds that are small entities.[922] Furthermore, we estimate that the one-time and ongoing annual compliance costs associated with providing additional responses to Form N–CEN as a result of the proposed amendments would be approximately $160 per fund, including funds that are small entities.[923] We do not estimate any change to the external costs associated with proposed Form N–CEN.[924]

E. Duplicative, Overlapping, or Conflicting Federal Rules

Commission staff has not identified any federal rules that duplicate, overlap, or conflict with the proposed liquidity regulations.

F. Significant Alternatives

The RFA directs the Commission to consider significant alternatives that would accomplish our stated objectives, while minimizing any significant economic impact on small entities. We considered the following alternatives for small entities in relation to the proposed liquidity regulations: (i) Exempting funds that are small entities from proposed rule 22e–4, and/or establishing different requirements under proposed rule 22e–4 to account for resources available to small entities; (ii) exempting funds that are small entities from the proposed disclosure and reporting requirements, or establishing different disclosure and reporting requirements, or different reporting frequency, to account for resources available to small entities; and (iii) exempting funds that are small entities from proposed rule 22c–1(a)(3) and the recordkeeping requirements of the proposed amendments to rule 31a–2.

We do not believe that exempting any subset of funds, including funds that are small entities, from proposed rule 22e–4 would permit us to achieve our stated objectives. As discussed above, we believe that the proposed liquidity regulations would result in multiple investor protection benefits, and these benefits should apply to investors in smaller funds as well as investors in larger funds.[925] Small funds do not entail less liquidity risk than larger funds, and investors in small funds could suffer from ineffective liquidity risk management just as investors in larger funds could. Indeed, analysis by staff economists has shown that funds with relatively low assets can actually experience greater flow volatility (including more volatility in unexpected flows) than funds with higher assets, which in turn could lead to increased liquidity risk for investors in smaller funds.[926] Moreover, we understand, based on staff outreach, that small funds today are less likely than large funds to employ relatively comprehensive portfolio liquidity classification practices and liquidity risk management practices. Thus, while small funds may face increased liquidity risk, these funds currently may have less effective systems in place to address and mitigate this risk than larger funds. We therefore do not believe it would be appropriate to exempt funds that are small entities from the liquidity risk management requirements of proposed rule 22e–4. We do note, however, that we are proposing a delayed compliance period for proposed rule 22e–4 for funds that are small entities.[927]

We also do not believe that it would be desirable to establish different requirements applicable to funds of different sizes under proposed rule 22e–4 to account for resources available to small entities. We believe that all of the proposed program elements would be necessary for a fund to effectively assess and manage its liquidity risk, and we anticipate that all of the proposed program elements would work together to produce the anticipated investor protection benefits. We do note that the costs associated with proposed rule 22e–4 would vary depending on the fund's particular circumstances, and thus the proposed rule could result in different burdens on funds' resources. In particular, we expect that a fund that pursues an investment strategy that involves greater liquidity risk may have greater costs associated with its liquidity risk management program. However, we believe that it is appropriate to correlate the costs associated with the proposed rule with the level of liquidity risk facing a fund, and not necessarily with the fund's size. Under the proposed rule, a fund would be permitted to customize its liquidity risk management program precisely to reflect the liquidity risks that it typically faces, and that it could face in stressed market conditions. This flexibility in permitting a fund to customize its liquidity risk management program is meant to result in programs whose scope, and related costs and burdens, are appropriate to manage the actual amount of liquidity risk faced by a particular fund. Thus, to the extent a fund that is a small entity faces relatively little liquidity risk, it would incur relatively low costs to comply with proposed rule 22e–4. However, as discussed above, we believe that small funds could generally entail relatively high liquidity risk compared to larger funds, and thus these funds could incur relatively high costs to comply with proposed rule 22e–4.[928]

Similarly, we do not believe that the interest of investors would be served by exempting funds that are small entities from the proposed disclosure and reporting requirements, or subjecting these funds to different disclosure and reporting requirements than larger funds. We believe that all fund investors, including investors in funds that are small entities, would benefit from disclosure and reporting requirements that would permit them to make investment choices that better match their risk tolerances.[929] We also believe that all fund investors would benefit from enhanced Commission monitoring and oversight of the fund industry, which we anticipate would result from the proposed disclosure and reporting requirements. We note that the current disclosure requirements for reports on Form N–1A, and the proposed requirements for reports on proposed Form N–PORT and proposed Form N–CEN, do not distinguish between small entities and other

[919] *See supra* notes 801–802 and accompanying text.

[920] *See supra* notes 803–804 and accompanying text.

[921] *See supra* notes 801–804 and accompanying text.

[922] *See supra* note 865 and accompanying text.

[923] *See supra* note 800 and accompanying text.

[924] *See supra* section V.F.; *see also* note 800 and accompanying text.

[925] *See supra* section IV.C.1.b.

[926] *See supra* note 727 and accompanying text.

[927] *See supra* section III.H.

[928] *See supra* note 926 and accompanying text.

[929] *See supra* section IV.C.3.b.

funds.[930] However, as discussed above, proposed Form N–PORT has a delayed compliance period for small entities that would file reports on this form, and we are also proposing a delayed compliance period for the amendments to proposed Form N–PORT that we are proposing today.[931]

Finally, we are not exempting funds that are small entities from proposed rule 22c–1(a)(3) because we believe that all funds should be able to use swing pricing as a voluntary tool to mitigate potential shareholder dilution.[932] We do not believe that the potential dilution that proposed rule 22c–1(a)(3) is meant to prevent would affect large funds and their shareholders more significantly than small funds and investors in small funds. Also, because the adoption of swing pricing policies and procedures would be permitted, but not required, under proposed rule 22c–1(a)(3), a fund that is a small entity would not need to incur the costs of compliance with the proposed rule if the fund (and the fund's board) were to determine that the advantages of swing pricing would not outweigh the associated disadvantages, including compliance costs.

G. General Request for Comment

The Commission requests comments regarding this analysis. We request comment on the number of small entities that would be subject to the proposed liquidity regulations and whether the proposed liquidity regulations would have any effects that have not been discussed. We request that commenters describe the nature of any effects on small entities subject to the proposed liquidity regulations and provide empirical data to support the nature and extent of such effects. We also request comment on the estimated compliance burdens of the proposed liquidity regulations and how they would affect small entities.

VII. Consideration of Impact on the Economy

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA''), the Commission must advise OMB whether a proposed regulation constitutes a ''major'' rule. Under SBREFA, a rule is considered ''major'' where, if adopted, it results in or is likely to result in:

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers or individual industries; or
- Significant adverse effects on competition, investment, or innovation.

We request comment on whether our proposal would be a ''major rule'' for purposes of SBREFA. We solicit comment and empirical data on:

- The potential effect on the U.S. economy on an annual basis;
- Any potential increase in costs or prices for consumers or individual industries; and
- Any potential effect on competition, investment, or innovation.

Commenters are requested to provide empirical data and other factual support for their views to the extent possible.

VIII. Statutory Authority and Text of Proposed Amendments

The Commission is proposing new rule 22e–4 under the authority set forth in sections 22(c), 22(e) and 38(a) of the Investment Company Act [15 U.S.C. 80a–37(a)]. The Commission is proposing amendments to rule 22c–1 under the authority set forth in sections 22(c) and 38(a) of the Investment Company Act [15 U.S.C. 80a–22(c) and 80a–37(a)]. The Commission is proposing amendments to rule 31a–2 under the authority set forth in section 31(a) of the Investment Company Act [15 U.S.C. 80a–31(a)]. The Commission is proposing amendments to Form N–1A, Regulation S–X, proposed Form N–PORT, and proposed Form N–CEN under the authority set forth in the Securities Act, particularly section 19 thereof [15 U.S.C. 77a *et seq.*], the Trust Indenture Act, particularly, section 19 thereof [15 U.S.C. 77aaa *et seq.*], the Exchange Act, particularly sections 10, 13, 15, and 23, and 35A thereof [15 U.S.C. 78a *et seq.*], and the Investment Company Act, particularly, sections 8, 30, and 38 thereof [15 U.S.C. 80a *et seq.*].

Text of Rules and Forms

List of Subjects

17 CFR Part 210

Accounting, Investment companies, Reporting and recordkeeping requirements, Securities.

17 CFR Parts 270 and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, INVESTMENT COMPANY ACT OF 1940, INVESTMENT ADVISERS ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

■ 1. The authority citation for part 210 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77nn(25), 77nn(26), 78c, 78j–1, 78*l,* 78m, 78n, 78o(d), 78q, 78u–5, 78w, 78*ll,* 78mm, 80a–8, 80a–20, 80a–29, 80a–30, 80a–31, 80a–37(a), 80b–3, 80b–11, 7202 and 7262, unless otherwise noted.

■ 2. Amend § 210.6–02 by adding paragraphs (e), (f) and (g) to read as follows:

§ 210.6–02 Definition of certain terms.

* * * * *

(e) *Illiquid investment.* The term *illiquid investment* means an investment that is a 15% standard asset, as defined in § 270.22e–4(a)(4) of this chapter.

(f) *Illiquid securities.* The term *illiquid securities* means securities that are 15% standard assets, as defined in § 270.22e–4(a)(4) of this chapter.

(g) *Swing pricing.* The term *swing pricing* shall have the meaning given in § 270.22c–1(a)(3)(v)(C) of this chapter.

■ 3. Section 210.6–03 is further amended, as proposed at 80 FR 33687, June 12, 2015, by adding paragraph (n) to read as follows:

§ 210.6–03 Special rules of general application to registered investment companies and business development companies.

* * * * *

(n) *Swing Pricing.* For a registered investment company that has adopted swing pricing policies and procedures, state in a note the general methods used in determining whether the company's net asset value per share will swing, if the company's net asset value per share has swung during the year, and a general description of the effects of swing pricing on the company's financial statements.

■ 4. Section 210.6–04 is further amended, as proposed at 80 FR 33688, June 12, 2015 by revising item 19 to read as follows:

§ 210.6–04 Balance sheets.

* * * * *

19. *Net assets applicable to outstanding units of capital.* State the

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[930] *See* Investment Company Reporting Modernization Release, *supra* note 104, at section IV.F (noting that small entities currently follow the same requirements that large entities do when filing reports on Form N–SAR, Form N–CSR, and Form N–Q, and stating that the Commission believes that establishing different reporting requirements or frequency for small entities (including with respect to proposed Form N–PORT and proposed Form N–CEN) would not be consistent with the Commission's goal of industry oversight and investor protection).

[931] *See supra* section III.H.

[932] *See supra* section IV.C.2.b.

net asset value per share as adjusted pursuant to swing pricing policies and procedures, if applicable.

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

■ 5. The authority citation for part 270 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a–1 *et seq.,* 80a–34(d), 80a–37, 80a–39, and Pub. L. 111–203, sec. 939A, 124 Stat. 1376 (2010), unless otherwise noted.

* * * * *

■ 6. Amend § 270.22c–1 by adding paragraph (a)(3) to read as follows:

§ 270.22c–1 Pricing of redeemable securities for distribution, redemption and repurchase.

(a) * * *

(3) Notwithstanding this paragraph (a), a registered open-end management investment company (but not a registered open-end management investment company that is regulated as a money market fund under § 270.2a–7 or an exchange-traded fund as defined in paragraph (a)(3)(v)(A) of this section) (a ''fund'') may use swing pricing to adjust its current net asset value per share to mitigate dilution of the value of its outstanding redeemable securities as a result of shareholder purchase and redemption activity, provided that it has established and implemented swing pricing policies and procedures in compliance with the paragraphs (a)(3)(i)–(v) of this section.

(i) The fund's swing pricing policies and procedures shall:

(A) Provide that the fund must adjust its net asset value per share by a swing factor, determined pursuant to paragraph (a)(3)(i)(D) of this section, once the level of net purchases into or net redemptions from such fund has exceeded the fund's swing threshold, determined pursuant to paragraph (a)(3)(i)(B) of this section. In determining whether the fund's level of net purchases or net redemptions has exceeded the fund's swing threshold, the person(s) responsible for administering the fund's swing pricing policies and procedures pursuant to paragraph (a)(3)(ii)(B) of this section: shall be permitted to make such determination on the basis of information obtained after reasonable inquiry; and shall exclude any purchases or redemptions that are made in kind and not in cash.

(B) Specify the fund's swing threshold to be used pursuant to paragraph (3)(i)(A) of this section, considering:

(1) The size, frequency, and volatility of historical net purchases or net redemptions of fund shares during normal and stressed periods;

(2) The fund's investment strategy and the liquidity of the fund's portfolio assets;

(3) The fund's holdings of cash and cash equivalents, as well as borrowing arrangements and other funding sources; and

(4) The costs associated with transactions in the markets in which the fund invests.

(C) Provide for the periodic review, no less frequently than annually, of the fund's swing threshold, considering the factors set forth in paragraph (a)(3)(i)(B) of this section.

(D) Specify how the swing factor to be used pursuant to paragraph (a)(3)(i)(A) of this section shall be determined, and whether the swing factor would be subject to any upper limit. The determination of the swing factor, as well as any upper limit on the swing factor, must take into account:

(1) Any near-term costs expected to be incurred by the fund as a result of net purchases or net redemptions that occur on the day the swing factor is used to adjust the fund's net asset value per share, including any market impact costs, spread costs, and transaction fees and charges arising from asset purchases or asset sales to satisfy those purchases or redemptions, as well as any borrowing-related costs associated with satisfying redemptions; and

(2) The value of assets purchased or sold by the fund as a result of net purchases or net redemptions that occur on the day the swing factor is used to adjust the fund's net asset value per share, if that information would not be reflected in the current net asset value of the fund computed that day.

(ii) The fund's swing pricing policies and procedures shall be subject to the following approval and oversight requirements:

(A) The fund's board of directors, including a majority of directors who are not interested persons of the fund, shall approve the swing pricing policies and procedures (including the fund's swing threshold, and any swing factor upper limit specified under the fund's swing pricing policies and procedures), as well as any material change to the policies and procedures (including any change to the fund's swing threshold, a change to any swing factor upper limit specified under the fund's swing pricing policies and procedures, or any decision to suspend or terminate the fund's swing pricing policies and procedures).

(B) The fund's board of directors shall designate the fund's investment adviser or officers responsible for administering the swing pricing policies and procedures, and for determining the swing factor that will be used each time the swing threshold is breached; provided that determination of the swing factor must be reasonably segregated from the portfolio management function of the fund.

(iii) The fund shall maintain a written copy of the policies and procedures adopted by the fund under this paragraph (a)(3) that are in effect, or at any time within the past six years were in effect, in an easily accessible place.

(iv) Any fund (a ''feeder fund'') that invests, pursuant to section 12(d)(1)(E) of the Act (15 U.S.C. 80a–12(d)(1)(E)), in another fund (a ''master fund'') may not use swing pricing to adjust the feeder fund's net asset value per share; however, a master fund may use swing pricing to adjust the master fund's net asset value per share, pursuant to the requirements set forth in this paragraph (a)(3).

(v) For purposes of this paragraph (a)(3):

(A) *Exchange-traded fund* means an open-end management investment company or a class thereof, the shares of which are traded on a national securities exchange, and that operates pursuant to an exemptive order granted by the Commission or in reliance on an exemptive rule adopted by the Commission.

(B) *Swing factor* means the amount, expressed as a percentage of the fund's net asset value and determined pursuant to the fund's swing pricing procedures, by which a fund adjusts its net asset value per share when the level of net purchases into or net redemptions from the fund has exceeded the fund's swing threshold.

(C) *Swing pricing* means the process of adjusting a fund's current net asset value per share to mitigate dilution of the value of its outstanding redeemable securities as a result of shareholder purchase and redemption activity, pursuant to the requirements set forth in this paragraph (a)(3).

(D) *Swing threshold* means the amount of net purchases into or net redemptions from a fund, expressed as a percentage of the fund's net asset value, that triggers the initiation of swing pricing.

(E) *Transaction fees and charges* means brokerage commissions, custody fees, and any other charges, fees, and taxes associated with portfolio asset purchases and sales.

* * * * *

■ 7. Section 270.22e–4 is added to read as follows:

§ 270.22e–4 Liquidity risk management programs.

(a) Definitions. For purposes of this section:

(1) Acquisition *(or acquire)* means any purchase or subsequent rollover.

(2) Business *day* means any day, other than Saturday, Sunday, or any customary business holiday.

(3) Convertible *to cash* means the ability to be sold, with the sale settled.

(4) *15% standard asset* means an asset that may not be sold or disposed of in the ordinary course of business within seven calendar days at approximately the value ascribed to it by the fund. For purposes of this definition, the fund does not need to consider the size of the fund's position in the asset or the number of days associated with receipt of proceeds of sale or disposition of the asset.

(5) *Fund* means an open-end management investment company that is registered or required to register under section 8 of the Act (15 U.S.C. 80a–8) and includes a separate series of such an investment company, but does not include a registered open-end management investment company that is regulated as a money market fund under § 270.2a–7.

(6) *Less liquid asset* means any position of a fund in an asset (or portion of the fund's position in an asset) that is not a three-day liquid asset. In determining whether a position or portion of a position in an asset is a less liquid asset, a fund must take into account the factors set forth in paragraph (b)(2)(ii) of this section, to the extent applicable.

(7) *Liquidity risk* means the risk that the fund could not meet requests to redeem shares issued by the fund that are expected under normal conditions, or are reasonably foreseeable under stressed conditions, without materially affecting the fund's net asset value.

(8) *Three-day liquid asset* means any cash held by a fund and any position of a fund in an asset (or portion of the fund's position in an asset) that the fund believes is convertible into cash within three business days at a price that does not materially affect the value of that asset immediately prior to sale. In determining whether a position or portion of a position in an asset is a three-day liquid asset, a fund must take into account the factors set forth in paragraph (b)(2)(ii) of this section, to the extent applicable.

(9) *Three-day liquid asset minimum* means the percentage of the fund's net assets to be invested in three-day liquid assets pursuant to section (b)(2)(iv)(A) and (C) of this section.

(b) *Adoption and implementation of liquidity risk management program.*

(1) Program requirement. Each fund shall adopt and implement a written liquidity risk management program (''program'') that is reasonably designed to assess and manage the fund's liquidity risk. The program shall include policies and procedures incorporating the elements of paragraphs (b)(2)(i) through (iv) of this section. The program shall be administered by the fund's investment adviser, or an officer or officers of the fund, but may not be administered solely by portfolio managers of the fund.

(2) Required program elements. Each fund must:

(i) Classify and engage in an ongoing review of each of the fund's positions in a portfolio asset (or portions of a position in a particular asset) based on the following categories of number of days in which it is determined, using information obtained after reasonable inquiry, that the fund's position in the asset (or portion thereof) would be convertible to cash at a price that does not materially affect the value of that asset immediately prior to sale:

(A) Convertible to cash within 1 business day;

(B) Convertible to cash within 2–3 business days;

(C) Convertible to cash within 4–7 calendar days;

(D) Convertible to cash within 8–15 calendar days;

(E) Convertible to cash within 16–30 calendar days; and

(F) Convertible to cash in more than 30 calendar days.

Note to paragraph (b)(2)(i): In situations in which the period to convert a position to cash could be viewed either as two-to-three business days or four-to-seven calendar days, a fund should classify the position based on the shorter period (*i.e.,* two-to-three business days, not four-to-seven calendar days).

(ii) For purposes of classifying and reviewing the liquidity of a fund's position in a portfolio asset (or portion thereof) under paragraph (b)(2)(i) of this section, take into account the following factors, to the extent applicable, with respect to the asset (or similar asset(s), to the extent that data concerning the portfolio asset is not available to the fund):

(A) Existence of an active market for the asset, including whether the asset is listed on an exchange, as well as the number, diversity, and quality of market participants;

(B) Frequency of trades or quotes for the asset and average daily trading volume of the asset (regardless of whether the asset is a security traded on an exchange);

(C) Volatility of trading prices for the asset;

(D) Bid-ask spreads for the asset;

(E) Whether the asset has a relatively standardized and simple structure;

(F) For fixed income securities, maturity and date of issue;

(G) Restrictions on trading of the asset and limitations on transfer of the asset;

(H) The size of the fund's position in the asset relative to the asset's average daily trading volume and, as applicable, the number of units of the asset outstanding. Analysis of position size should consider the extent to which the timing of disposing of the position could create any market value impact; and

(I) Relationship of the asset to another portfolio asset.

(iii) Assess and periodically review the fund's liquidity risk, considering the fund's:

(A) Short-term and long-term cash flow projections, taking into account the following considerations:

(*1*) Size, frequency, and volatility of historical purchases and redemptions of fund shares during normal and stressed periods;

(*2*) Fund's redemption policies;

(*3*) Fund's shareholder ownership concentration;

(*4*) Fund's distribution channels; and

(*5*) Degree of certainty associated with the fund's short-term and long-term cash flow projections.

(B) Investment strategy and liquidity of portfolio assets;

(C) Use of borrowings and derivatives for investment purposes; and

(D) Holdings of cash and cash equivalents, as well as borrowing arrangements and other funding sources.

(iv) Manage the fund's liquidity risk, including that the fund will:

(A) Determine the fund's three-day liquid asset minimum, considering the factors specified in paragraphs (b)(2)(iii)(A) through (D) of this section;

(B) Periodically review, no less frequently than semi-annually, the adequacy of the fund's three-day liquid asset minimum, considering the factors incorporated in paragraphs (b)(2)(iii)(A) through (D) of this section;

(C) Not acquire any less liquid asset if, immediately after the acquisition, the fund would have invested less than its three-day liquid asset minimum in three-day liquid assets;

(D) Not acquire any 15% standard asset if, immediately after the acquisition, the fund would have invested more than 15% of its total assets in 15% standard assets; and

(E) Establish policies and procedures regarding redemptions in kind, to the

extent that the fund engages in or reserves the right to engage in redemptions in kind.

(3) Board approval and oversight of the program.

(i) The fund shall obtain initial approval of the liquidity risk management program (including the fund's three-day liquid asset minimum), as well as any material change to the program (including a change to the fund's three-day liquid asset minimum), from the fund's board of directors, including a majority of directors who are not interested persons of the fund.

(ii) The fund's board of directors, including a majority of directors who are not interested persons of the fund, shall review, no less frequently than annually, a written report prepared by the fund's investment adviser or officers administering the liquidity risk management program that describes the adequacy of the fund's liquidity risk management program, including the fund's three-day liquid asset minimum, and the effectiveness of its implementation.

(iii) The fund shall designate the fund's investment adviser or officers (which may not be solely portfolio managers of the fund) responsible for administering the policies and procedures incorporating the elements of paragraphs (b)(2)(i) through (iv) of this section, whose designation must be approved by the fund's board of directors, including a majority of the directors who are not interested persons of the fund.

(c) *Recordkeeping.* The fund must maintain:

(1) A written copy of the policies and procedures adopted by the fund under paragraphs (b)(1) of this section that are in effect, or at any time within the past five years were in effect, in an easily accessible place;

(2) Copies of any materials provided to the board of directors in connection with its approval under paragraph (b)(3)(i) of this section, and written reports provided to the board of directors under paragraph (b)(3)(ii) of this section, for at least five years after the end of the fiscal year in which the documents were provided, the first two years in an easily accessible place; and

(3) A written record of how the three-day liquid asset minimum, and any adjustments thereto, were determined, including assessment of the factors incorporated in paragraphs (b)(2)(iii)(A) through (D) of this section, for a period of not less than five years (the first two years in an easily accessible place) following the determination of and each change to the three-day liquid asset minimum.

■ 8. Section 270.31a–2 is amended by revising paragraph (a)(2) to read as follows:

§ 270.31a–2 Records to be preserved by registered investment companies, certain majority-owned subsidiaries thereof, and other persons having transactions with registered investment companies.

(a) * * *

(2) Preserve for a period not less than six years from the end of the fiscal year in which any transactions occurred, the first two years in an easily accessible place, all books and records required to be made pursuant to paragraphs (5) through (12) of § 270.31a–1(b) and all vouchers, memoranda, correspondence, checkbooks, bank statements, cancelled checks, cash reconciliations, cancelled stock certificates, and all schedules evidencing and supporting each computation of net asset value of the investment company shares, including schedules evidencing and supporting each computation of an adjustment to net asset value of the investment company shares based on swing pricing policies and procedures established and implemented pursuant to § 270.22c–1(a)(3), and other documents required to be maintained by § 270.31a-1(a) and not enumerated in § 270.31a–1(b).

* * * * *

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

■ 9. The general authority citation for part 274 continues to read, in part, as follows, and the sectional authorities for §§ 274.101 and 274.130 are removed:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78*l,* 78m, 78n, 78o(d), 80a–8, 80a–24, 80a–26, 80a–29, and Pub. L. 111–203, sec. 939A, 124 Stat. 1376 (2010), unless otherwise noted.

* * * * *

■ 10. Amend Form N–1A (referenced in 274.11A) by:

■ a. In Item 6 adding paragraph (d);

■ b. In Item 11 removing paragraph (c)(3) and redesignating paragraphs (c)(4), (c)(5), (c)(6) and (c)(7) as paragraphs (c)(3), (c)(4), (c)(5) and (c)(6), respectively;

■ c. In Item 11 adding new paragraph (c)(7) and paragraph (c)(8);

■ d. In Item 13, adding ''Capital Adjustments Due to Swing Pricing'' after ''Total Distributions'' to the list in paragraph (a);

■ e. In Item 13, Instruction 2., adding paragraphs (d) and (e);

■ f. In Item 13, Instruction 3., revising paragraphs (a) and (d);

■ g. In Item 26(b)(1), adding a sentence to the end of Instruction 4.

■ h. In Item 26(b)(2), adding a sentence to the end of Instruction 6.

■ i. In Item 26(b)(3), adding a sentence to the end of Instruction 6.

■ j. In Item 28, redesignating paragraphs (h), (i) (j), (k), (l), (m), (n), (o) and (p) as paragraphs (i), (j), (k), (l), (m), (n), (o), (p), and (q) respectively; and

■ k. In Item 28, adding new paragraph (h).

Note: The text of Form N–1A does not, and this amendment will not, appear in the Code of Federal Regulations.

Form N–1A

* * * * *

Item 6. Purchase and Sale of Fund Shares

(d) If the Fund uses swing pricing, an explanation of the circumstances under which it will use swing pricing and the effects of using swing pricing. With respect to any portion of a Fund's assets that is invested in one or more open-end management investment companies that are registered under the Investment Company Act, the Fund shall include a statement that the Fund's net asset value is calculated based upon the net asset values of the registered open-end management investment companies in which the Fund invests, and that the prospectuses for those companies explain the circumstances under which those companies will use swing pricing and the effects of using swing pricing.

* * * * *

Item 11. Shareholder Information

(c) * * *

(7) The number of days following receipt of shareholder redemption requests in which the fund will pay redemption proceeds to redeeming shareholders. If the number of days differs by distribution channel, disclose the number of days for each channel.

(8) The methods that the Fund uses to meet redemption requests, and whether those methods are used regularly, or only in stressed market conditions (*e.g.,* sales of portfolio assets, holdings of cash or cash equivalents, lines of credit, interfund lending, and/or ability to redeem in kind).

* * * * *

Item 13. Financial Highlights Information

* * * * *

Instructions * * *

2. *Per Share Operating Performance.*

* * *

(d) The amount shown at the Capital Adjustments Due to Swing Pricing caption should include the per share impact of any amounts retained by the

Fund pursuant to its swing pricing policies and procedures, if applicable.

(e) The amounts shown at the Net Asset Value, End of Period and Net Asset Value, Beginning of Period captions should be the Fund's net asset value per share as adjusted pursuant to its swing pricing policies and procedures, if applicable.

3. Total Return.

(a) Assume an initial investment made at the net asset value calculated on the last business day before the first day of each period shown, as adjusted pursuant to the Fund's swing pricing policies and procedures, if applicable.

* * *

(d) Assume a redemption at the price calculated on the last business day of each period shown, as adjusted pursuant to the Fund's swing pricing policies and procedures, if applicable.

Item 26. Calculation of Performance Data

* * * * *

(b)

* * *

(1) *Average Annual Total Return Quotation.*

* * *

Instructions * * *

4. * * * The ending redeemable value should assume a value as adjusted pursuant to swing pricing policies and procedures, if applicable.

* * *

(2) *Average Annual Total Return (After Taxes on Distributions) Quotation.*

* * *

Instructions * * *

6. * * * The ending value should assume a value as adjusted pursuant to swing pricing policies and procedures, if applicable.

(3) *Average Annual Total Return (After Taxes on Distributions and Redemption) Quotation.*

* * *

Instructions * * *

6. * * * The ending value should assume a value as adjusted pursuant to swing pricing policies and procedures, if applicable.

Item 28. Exhibits

* * * * *

(h) Credit Agreements. Agreements relating to lines of credit for the benefit of the Fund.

Instruction: The specific fees paid in connection with the credit agreements need not be disclosed.

■ 11. Further amend Form N–CEN (referenced in § 274.101) as proposed at 80 FR 33699, June 12, 2015 by:

■ a. In Part C, redesignating Items 44 through 79 as Items 45 through 80;

■ b. In Part C, adding Item 44;

■ c. In Part E, adding paragraph g. to newly redesignated Item 60.

Part C. Additional Questions for Management Investment Companies

* * *

Item 44. Lines of credit, interfund lending and borrowing, and swing pricing. For open-end management investment companies, respond to the following:

a. Does the Fund have available a committed line of credit? [Yes/No]

i. If yes, what size is the line of credit? [insert dollar amount]

ii. If yes, with which institution(s) is the line of credit? [list name(s)]

iii. If yes, is the line of credit just for the Fund, or is it shared among multiple funds? [sole/shared]

1. If shared, list names of other funds that may use the line of credit. [list names and SEC File numbers]

iv. If yes, did the Fund draw on the line of credit this period? [Yes/No]

v. If the Fund drew on the line of credit during this period, what was the average amount outstanding when the line of credit was in use? [insert dollar amount]

vi. If the Fund drew on the line of credit during this period, what was the number of days that the line of credit was in use? [insert amount]

b. Did the Fund engage in interfund lending? [Yes/No]

i. If yes, what was the average amount of the interfund loan when the loan was outstanding? [insert dollar amount.]

ii. If yes, what was the number of days that the interfund loan was outstanding? [insert amount]

c. Did the Fund engage in interfund borrowing? [Yes/No]

i. If yes, what was the average amount of the interfund loan when the loan was outstanding? [insert dollar amount.]

ii. If yes, what was the number of days that the interfund loan was outstanding? [insert amount]

d. Did the Fund (if not a Money Market Fund, Exchange-Traded Fund, or Exchange-Traded Managed Fund) engage in swing pricing? [Yes/No]

Part E. Additional Questions for Exchange-Traded Funds and Exchange-Traded Managed Funds

* * *

Item 60.

* * *

g. Did the Fund require that an authorized participant post collateral to the Fund or any of its designated service providers in connection with the purchase or redemption of Fund shares during the reporting period? [Y/N]

■ 12. Amend Form N–PORT (referenced in 274.150), as proposed at 80 FR 33712, June 12, 2015 by:

■ a. In the General Instructions, removing the definition of ''Illiquid Asset;''

■ b. In the General Instructions, adding a definition of ''15% Standard Asset.''

■ c. In the General Instructions, adding a definition of ''Three-Day Liquid Asset Minimum;''

■ d. In Part B., adding Item B.7;

■ e. In Part C, revising Item C.7; and

■ f. In Part C, adding Item C.13

The revisions and additions read as follows:

E. Definitions

* * *

15% Standard Asset has the meaning defined in rule 22e–4(a)(4).

Three-Day Liquid Asset Minimum has the meaning defined in rule 22e–4(a)(9).

* * *

Part B: Information about the Fund

* * *

Item B.7 Liquidity information. For open-end investment companies, provide the Three-Day Liquid Asset Minimum.

* * *

Part C: Schedule of Portfolio Investments

* * *

Item C.7 For portfolio investments of registered open-end management investment companies, is the investment a 15% Standard Asset? [Y/N]

* * *

Item C.13 For portfolio investments of open-end management investment companies, indicate the liquidity classification for each portfolio asset (or portion thereof) among the following categories as specified in rule 22e–4. For portfolio assets with multiple liquidity classifications, indicate the dollar amount attributable to each classification:

Convertible to cash within 1 business day

Convertible to cash within 2–3 business days

Convertible to cash within 4–7 calendar days

Convertible to cash within 8–15 calendar days

Convertible to cash within 16–30 calendar days

Convertible to cash in more than 30 calendar days

* * * * *

By the Commission.

Dated: September 22, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–24507 Filed 10–14–15; 8:45 am]

BILLING CODE 8011–01–P

FEDERAL REGISTER

Vol. 80 Thursday,
No. 199 October 15, 2015

Part IV

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2011–0797; FRL–9934–16–OAR]

RIN 2060–AQ92

National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review (RTR) conducted for the Primary Aluminum Production source category regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, we are taking final action regarding new and revised emission standards for various hazardous air pollutants (HAP) emitted by this source category based on the RTR, newly obtained emissions test data, and comments we received in response to the 2011 proposal and 2014 supplemental proposal.

These final amendments include technology-based standards and work practice standards reflecting performance of maximum achievable control technology (MACT), and related monitoring, reporting, and testing requirements, for several previously unregulated HAP from various emissions sources. Furthermore, based on our risk review, we are finalizing new and revised emission standards for certain HAP emissions from potlines using the Soderberg technology to address risk. We are also adding a requirement for electronic reporting of compliance data, eliminating the exemptions for periods of startup, shutdown, and malfunctions (SSM), and not adopting the affirmative defense provisions proposed in 2011, consistent with a recent court decision vacating the affirmative defense provisions. This action will provide improved environmental protection regarding potential emissions of HAP emissions from primary aluminum reduction facilities.

DATES: This final action is effective on October 15, 2015. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of October 15, 2015.

ADDRESSES: The Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2011–0797. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov*, or in hard copy at the EPA Docket Center, EPA WJC West Building, Room Number 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Mr. David Putney, Sector Policies and Programs Division (D243–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711; telephone number: (919) 541–2016; fax number: (919) 541–3207; and email address: *putney.david@epa.gov*. For specific information regarding the risk modeling methodology, contact Mr. Jim Hirtz, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0881; fax number: (919) 541–0840; and email address: *hirtz.james@epa.gov*. For information about the applicability of the NESHAP to a particular entity, contact Mr. Patrick Yellin, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, EPA WJC South Building, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; and email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble Acronyms and Abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

AERMET AERMOD Meteorological Preprocessor
AERMOD American Meteorological Society and EPA Regulatory Model
As arsenic
BLDS bag leak detection systems
BLP Buoyant Line and Point source model
CAA Clean Air Act
CBI confidential business information
CDX Central Data Exchange
CEMS continuous emission monitoring system
CFR Code of Federal Regulations
CRA Congressional Review Act
CWPB1 center-worked prebake one
CWPB2 center-worked prebake two
CWPB3 center-worked prebake three
D/F dioxins and furans
dscm dry standard cubic meter
ERT Electronic Reporting Tool
FR Federal Register
HAP hazardous air pollutant(s)
HEM3 Human Exposure Model version 3
Hg mercury
HQ hazard quotient
IBR incorporation by reference
ICR information collection request
lb pound(s)
lb/ton pound(s) per ton
lb/yr pound(s) per year
MACT maximum achievable control technology
MIR maximum individual risk
NESHAP National Emission Standards for Hazardous Air Pollutants
Ni nickel
NTTAA National Technology Transfer and Advancement Act
PCB polychlorinated biphenyls
PM particulate matter
$PM_{2.5}$ p.m. with diameter of 2.5 microns and less
POM polycyclic organic matter
PRA Paperwork Reduction Act
RDL representative detection limit
REL reference exposure level
RFA Regulatory Flexibility Act
RIA Regulatory Impact Analysis
RIN Regulatory Information Number
RTR Residual Risk and Technology Review
SSM startup, shutdown, and malfunction
SWPB side-worked prebake
TEQ toxicity equivalence
TOSHI target organ-specific hazard index
TTN Technology Transfer Network
µg microgram(s)
µg/dscm microgram(s) per dry standard cubic meter
UMRA Unfunded Mandates Reform Act
UPL upper prediction limit
VE visible emissions
VSS2 vertical stud Soderberg two

Background Information. On December 6, 2011, and December 8, 2014, the EPA proposed revisions to the Primary Aluminum Reduction Plants NESHAP based on our RTR and MACT review. After considering public comments, in this action, we are finalizing decisions and revisions for the rule. We summarize some of the more significant comments we timely received regarding the 2011 and 2014 proposed rules and provide our responses in this preamble. A summary of all other public comments on the proposals and the EPA's responses to those comments is available in the *National Emission Standards for*

Hazardous Air Pollutants: Primary Aluminum Reduction Plants Summary of Public Comments and Responses document, which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2011–0797). A ''track changes'' version of the regulatory language that incorporates the changes in this action is also available in the docket for this action.

Organization of this Document. The information in this preamble is organized as follows:

I. General Information

A. Does this action apply to me?

Regulated Entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

NESHAP and source category	NAICS [a] code
Primary Aluminum Reduction Plants	331312

[a] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the Internet through the Technology Transfer Network (TTN) Web site, a forum for information and technology exchange in various areas of air pollution control. Following signature by the EPA Administrator, the EPA will post a copy of this final action at *http://www.epa.gov/ttn/atw/alum/alumpg.html*. Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same Web site.

Additional information is available on the RTR Web site at *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html*. This information includes an overview of the RTR program, links to project Web sites for the RTR source categories and detailed emissions and other data we used as inputs to the risk assessments.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by December 14, 2015. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that ''[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.'' This section also provides a mechanism for the EPA to reconsider the rule ''[i]f the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000,

EPA WJC North Building, 1200 Pennsylvania Ave. NW., Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of HAP from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. ''Major sources'' are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly referred to as MACT standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including, but not limited to, those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements and which may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent than the floor under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see 76 FR 76259 and 79 FR 72914.

Today's amendments involve rule changes pursuant to these authorities. Specifically, pursuant to CAA sections 112(d)(2) and (3), and 112(h), the EPA is amending the NESHAP to add standards for HAP not previously addressed. In addition, pursuant to CAA section 112(f), the EPA is amending certain MACT standards already promulgated to address risk. The EPA also conducted a technology review and determined that no further changes to the rule are necessary (within the meaning of CAA section 112(d)(6)) to reflect developments in practices, processes, and control technologies other than the work practices for anode bake furnaces and paste plants during startup periods, and work practices for potlines during normal operations (to help minimize POM, TF, and PM emissions), described in the 2011 and 2014 proposals.

B. What is the Primary Aluminum Production source category and how does the NESHAP regulate HAP emissions from the source category?

The EPA promulgated the Primary Aluminum Reduction Plants NESHAP, which apply to the Primary Aluminum Production source category, on October 7, 1997 (62 FR 52407). The rule was amended on November 2, 2005 (70 FR 66280). The associated standards are codified at 40 CFR part 63, subpart LL.

The Primary Aluminum Production source category consists of facilities that produce aluminum from refined bauxite ore (also known as alumina), using an electrolytic reduction process in a series of cells called a ''potline.'' The two main potline types are prebake (a newer, higher-efficiency, lower-emitting technology) and Soderberg (an older, lower-efficiency, higher-emitting technology). The raw materials include alumina, petroleum coke, pitch, and fluoride salts. According to information available on the Web site of The Aluminum Association, Inc. (*http://www.aluminum.org*), approximately 40 percent of the aluminum produced in the U.S. comes from primary aluminum facilities. The other 60 percent either comes from Secondary Aluminum Production facilities or is imported.

Primary aluminum reduction facilities emit HAP from four basic processes: Pitch storage tanks, paste production plants, anode bake furnaces, and potlines. Operators form anode paste in the paste production plant from a mixture of petroleum coke and pitch. In a prebake facility, this anode paste is then formed into anodes and baked in an anode bake furnace. Operators subsequently place these ''prebaked'' anodes into a prebake potline where they are consumed via the electrolytic reduction process. Soderberg facilities do not have anode bake furnaces. Instead, the anode paste is fed directly into the Soderberg potlines and baked in place to form anodes, which again are consumed via the electrolytic reduction process.

There are currently 11 facilities located in the United States that are subject to the requirements of this NESHAP: 10 primary aluminum reduction plants and one carbon-only prebake anode production facility. These 10 primary aluminum reduction

[1] The U.S. Court of Appeals has affirmed this approach of implementing CAA section 112(f)(2)(A). See *NRDC* v. *EPA*, 529 F.3d 1077, 1083 (D.C. Cir. 2008) (''If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.'').

plants have approximately 35 potlines that produce aluminum. Each of the 10 primary aluminum reduction plants has a paste production plant and at least one anode bake furnace (for a total of about 22 existing anode bake furnaces). However, not all existing paste production plants and anode bake furnaces are currently operating, as some facilities obtain their prebaked anodes from the carbon-only prebake anode production facility. All currently operating primary aluminum facilities use prebake potlines.

At the time of the 2011 proposal, there were two facilities in the U.S. that used Soderberg potlines. One of those facilities (Massena East) was operating at that time, and the other (Columbia Falls) was idle. However, in 2014, before publication of the supplemental proposal, the Massena East facility was permanently shut down. Therefore, at the time we published the supplemental proposal, there was only one Soderberg facility (Columbia Falls) in the U.S., which was idle. After publication of the 2014 supplemental proposal, we learned that the one remaining idle Soderberg facility located in Columbia Falls was permanently shut down. We also learned that one prebake facility (run by Ormet Primary Aluminum Corporation) was shut down. Therefore, currently there are 10 existing facilities with potlines (all prebake facilities) in the source category plus the one facility without potlines that only produces anodes.

The major HAP emitted by these facilities are carbonyl sulfide (COS), hydrogen fluoride (HF), particulate HAP metals and polycyclic organic matter (POM), specifically polycyclic aromatic hydrocarbons (PAH).

The current Primary Aluminum Reduction Plants NESHAP (as they existed before today's final action) included MACT standards (promulgated in 1997 and 2005) for emissions of total fluorides (TF) (as a surrogate for HF) from anode bake furnaces and potlines and for emissions of POM from paste production plants, anode bake furnaces, Soderberg potlines, and new pitch storage tanks.

C. What changes did we propose for the Primary Aluminum Production source category in our December 6, 2011, proposal and our December 8, 2014, proposal?

On December 6, 2011, and December 8, 2014, the EPA published proposed rules in the **Federal Register** for the Primary Aluminum Reduction Plants NESHAP, 40 CFR part 63, subpart LL, that took into consideration the RTR analyses and other reviews of the rule. In the proposed rules, we proposed several minor clarifications and corrections, and the items summarized in Table 2, below.

TABLE 2—SUMMARY OF CHANGES PROPOSED PURSUANT TO ANALYSES ASSOCIATED WITH THIS ACTION

Action	Proposal	As a result of which analysis
2011 proposal (76 FR 76259)	COS emission limits for new and existing potlines	CAA section 112(d)(2) and (3).
	POM emission limits for new and existing prebake potlines and existing pitch storage tanks.	
	Work practices for anode bake furnaces during startup periods	CAA section 112(d)(6) Technology review.
	Work practices for potlines during startup periods	CAA section 112(h).
	Revised POM emission limits for Soderberg potlines	CAA section 112(f) Risk Review.
2014 proposal (79 FR 72914)	Revised POM emission limits for new and existing prebake potlines ..	CAA section 112(d)(2) and (3).
	Emission limits for particulate matter (PM) for new and existing potlines, anode bake furnaces and paste production plants.	
	Revised work practice standards for potlines.	
	Reduced testing frequencies for potlines	CAA section 112(d)(2) and (3).
	Work practices for paste production plants during startup periods	CAA section 112(d)(6) Technology Review.
	Nickel (Ni), arsenic (As) and revised POM emission limits for Soderberg potlines.	CAA section 112(f) Risk Review.

III. What is included in this final rule?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the Primary Aluminum Production source category, finalizes our reviews of other aspects of the rule, and amends the Primary Aluminum Reduction Plants NESHAP based on those determinations and reviews. The changes being finalized in this action include the following: The promulgation of MACT floor-based limits for previously unregulated HAP (*e.g.,* COS and PM); emissions limits for POM, As, and Ni from Soderberg potlines to address risk; the addition of work practice standards for paste production plants, potlines and anode bake furnaces; and the removal of SSM exemptions. This final action includes several changes to the proposed requirements in the December 2011 and December 2014 proposals based on consideration of comments and information received during the public comment periods as described in section IV of this preamble.

A. What are the final rule amendments based on the risk review for the Primary Aluminum Production source category?

This section provides a summary of the final amendments to the Primary Aluminum Reduction Plants NESHAP being promulgated in this action pursuant to CAA section 112(f).

To address risk, we are promulgating emission limits for POM, As, and Ni from existing vertical stud Soderberg two (VSS2) potlines at the following levels: 1.9 pounds (lb) POM/ton of aluminum produced, 0.006 lb As/ton of aluminum produced, and 0.07 lb Ni/ton of aluminum produced.

To address risk, we are promulgating As and Ni emission limits for new Soderberg potlines at the following levels: 0.006 lb As/ton of aluminum produced and 0.07 lb Ni/ton of aluminum produced. New or reconstructed Soderberg potlines would also be subject to the POM limit of 0.77 lb per ton of aluminum produced that we are promulgating for all new potlines. These emission limits for POM, Ni, and As for new and existing Soderberg plants being promulgated in this rule are the same as the limits proposed in the 2014 supplemental proposal. Additional information regarding the limits addressing risk is available in the *Development of Emissions Standards to Address Risks for the Primary Aluminum Production Source Category Pursuant to Section 112(f) of the Clean Air Act,* which is

available in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2011–0797). As noted earlier, the last remaining Soderberg primary aluminum facility in the U.S. announced the permanent closure of that facility after publication of the supplemental proposal in 2014. Notwithstanding our well-supported expectation that this facility will not reopen and that no new Soderberg facilities will be constructed due to the less efficient and higher emitting nature of the Soderberg technology, we are finalizing, as proposed, the standards for POM, As, and Ni associated with Soderberg facilities in the final rule to address the risk from existing potlines at the Columbia Falls facility that have not yet been demolished and to ensure that risks would be acceptable and to provide an ample margin of safety in the very unlikely event that a new Soderberg facility is ever built.

B. What are the final rule amendments based on the technology review for the Primary Aluminum Production source category?

Based on our analyses of the data and information collected and our general understanding of the industry and other available information on potential controls for this industry, we have determined that there are no developments in practices, processes, and control technologies that warrant revisions to the MACT standards for this source category, other than the work practices for anode bake furnaces during startup periods (described in the December 2011 proposal), the work practices for paste plants during startup (described in the 2014 proposal) and work practices for potlines (to minimize emissions of PM, TF and POM) during normal operations (described in the 2014 supplemental proposal). We are promulgating these work practices as proposed for anode bake furnaces and paste plants during startup periods, and for potlines during normal operations, under section 112(d)(6) of the CAA. These standards apply to both new and existing sources using either of the production technologies.

In summary, we are not revising the MACT standards under CAA section 112(d)(6) other than the startup work practices for anode bake furnaces and paste plants described in the 2011 and 2014 proposals, and the work practices for potlines during normal operations described in the 2014 supplemental proposal. Additional information is available in the *Final Technology Review for the Primary Aluminum Production Source Category* document, which can be found in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2011–0797).

C. What are the final rule amendments pursuant to Clean Air Act sections 112(d)(2) and (3) for the Primary Aluminum Production source category?

We are promulgating MACT emission limits for COS, PM (as a surrogate for HAP metals other than mercury (Hg)), Hg, and polychlorinated biphenyls (PCB),[2] all of which were previously unregulated HAP, pursuant to CAA sections 112(d)(2) and (3). In addition, we are promulgating MACT limits for emissions of POM from new and existing prebake potlines and existing pitch storage tanks, which were previously unregulated sources of POM. A summary of the promulgated MACT standards is provided in Table 3, below, and additional information is available in the *Final MACT Floor Analysis for the Primary Aluminum Production Source Category* document, which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2011–0797). For more information on the MACT standards that the EPA promulgated and how they are different from those the EPA proposed, see section VI.B of this preamble.

TABLE 3—SUMMARY OF PROMULGATED MACT STANDARDS

HAP	Source	Promulgated MACT standard
COS	New potlines	3.1 lb/ton aluminum produced.
	Existing potlines	3.9 lb/ton aluminum produced.
POM	New potlines	0.77 lb/ton aluminum produced.
	Existing potlines:	
	CWPB1	1.1 lb/ton aluminum produced.
	CWPB2	12 lb/ton aluminum produced.
	CWPB3	2.7 lb/ton aluminum produced.
	SWPB	17 lb/ton aluminum produced.
	Existing pitch storage tanks	Minimum 95-percent reduction of inlet POM emissions.
PM	New potlines	4.9 lb/ton aluminum produced.
	Existing potlines:	
	CWPB1	7.4 lb/ton aluminum produced.
	CWPB2	11 lb/ton aluminum produced.
	CWPB3	20 lb/ton aluminum produced.
	SWPB	4.9 lb/ton aluminum produced.
	VSS2	26 lb/ton aluminum produced.
	New anode bake furnace	0.07 lb/ton of green anode produced.
	Existing anode bake furnace	0.20 lb/ton of green anode produced.
	New paste production plant	0.0056 lb/ton of paste produced.
	Existing paste production plant	0.082 lb/ton of paste produced.
PCB	New and existing Soderberg potlines	2.0 micrograms (μg) toxicity equivalence (TEQ) per ton of aluminum produced.
Hg	New and existing anode bake furnaces	1.7 μg per dry standard cubic meter (dscm).

CWPB1 = Center-worked prebake one.
CWPB2 = Center-worked prebake two.
CWPB3 = Center-worked prebake three.
SWPB = Side-worked prebake.
VSS2 = Vertical stud Soderberg two.

[2] From Soderberg potlines only.

D. What are the final rule amendments addressing emissions during periods of SSM?

We are finalizing, as proposed in the 2014 proposal, changes to the Primary Aluminum Reduction Plants NESHAP to eliminate the exemption in the present rules for emissions occurring during SSM operations. Consistent with *Sierra Club* v. *EPA*, 551 F. 3d 1019 (D.C. Cir. 2008), the EPA is establishing standards in this rule that apply at all times. Appendix A to subpart LL of 40 CFR part 63 (General Provisions applicability table) is being revised to change several references related to requirements that apply during periods of SSM. We are also eliminating or revising certain recordkeeping and reporting requirements related to the eliminated SSM exemption. The EPA also made changes to the rule to remove or modify inappropriate, unnecessary, or redundant language in the absence of the SSM exemption. We are also not adopting the affirmative defense provisions proposed in 2011, consistent with a recent court decision vacating the affirmative defense provisions in one of the EPA's CAA section 112(d) regulations. *NRDC* v. *EPA*, 749 F. 3d 1055 (D.C. Cir. 2014).

In addition, we are finalizing work practices for potlines, paste production plants, and anode bake furnaces during startup periods that will ensure improved capture and control of emissions from those sources.

E. What other changes have been made to the Primary Aluminum Reduction Plants NESHAP?

This rule also finalizes revisions to several other Primary Aluminum Reduction Plants NESHAP requirements as proposed, or in some cases with some modification, which are summarized in this section.

1. Electronic Reporting Tool

To increase the ease and efficiency of data submittal and data accessibility, we are finalizing, as proposed, a requirement that owners and operators of sources subject to the Primary Aluminum Reduction Plants NESHAP submit electronic copies of certain required performance test reports through an electronic performance test report tool called the Electronic Reporting Tool (ERT). This requirement to submit performance test data electronically to the EPA does not require any additional performance testing and applies only to those performance tests conducted using test methods that are supported by the ERT. A listing of the pollutants and test methods supported by the ERT is available at the ERT Web site.

2. Work Practice Standards

We are finalizing work practice standards for all potlines (*i.e.* both prebake and Soderberg) and for anode bake furnaces that will ensure improved capture and control of TF, POM, and PM emissions from those sources. These work practice standards also address Hg emissions from all potlines, PCB emissions from prebake potlines and anode bake furnaces, and dioxins and furan (D/F) emissions from Soderberg potlines (see section IV.C of this preamble for additional discussion of these work practice standards).

3. Control Device and Emissions Monitoring

We are finalizing new twice-daily visible emissions (VE) monitoring requirements as an alternative to bag leak detection systems (BLDS) or PM continuous emissions monitoring systems (CEMS) for control devices installed on existing sources (see section IV.D of this preamble for additional discussion of these monitoring changes).

We are finalizing the inclusion of PM for the potline similarity option found in the current subpart LL at 40 CFR 63.848(d). This section allows an owner or operator to use the monitoring of secondary TF and/or POM emissions from one potline to represent the performance of other ''similar'' potlines. Potlines are similar ''if the owner or operator demonstrates that their structure, operability, type of emissions, volume of emissions and concentration of emissions are substantially equivalent.'' Based on consideration of comments and information received in responses to the 2014 proposal, the EPA is amending the existing rule to allow potline owners or operators this same option for PM. That is, potline owners and operators now will have the option to establish ''similarity of potlines'' with respect to PM emissions. ''Similarity'' would be established based on the criteria already applicable with respect to TF and POM. See subpart LL at 40 CFR 63.848(d). As with TF and POM, an owner or operator would have to make this demonstration to the applicable regulatory authority and obtain approval from that authority.

4. Emission Averaging

We are modifying 40 CFR 63.846 to allow emission averaging in the case of PM from potlines and anode bake furnaces. That section currently allows emission averaging in the cases of POM and TF from these process units with certain prohibitions (*e.g.*, averaging between different pollutants or process units is not allowed). We are only adding PM to these existing provisions, and not reopening the core concept of allowing emission averaging.

5. Alternative Emissions Limits for Co-Controlled New and Existing Anode Bake Furnaces

We are also finalizing the alternative emissions limits for co-controlled new and existing anode bake furances as proposed in the 2014 supplemental proposal (79 FR 72949).

6. Minor Technical and Editorial Revisions

We are also finalizing other minor technical and editorial changes to the NESHAP in response to comments received during the public comment period for the proposal and supplemental proposal, as described in this preamble.

F. What are the effective and compliance dates of the standards?

The revisions to the MACT standards being promulgated in this action are effective on October 15, 2015.

The compliance dates for existing sources are:

October 15, 2015 for the malfunction provisions and the electronic reporting provisions;

October 17, 2016 for potline work practice standards and COS emission limits, for Soderberg potline PM and PCB emission limits, and for anode bake furnace and paste production plant work practices and PM emission limits; and

October 16, 2017 for prebake potline POM and PM emission limits; for Soderberg potline revised POM emission limits and emission limits for Ni and As; for anode bake furnace Hg emission limits; and for pitch storage tank POM equipment standards.

For more information on how we selected compliance dates for existing sources, refer to section IV.E of this preamble and the *Final Rationale for Selection of Compliance Dates for the Primary Aluminum Production Source Category* document, which can be found in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2011–0797).

New sources must typically comply with all of the standards immediately upon the effective date of the standard, or upon startup, whichever is later. CAA section 112(i)(1).[3] CAA section 112(a)(4)

[3] If a new source standard is more stringent than the standard proposed, a new source may have three years to comply, provided it complies with

Continued

indicates that a new source is one which commenced construction (or reconstruction) after the Administrator first proposes regulations under CAA section 112 for the source category. We have interpreted this date to be the date of the December 2014 proposal given the substantially new record set forth in that proposal. Consequently, for the purposes of compliance with the emission standards for PM, a new affected potline, anode bake furnace, or paste production plant is one for which construction or reconstruction commenced after December 8, 2014, the date on which the EPA first proposed the amendments finalized here. For the purposes of compliance with the emission standards for POM and COS, a new affected potline is one for which construction or reconstruction commenced after December 8, 2014. For the purposes of compliance with the emission standards for Hg or PCB, a new affected anode bake furnace or Soderberg potline is one for which construction or reconstruction commenced after December 8, 2014, although the compliance dates for these standards are October 16, 2017 for anode bake furnaces and October 17, 2016 for Soderberg potlines, since these standards differ from the proposal (see CAA section 112(i)(2)).

G. What are the requirements for submission of performance test data to the EPA?

The EPA is requiring owners and operators of sources subject to the Primary Aluminum Reduction Plants NESHAP facilities to submit electronic copies of certain required performance test reports [and any other reports, *e.g.* performance evaluation reports] through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). As stated in the 2011 proposal preamble, the EPA believes that the electronic submittal of the reports addressed in this rulemaking will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability, will further assist in the protection of public health and the environment and will ultimately result in less burden on the regulated community. Electronic reporting can also eliminate paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors and providing data quickly and accurately to the affected facilities, air agencies, the EPA and the public.

As mentioned in the preamble of the 2011 proposal, the EPA Web site that stores the submitted electronic data, WebFIRE, will be easily accessible to everyone and will provide a user-friendly interface that any stakeholder could access. By making the records, data and reports addressed in this rulemaking readily available, the EPA, the regulated community and the public will benefit when the EPA conducts its CAA-required technology and risk-based reviews. As a result of having reports readily accessible, our ability to carry out comprehensive reviews will be increased and achieved within a shorter period of time.

We anticipate fewer or less substantial information collection requests (ICRs) in conjunction with prospective CAA-required technology and risk-based reviews may be needed. We expect this to result in a decrease in time spent by industry to respond to data collection requests. We also expect the ICRs to contain less extensive stack testing provisions, as we will already have stack test data electronically. Reduced testing requirements would be a cost savings to industry. The EPA should also be able to conduct these required reviews more quickly. While the regulated community may benefit from a reduced burden of ICRs, the general public benefits from the agency's ability to provide these required reviews more quickly, resulting in increased public health and environmental protection.

Air agencies could benefit from more streamlined and automated review of the electronically submitted data. Having reports and associated data in electronic format will facilitate review through the use of software ''search'' options, as well as the downloading and analyzing of data in spreadsheet format. The ability to access and review air emission report information electronically will assist air agencies to more quickly and accurately determine compliance with the applicable regulations, potentially allowing a faster response to violations which could minimize harmful air emissions. This benefits both air agencies and the general public.

For a more thorough discussion of electronic reporting required by this rule, see the discussion in the preamble of the 2011 proposal (see 76 FR 76280). In summary, in addition to supporting regulation development, control strategy development, and other air pollution control activities, having an electronic database populated with performance test data will save industry, air agencies, and the EPA significant time, money, and effort while improving the quality of emission inventories, air quality regulations, and enhancing the public's access to this important information.

H. What materials are being incorporated by reference?

In this final rule, the EPA is including regulatory text that includes incorporation by reference (IBR). In accordance with requirements of 1 CFR 51.5, the EPA is incorporating by reference the following documents described in the amendments to 40 CFR 63.14:

- ASTM D4239–14e1, ''Standard Test Method for Sulfur in the Analysis Sample of Coal and Coke Using High-Temperature Tube Furnace Combustion,'' approved March 1, 2014;
- ASTM D6376–10, ''Standard Test Method for Determination of Trace Metals in Petroleum Coke by Wavelength Dispersive X-Ray Fluorescence Spectroscopy,'' approved July 1, 2010; and
- Method 428, ''Determination Of Polychlorinated Dibenzo-P-Dioxin (PCDD), Polychlorinated Dibenzofuran (PCDF), and Polychlorinated Biphenyle Emissions from Stationary Sources,'' amended September 12, 1990.

The following material will be referenced in 40 CFR 63.14 and as noted below. This material has already received IBR approval for subpart LL of 40 CFR part 63. We are moving it from an IBR section established earlier within subpart LL to the centralized IBR section in § 63.14.

- *Industrial Ventilation: A Manual of Recommended Practice, 22nd Edition, 1995, Chapter 3, ''Local Exhaust Hoods'' and Chapter 5, ''Exhaust System Design Procedure.'' IBR approved for §§ 63.843(b) and 63.844(b).*
- ASTM D2986–95A, ''Standard Practice for Evaluation of Air Assay Media by the Monodisperse DOP (Dioctyl Phthalate) Smoke Test,'' approved September 10, 1995, IBR approved for section 7.1.1 of Method 315 in appendix A to 40 CFR part 63.

The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

IV. What is the rationale for our final decisions and amendments for the Primary Aluminum Production source category?

This section provides a description of what we proposed and what we are finalizing for several issues, the EPA's rationale for the final decisions and

the proposed standard during that 3-year period. CAA section 112(i)(2).

amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the *National Emission Standards for Hazardous Air Pollutants: Primary Aluminum Reduction Plants Summary of Public Comments and Responses* document, which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2011–0797).

A. Residual Risk Review for the Primary Aluminum Production Source Category

1. What did we propose pursuant to CAA section 112(f) for the Primary Aluminum Production source category?

Pursuant to CAA section 112(f), we conducted a residual risk review and presented the results of this review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the December 2014 supplemental proposal for the Primary Aluminum Reduction Plants NESHAP. The EPA views the residual risk review associated with the 2011 proposal as superseded by the residual risk review associated with the 2014 supplemental proposal, and so is referring only to that later risk assessment. The results of the risk assessment for the 2014 supplemental proposal are summarized in the preamble for that proposal and presented in more detail in the residual risk document, *Residual Risk Assessment for the Primary Aluminum Production Source Category in Support of the 2014 Supplemental Proposal,* which is available in the docket for this rulemaking. Table 4 below provides the estimated inhalation health risks from the supplemental proposal.

TABLE 4—PRIMARY ALUMINUM PRODUCTION SOURCE CATEGORY INHALATION RISK ASSESSMENT RESULTS FROM SUPPLEMENTAL PROPOSAL

Maximum individual cancer risk (-in-1 million) [a]	Estimated population at increased risk levels of cancer	Estimated annual cancer incidence (cases per year)	Maximum chronic non-cancer TOSHI [b]	Refined maximum acute non-cancer HQ [c]
Actual Emissions				
70	≥1-in-1 million: 881,000 ≥10-in-1 million: 65,000 ≥100-in-1 million: 0	0.06	1 Cadmium and Nickel Compounds	HQ_{REL} = 10 (Arsenic Compounds). Residential.
Allowable Emissions [d]				
300	≥1-in-1 million: 950,000 ≥10-in-1 million: 76,000 ≥100-in-1 million: 200.	0.06	2 Nickel and Arsenic Compounds.	

[a] Estimated maximum individual excess lifetime cancer risk due to HAP emissions from the source category.
[b] Maximum TOSHI. The target organ with the highest TOSHI for the Primary Aluminum Production source category for actual emissions is the kidney and respiratory system and for allowable emissions is the respiratory, immunological, and developmental systems.
[c] The maximum off-site HQ acute value of 10 at a residential location for actuals is driven by emissions of As from the potline roof vents. See section III.A.3 of the December 8, 2014 supplemental proposal for explanation of acute dose-response values. Acute assessments are not performed on allowable emissions.
[d] The development of allowable emission estimates can be found in the memorandum titled *Development of the RTR Revised Risk Modeling Dataset for the Primary Aluminum Production Source Category* (Docket item number EPA–HQ–OAR–2011–0797–0346).

Based on actual emissions estimates for the Primary Aluminum Production source category supplemental proposal, the maximum individual risk (MIR) for cancer was estimated to be up to 70-in-1 million driven by emissions of As and Ni compounds. The maximum chronic non-cancer target organ-specific hazard index (TOSHI) value was estimated to be up to 1 driven by Ni emissions. The maximum off-site acute hazard quotient (HQ) value was estimated to be 10 for As compounds and 2 for HF. The total estimated national cancer incidence from this source category, based on actual emission levels, was 0.06 excess cancer cases per year, or one case in every 17 years.

Based on MACT-allowable emissions, in the supplemental proposal, the MIR was estimated by the EPA to be up to 300-in-1 million, driven by potential emissions of As, Ni, and POM from the one idle Soderberg facility (Columbia Falls), which is now permanently closed. The maximum chronic non-cancer TOSHI value was estimated to be up to 2, driven by Ni. The MIR due to allowable emissions from prebake facilities was estimated by the EPA to be up to 70-in-1 million, driven by As and Ni.

The EPA also assessed the risks due to multipathway exposures to HAP emissions from the primary aluminum reduction plants. The assessment included tier 1 and tier 2 screening analyses and a refined analysis for the one Soderberg facility which was operational at the time recent emissions data for this source category were collected and this analysis was commenced, but which subsequently announced its permanent shut down in March 2014.

The multipathway screens rely on health-protective assumptions about consumption of local fish and locally grown or raised foods (adult female angler at 99th percentile consumption of fish [4] for the subsistence fisherman scenario and 90th percentile for consumption of locally grown or raised foods [5] for the farmer scenario) which may not occur for this source category. The tier 2 assessment is less conservative than the tier 1 analysis. However, it is important to note that, even with the inclusion of some site-specific information in the tier 2 analysis, the multipathway screening analysis is still a very conservative health-protective assessment, and, in all likelihood, will yield results that serve

[4] Burger, J. 2002. Daily consumption of wild fish and game: Exposures of high end recreationists. International Journal of Environmental Health Research 12:343–354.

[5] U.S. EPA. Exposure Factors Handbook 2011 Edition (Final). U.S. Environmental Protection Agency, Washington, DC, EPA/600/R–09/052F, 2011.

as an upper-bound multipathway risk associated with any facility in the Primary Aluminum Production source category.

The highest cancer exceedance in the tier 2 analyses for dioxins was 40 times and 7 times for PAH for the subsistence fisherman scenario (total cancer screen value of 50 for the MIR site). Thus, these results indicate that the maximum cancer risks due to multipathway exposures to D/F and PAH emissions for the subsistence fisher scenario are less than 50-in-1 million under these highly conservative screening assumptions.[6] The multipathway analysis for chronic non-cancer effects did not identify any persistent and bioaccumulative hazardous air pollutants (PB–HAP) that exceeded an HQ value of 1. For more information on the risk results, please refer to the residual risk document, *Residual Risk Assessment for the Primary Aluminum Production Source Category in Support of the 2014 Supplemental Proposal,* which is available in the docket for this rulemaking.

For the supplemental proposal, we weighed all health risk factors in our risk acceptability determination, and we proposed that the risks due to potential HAP emissions at baseline from the Soderberg subcategory were unacceptable due mainly to the estimated cancer risks of 300-in-1 million based on potential emissions from the one idle Soderberg facility were it to operate.

Regarding the prebake subcategories, as explained in the supplemental proposal, the EPA had concerns regarding the potential acute risks due to As emissions (with a maximum acute HQ of 10). See 79 FR 72947. However, given the conservative nature of the EPA's analysis of acute effects, and the facts that: (a) The inhalation cancer MIR was well below 100-in-1 million (MIR = 70-in-1 million); (b) the chronic non-cancer risks were low (*e.g.,* hazard index (HI) = 1); and (c) given further that the multipathway assessment indicated the maximum cancer risk due to multipathway exposures to HAP emissions from prebake facilities was no higher than 50-in-1 million, we proposed that the risks due to emissions from the prebake subcategories are acceptable. See 79 FR 72947.

2. How did the risk review change for the Primary Aluminum Production source category?

The EPA carefully considered public comments regarding the supplemental proposal (and original proposal), but did not find any comments that resulted in a change in analysis. Thus, the EPA did not change the risk assessment due to actual emissions for the source category and made no changes in the overall results for prebake facilities from the December 2014 supplemental proposal. However, the estimated risks due to allowable emissions for the source category decreased significantly due to the permanent closure of the one idle Soderberg facility. For the supplemental proposal, we included the one idle Soderberg facility in our assessment of allowable risks because, at that time, the facility still had a permit to operate, had not formally announced plans to close, and, therefore, could have reopened. However, that facility is now permanently closed, and the EPA is no longer including it in the risk assessment. Therefore, the final rule considers only risks from prebake facilities. Nevertheless, as discussed in section III.A. of this preamble, we are promulgating the As, Ni and POM standards proposed in the supplemental proposal to address risk from Soderberg facilities in the very unlikely event that either this idle Soderberg facility is reopened or a new Soderberg facility is constructed. A summary of the risk assessment results for the final rule is provided in Table 5 below. The documentation and details for the final rule risk assessment can be found in the document titled, *Residual Risk Assessment for the Primary Aluminum Production Source Category in Support of the September 2015 Risk and Technology Review Final Rule,* which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2011–0797).

TABLE 5—PRIMARY ALUMINUM PRODUCTION SOURCE CATEGORY INHALATION RISK ASSESSMENT RESULTS FOR THE FINAL RULE

[Prebake]

Maximum individual cancer risk (-in-1 million) [a]	Estimated population at increased risk levels of cancer	Estimated annual cancer incidence (cases per year)	Maximum chronic non-cancer TOSHI [b]	Refined maximum acute non-cancer HQ [c]
Actual Emissions				
70	≥1-in-1 million: 881,000 ..... ≥10-in-1 million: 65,000	0.06	1 Nickel Compounds	HQ_{REL} = 10 (Arsenic Compounds) Residential
Allowable Emissions [d]				
70	≥1-in-1 million: 950,000 ..... ≥10-in-1 million: 76,000.	0.06	1 Nickel Compounds.	

[a] Estimated maximum individual excess lifetime cancer risk due to HAP emissions from the source category.

[b] Maximum TOSHI. The target organ with the highest TOSHI for the Primary Aluminum Production source category for actual emissions is the kidney and respiratory system and for allowable emissions is the respiratory, immunological, and developmental systems.

[c] The maximum off-site HQ acute value of 10 at a residential location for actuals is driven by emissions of As from the potline roof vents. See section III.A.3 of the December 8, 2014, supplemental proposal for explanation of acute dose-response values. Acute assessments are not performed on allowable emissions.

[d] The development of allowable emission estimates can be found in the memorandum titled, *Development of the RTR Revised Risk Modeling Dataset for the Primary Aluminum Production Source Category* (Docket item number EPA–HQ–OAR–2011–0797–0346).

[6] D/F emissions used in this analysis are likely to be overstated because the EPA imputed values for D/F congeners even from facilities and process units where those D/F congeners were not detected in the emissions tests.

For the final rule, we again weighed all health risk factors in our risk acceptability determination. The EPA had concerns regarding the potential acute risks due to As emissions (with a maximum acute HQ of 10). See 79 FR 72947. However, given the conservative nature of the EPA's analysis of acute effects, and the facts that: (a) The inhalation cancer MIR was well below 100-in-1 million (MIR = 70-in-1 million); (b) the chronic non-cancer risks were low (*e.g.,* HI = 1); and (c) given further that the multipathway assessment indicated the maximum cancer risk due to multipathway exposures to HAP emissions from prebake facilities was no higher than 50-in-1 million, we have determined that the risks due to emissions from the source category are acceptable. See 79 FR 72947.

We also conducted an ample margin of safety analysis. As we described in the supplemental proposal, for prebake facilities we considered what further reductions might be obtained from technically feasible controls, further considering the cost of such controls and their cost-effectiveness. We identified no cost-effective controls under the ample margin of safety analysis to further reduce risks or environmental effects due to HAP emissions from prebake facilities. 79 FR 72947–48. Therefore, we indicated in the supplemental proposal, and conclude again in this final rule, that the NESHAP for prebake facilities provides an ample margin of safety to protect public health and prevent an adverse environmental effect.

With regard to Soderberg facilities, as mentioned in section III above, we proposed more stringent emission limits for Ni, As, and POM under CAA section 112(f) to ensure that the cancer MIR would remain below 100-in-1 million, the level of risk we defined as acceptable for purposes of this rule. We did not propose more stringent standards under the ample margin of safety analysis since we identified no feasible controls that would yield risk reductions at reasonable cost. Id at 72948. In this final action, we are promulgating these standards as proposed. Although these standards may not apply to any facilities, we are still promulgating the As, Ni and POM emissions limits for Soderberg facilities under CAA section 112(f) to address the shut down, but not yet demolished, existing Soderberg potlines, and the very unlikely scenario of construction of new Soderberg potlines.

3. What key comments did we receive on the risk review, and what are our responses?

The EPA received several comments regarding the revised risk assessment for the Primary Aluminum Production source category. The following is a summary of some key comments and our responses to those comments. Other comments received and our responses to those comments can be found in the document titled, *National Emission Standards for Hazardous Air Pollutants: Primary Aluminum Reduction Plants Summary of Public Comments and Responses,* which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2011–0797).

Comment: One commenter stated that the EPA's determination of the emissions reduction required to reduce health risks to an acceptable level violates CAA section 112(f)(2) and is arbitrary. The commenter believed that the EPA's acceptability determination for prebake facilities is flawed for the following reasons:

- The EPA's acceptability determination is unlawful and arbitrary because its risk assessment is incomplete and fails to follow the up-to-date science to assess health risk;
- The EPA's acceptability determination fails to consider or prevent unacceptable levels of cumulative impacts;
- Socioeconomic disparity in health risk from this source category makes the risk the EPA has found unacceptable, and the EPA must finalize a rule that is consistent with the principle of environmental justice (EJ);
- The EPA has failed to provide a reasoned explanation for why the lifetime cancer risk of 1-in-1 million or more based on inhalation alone from this sector is acceptable;
- After finding a level of acute risk that is 10 times the EPA's safety threshold, the agency has failed to justify not requiring the reduction of acute health risk below 1; and
- The EPA has failed to justify finding chronic non-cancer health risk to be acceptable.

Response: We disagree with the commenter that the assessment is incomplete and fails to use up-to-date science. The dose-response values used in the risk assessment are based on the current peer reviewed Integrated Risk Information System (IRIS) values, as well as other similarly peer-reviewed values. Our approach, which uses conservative tools and assumptions, ensures that our decisions are appropriately health protective and environmentally protective. The approach for selecting appropriate health benchmark values, in general, places greater weight on the EPA derived health benchmarks than those from other agencies (see *http://www.epa.gov/ttn/atw/nata1999/99pdfs/healtheffectsinfo.pdf*). This approach has been endorsed by the Science Advisory Board (SAB).[7] The SAB further recommended that the EPA scrutinize values that emerge as drivers of risk assessment results, and the Agency has incorporated this recommendation into the risk assessment process. This may result in the EPA determining that it is more appropriate to use a peer-reviewed dose-response value from another agency even if an IRIS value exists.

With regard to the comment that the EPA failed to consider cumulative impacts, we note that while the incorporation of additional background concentrations from the environment in our risk assessments (including those from mobile sources and other industrial and area sources) could be technically challenging, they are neither mandated nor barred from our analysis. In developing the decision framework in the Benzene NESHAP used for making residual risk decisions, and now codified in CAA section 112(f)(2)(B), the EPA rejected approaches that would have mandated consideration of background levels of pollution in assessing the acceptability of risk, concluding that comparison of acceptable risk should not be associated with levels in polluted urban air (54 FR 38044, 38061, September 14, 1989). Background levels (including natural background) are not barred from the EPA's ample margin of safety analysis, and the EPA may consider them, as appropriate and as available, along with other factors, such as cost and technical feasibility, in the second step of its CAA section 112(f) analysis. As discussed in the 2014 supplemental proposal, the risk assessment for this source category did not include background contributions (that may reflect emissions that are from outside the source category and from other than co-located sources) because the available data are of insufficient quality upon which to base a meaningful analysis.[8]

[7] Refer to the May 2010, SAB response to the EPA Administrator (EPA–SAB–10–007); *http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2011-0797-0075.*

[8] Note that this question is distinct from the issue of consideration of emissions from co-located facilities, which emissions are fully reflected in the EPA's analysis. See discussion in section IV.A.3 of this preamble, below, and 79 FR 72929/1 (emissions estimated for all emitting sources in a contiguous area under common control).

This rule has been finalized consistent with agency EJ principles and analyses. To examine the potential for any EJ issues that might be associated with the Primary Aluminum Production source category, we performed a demographic analysis, which is an assessment of risks to individual demographic groups, of the population close to the facilities. In this analysis, we evaluated the distribution of HAP-related cancer risks and non-cancer hazards from this source category across different social, demographic, and economic groups within the populations living near facilities identified as having the highest risks. The results of the demographic analysis are summarized in Table 6 below and indicate that there are no significant disproportionate risks to any particular minority, low income, or indigenous population. The methodology and the results of the demographic analyses are included in a technical report, *Analysis of Socio-Economic Factors for Populations Living Near Primary Aluminum Facilities*, which is available in the docket for this rulemaking (Docket item number EPA–HQ–OAR–2011–0797–0360).

TABLE 6—PRIMARY ALUMINUM PRODUCTION SOURCE CATEGORY DEMOGRAPHIC RISK ANALYSIS RESULTS

	Nationwide	Population with cancer risk at or above 1-in-1 million	Population with chronic hazard index above 1
Total Population	312,861,265	881,307	0
Race by Percent			
White	72	80	0
All Other Races	28	20	0
Race by Percent			
White	71.9	80.1	0
African American	13	13	0
Native American	1.1	0.9	0
Other and Multiracial	14	6	0
Ethnicity by Percent			
Hispanic	17	5	0
Non-Hispanic	83	95	0
Income by Percent			
Below Poverty Level	14	14	0
Above Poverty Level	86	86	0
Education by Percent			
Over 25 and without High School Diploma	15	14	0
Over 25 and with a High School Diploma	85	86	0

With regard to the comments that the EPA did not justify the determination that risks are acceptable, we generally draw no bright lines of acceptability regarding cancer or non-cancer risks from source category HAP emissions. This is a core feature of the Benzene NESHAP approach, now codified in CAA section 112(f)(2)(B). See 54 FR at 38046, 38057; see also 79 FR 72933–34. It is always important to consider the specific uncertainties of the emissions and health effects information regarding the source category or subcategory in question when deciding exactly what level of cancer and non-cancer risk should be considered acceptable. In addition, the source category-specific or subcategory-specific decision of what constitutes an acceptable level of risk should be a holistic one; that is, it should simultaneously consider all potential health impacts—chronic and acute, cancer and non-cancer, and multipathway—along with their uncertainties, when determining the acceptable level of source category risk. Today, such flexibility is even more imperative, because new information relevant to the question of risk acceptability is being developed all the time, and the accuracy and uncertainty of each piece of information must be considered in a weight-of-evidence approach for each decision. This relevant body of information is growing fast (and will likely continue to grow even faster), necessitating a flexible weight-of-evidence approach that acknowledges both complexity and uncertainty in the simplest and most transparent way possible. While this challenge is formidable, it is nonetheless the goal of the EPA's RTR decision-making, and it is the goal of the risk assessment to provide the information to support the decision-making process.

Our acceptability decisions for the prebake subcategory presented in the supplemental proposal, and again in this final rule, are appropriate. The rationale for our acceptability decision for the prebake subcategory was clearly explained in the supplemental proposal and was based on full consideration of the health risk information and associated uncertainties, and we summarize it here:

Regarding the prebake subcategories, as explained in the supplemental proposal, the EPA had concerns regarding the potential acute risks due to As emissions (with a maximum acute HQ of 10). See 79 FR 72947. However, given the conservative nature of the EPA's analysis of acute effects—among them, an assumption of the unlikely confluence of peak emissions, worst-

case-meteorology, and an exposed individual present at the precise point this occurs (see 79 FR 72943/1), and the facts that: (a) The inhalation cancer MIR was well below 100-in-1 million (MIR = 70-in-1 million); (b) the chronic non-cancer risks were low (*e.g.,* HI = 1); and (c) given further that the multipathway assessment indicated the maximum cancer risk due to multipathway exposures to HAP emissions from prebake facilities was no higher than 50-in-1 million, we have determined that the risks due to emissions from the prebake subcategories are acceptable.

Comment: A commenter stated support for the EPA's risk assessment conclusion that the risk due to actual emissions from the prebake aluminum smelting subcategory is acceptable. The commenter stated that the modeled ambient concentrations that were used in the risk assessment likely overpredict actual concentrations since the Human Exposure Model version 3 (HEM3) uses the American Meteorological Society and EPA Regulatory Model (AERMOD) for air dispersion modeling to determine ambient concentrations. The commenter stated that the use of AERMOD is inappropriate for modeling stationary line sources like the potroom roof monitors of the facilities and overpredicts ambient concentrations from roof monitor emissions by a factor of about 30 times. The commenter recommended that the EPA use the Buoyant Line and Point source (BLP) dispersion model to correctly model the potline roof monitors.

Response: The EPA disagrees that the BLP model needs to be used to correctly model potline roof monitors. An analysis performed by the EPA to compare the modeled estimates from AERMOD and the BLP model for a typical primary aluminum facility indicated that the maximum modeled concentrations from the BLP model were only 20 percent higher than those from AERMOD. Considering the uncertainties in release characteristics and emission rates—both inputs into the models—the results estimated by both HEM3 and BLP are the same within that range of uncertainty.[9] The EPA concluded that this difference was not significant enough to warrant changing the RTR modeling methodology it uses for all source categories, which includes the use of AERMOD and meteorological data generated by the AERMOD Meteorological Preprocessor (AERMET). In addition, the 20 percent increase in maximum modeled concentrations would translate into an increase in the risk from 70-in-1 million to 80-in-1 million. This level would still be within the range of acceptability and, if the EPA had determined that it was necessary to use the BLP, the Agency would have reaffirmed that risks are acceptable.

Comment: One commenter stated that the EPA must strengthen the risk assessment and proposed risk action in order to meet its responsibilities under CAA section 112(f)(2) to provide the requisite ''ample margin of safety to protect public health.'' The EPA also should find risk from the prebake subcategories to be unacceptable, instead of acceptable. The commenter stated that the combined health risks for these sources are substantial and stated that the EPA found that the allowable emissions-based cancer risk from inhalation exposure is 70-in-1 million, plus another 70-in-1 million from multipathway exposure (50-in-1 million for the ''fisher'' scenario, or fish-based exposure; and 20-in-1 million for the ''farmer'' scenario, or farm-based exposure). The commenter stated that the 70-in-1 million inhalation risk, combined with the high acute and chronic risks the EPA found, is enough alone to find risk unacceptable.

The commenter stated that in view of the EPA's scientific policy of summing cancer risks, it should recognize that the most-exposed person's combined multipathway and inhalation cancer risk is 70 + 70 or 140-in-1 million. The commenter stated that this is well above the EPA's presumptive acceptability benchmark (which itself is insufficiently stringent, as explained in their 2012 comments, incorporated by reference). The commenter also stated that the EPA should find the current cancer risk from inhalation and multipathway exposure, due to a combination of As, Ni, PAH, and dioxins, is unacceptable. The commenter stated that if viewed together with the high acute and chronic non-cancer risks the EPA found, as a result of As and Ni in particular, the data the EPA has compiled on risk show that the current health risks are unacceptable.

The commenter stated that the EPA has not assessed the additional multipathway risk from risk-driver pollutants, such as As and Ni. The commenter stated that, as discussed in their 2012 comments (to EPA's original proposal), this is inconsistent with the scientific evidence showing these are persistent bioaccumulative toxics [PBTs], and it is, thus, unlawful and arbitrary and capricious for the EPA not to assess and address the multipathway risks they create.

Response: We disagree with the commenter's arguments for finding risks to be unacceptable. The thrust of the comment is that the risk analysis failed to combine risks from various scenarios and pathways, and that, added together, these risks are unacceptable. In fact, the analysis combines risk estimates to the extent that it is scientifically appropriate to do so. We consider the effect of mixtures of carcinogens consistent with the EPA guidelines and use a TOSHI approach for our chronic non-cancer assessments. We do not use a TOSHI approach for acute analyses, nor do we combine the results of our inhalation and multipathway assessments. (See the *Residual Risk Assessment for the Primary Aluminum Production Source Category in Support of the September 2015 Risk and Technology Review Final Rule*, which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2011–0797)).

In the multipathway screening assessment, we did not sum the risk results of the fisher and farmer scenarios. The modeling approach used for this analysis constructs two different exposure scenarios, which serves as a conservative estimate of potential risks to the most-exposed receptor in each scenario. Given that it is highly unlikely that the most-exposed farmer is the same person as the most-exposed fisher, it is not reasonable to add risk results from these two exposure scenarios (see Appendix 5 and Section 2.5 of the *Residual Risk Assessment for the Primary Aluminum Production Source Category in Support of the September 2015 Risk and Technology Review Final Rule*).

We do not find it reasonable to combine the results of our inhalation and multipathway assessments for this source category. The multipathway risk assessment for prebake facilities was a screening-level assessment. The screening assessment used highly conservative assumptions designed to ensure that sources with results below the screening threshold values did not have the potential for multipathway impacts of concern. The screening scenario is a hypothetical scenario, and, due to the theoretical construct of the screening model, exceedances of the thresholds are not directly translatable into estimates of risk or HQs for these facilities. Rather, it represents a high-end estimate of what the risk or hazard may be. For example, an exceedance of 2 for a non-carcinogen can be interpreted to mean that we have high confidence that the HQ or HI would be

[9] September 27, 2010, Memo to the EPA from EC/R Incorporated; ''Draft Modeling Comparison of BLP and AERMOD for Primary Aluminum'' available in the docket at *http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2011-0797-0175*.

less than 2. Similarly, an exceedance of 30 for a carcinogen means that we have high confidence that the risk is lower than 30-in-1 million. Our confidence comes from the health-protective assumptions that are in the screens: We choose inputs from the upper end of the range of possible values for the influential parameters used in the screens, and we assume that the exposed individual exhibits ingestion behavior that would lead to a high total multipathway exposure. It would be inappropriate to sum the risk results from the chronic inhalation assessment and the screening multipathway assessment. In addition to the constraints in the screening-level multipathway assessment described above, it is highly unlikely that the same receptor has the maximum results in both assessments. In other words, it is unlikely that the person with the highest chronic inhalation cancer risk is also the same person with the highest individual multipathway cancer risk. We agree with the commenter that we ''should look at the whole picture of cancer risk,'' but we do so by assessing cancer and chronic non-cancer inhalation risk, acute risk, multipathway risk, and combining risk results where it is scientifically appropriate to do so, not by arbitrarily and indiscriminately summing risk measures in the absence of a valid technical basis.

We currently do not have screening values for some PB–HAP, but we disagree that the multipathway assessment is inadequate because it did not include ''all HAP metals emitted (such as arsenic and nickel).'' We developed the current PB–HAP list considering all available information on persistence and bioaccumulation (see *http://www2.epa.gov/fera/air-toxics-risk-assessment-reference-library-volumes-1-3*, specifically Volume 1, Appendix D). (The Air Toxics Risk Assessment Reference Library presents the decision process by which the PB–HAP were selected and provides information on the fundamental principles of risk-based assessment for air toxics and how to apply those principles.) In developing the list, we considered HAP identified as PB–HAP by other EPA program offices (*e.g.,* the Great Waters Program), as well as information from the PBT profiler (see *http://www.pbtprofiler.net/*). Considering this list was peer-reviewed by the SAB and found to be acceptable,[10] we believe it to be reasonable for use in risk assessments for the RTR program.

Regarding the commenter's assertion that we did not base the multipathway risk assessment on allowable emissions, we believe it is reasonable for the multipathway risk assessment to be based on actual emissions for this source category, and not the allowable level of emissions—*i.e.* the level that facilities are permitted to emit. The potline fugitive emissions, which drive the risks associated with this source category, vary in magnitude and location along the roofline due to normal operations, including, among others, replacement of anodes. We exacerbate the uncertainty associated with these variations in fugitive emissions when we scale up actual emissions to estimate allowable emissions. Also, there is considerable uncertainty associated with estimated allowable emissions from batch operations, such as pitch storage tank and pitch production, due to the nature of batch operations (*e.g.,* estimating the number of batch operations possible or necessary during a period of time). Further uncertainty results when we consider that, in order to comply with the emission limits at all times, a source's allowable emissions would need to be below the associated standard by an indeterminate amount during normal operations. Therefore, we conclude that the uncertainties associated with the multipathway screen along with uncertainties in the allowable emissions estimates would make a multipathway risk assessment based on allowable emissions highly uncertain and, thereby, not appropriate for use in making this regulatory decision.

The commenter also argued for summing acute HQs from different HAP to assess acute non-cancer risk. We do not sum results of the acute non-cancer inhalation assessment to create a combined acute risk number that would represent the total acute risk for all pollutants that act in a similar way on the same organ system or systems (similar to the chronic TOSHI). The worst-case acute screen is already a conservative scenario. That is, the acute screening scenario assumes worst-case meteorology, peak emissions for all emission points occurring concurrently and an individual being located at the site of maximum concentration for an hour. Thus, as noted in the *Residual Risk Assessment for the Primary Aluminum Production Source Category in Support of the September 2015 Risk and Technology Review Final Rule*, page 31, which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2011–0797), ''because of the conservative nature of the acute inhalation screening and the variable nature of emissions and potential exposures, acute impacts were screened on an individual pollutant basis, not using the TOSHI approach.'' The EPA may conduct a reasoned screening assessment without having to adopt the most conceivably conservative assumption for each and every part of the analysis.

Comment: One commenter stated that, as the EPA recognized in the secondary aluminum proposal, at least nine secondary aluminum facilities have co-located primary aluminum operations. The commenter stated that for both source categories, the EPA found that the facility-wide MIR is 70-in-1 million, driven by As, Ni, and hexavalent chromium, and that the TOSHI (chronic non-cancer risk) is 1, driven by cadmium. The commenter stated that the TOSHI number appears to consider only inhalation risk and stated that the TOSHI number must be viewed in context, as the EPA is aware that scientists have directed the EPA to do (and as previously explained and cited to the EPA in comments). The commenter stated that if considered in combination with the high secondary aluminum multipathway risk, and with the high inhalation and multipathway risks for primary aluminum, the facility-wide cancer risk provides additional evidence that risks from both source categories are unacceptable. The commenter asserts this is the case because the most-exposed person's full amount of risk is the combined amount from the co-located primary and secondary aluminum, not just each source category separately. The commenter stated that it would be unlawful and arbitrary to consider each type of risk separately, when people near both sources are exposed to both kinds of risk at the same time and, thus, face a higher overall amount of risk.

The commenter stated that the EPA has not offered and can not offer a valid justification for not finding risk from both source categories (including primary aluminum prebake and secondary aluminum) to be unacceptable based on the co-located and combined risks. The commenter stated that the EPA has collected data from both source categories and is evaluating that data in rulemakings for both source categories. The commenter stated that the EPA may not lawfully ignore the full picture of risk that its combined rulemakings show is present

[10] 10 Refer to the May 2010, SAB response to the EPA Administrator (EPA–SAB–10–007); *http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2011-0797-0075*

for people exposed simultaneously to both source categories at the same facility.

The commenter stated that the EPA only assessed facility-wide risks based on so-called ''actual'' emissions, so the facility-wide risk number could be at least 1.5 to 3 times higher, based on the EPA's recognition that allowable emissions from primary aluminum facilities are about 1.5 to 1.9 times higher and the fact that allowable emissions from secondary aluminum are at least 3 times higher.

The commenter stated that it is important that the EPA is evaluating facility-wide risk from sources in multiple categories that are co-located.

The commenter stated that the EPA may not reasonably or lawfully then decide not to use the results of that assessment to set stronger standards for these sources. The commenter stated that this rulemaking is an important opportunity for the EPA to recognize the need to act based on data showing significant combined and cumulative risks and impacts at the facility-wide level. The commenter stated that the EPA is also required to do so to meet its CAA section 112(f)(2) duties, as explained in the 2012 comments and reincorporated by reference here.

Response: We agree with the commenter that facility-wide risk assessment is appropriately considered in putting the source category risks in context. However, we disagree with the comment that we failed to appropriately consider or account for cumulative risk.

We conducted facility-wide risk assessments for all major sources in the source category that were operating in 2014, including the nine secondary aluminum production facilities co-located with primary aluminum reduction plants. See 79 FR 72929 (emissions estimated for all emitting sources in a contiguous area under common control).

The commenter stated that the EPA must find the risks unacceptable based on the whole-facility risks from co-located primary and secondary aluminum operations. The EPA does not typically include whole-facility assessments in the CAA section 112(f) acceptability determination for a source category. Reasons for this include the fact that emissions and source characterization data are usually not of the same vintage and quality for all source categories that are on the same site, and, thus, the results of the whole-facility assessment are generally not appropriate to include in the regulatory decisions regarding acceptability. However, in this case, we are developing the risk assessments for primary and secondary aluminum production at the same time. The data are generally of the same vintage and we have actual emissions data and source characterization data for both source categories. In response to the comment, we refer to the facility-wide risk assessment, which included the nine facilities with co-located primary and secondary aluminum operations. As discussed above and shown in Table 6, for the facility with the highest risk from inhalation, the facility-wide MIR for cancer from actual emissions is 70-in-1 million. The facility-wide non-cancer hazard is 1. The highest facility-wide exceedance of the multipathway screen is 70. There was no facility-wide exceedance of a noncancer threshold in the multipathway screen. Considering these facility-wide results as part of the acceptability determination is thus corroborative of our determination that the risks are acceptable for the Secondary Aluminum Production source category.

The commenter is correct that we based our facility-wide risk assessment on actual emissions rather than on estimated allowable emissions. Because the facility-wide allowable emissions estimates have not been subjected to the same level of scrutiny, quality assurance, and technical evaluation as the actual emissions estimates from the source category, and because of the larger inherent uncertainty associated with allowable emissions discussed above, facility-wide risk results based on allowable emissions would be too uncertain to support a regulatory decision, but they could remain important for providing context as long as their uncertainty is taken into consideration.

The distinct issue of whether background emissions not associated with co-located emitting sources at the facility is discussed above. We reiterate that while the incorporation of additional background concentrations from the environment in our risk assessments (including those from mobile sources and other industrial and area sources) could be technically challenging, they are neither mandated nor barred from our analysis. In developing the decision framework in the Benzene NESHAP used for making residual risk decisions, the EPA rejected approaches that would have mandated consideration of background levels of pollution in assessing the acceptability of risk, concluding that comparison of acceptable risk should not be associated with levels in polluted urban air (54 FR 38044, 38061, September 14, 1989).

Background levels (including natural background) are not barred from the EPA's ample margin of safety analysis, and the EPA may consider them, as appropriate and as available, along with other factors, such as cost and technical feasibility, in the second step of its CAA section 112(f) analysis. As discussed in the 2014 supplemental proposal, the risk assessment for this source category did not include background contributions (that may reflect emissions that are from outside the source category and from other than co-located sources) because the available data are of insufficient quality upon which to base a meaningful analysis.

Comment: Some commenters recommended that the EPA should proceed with the required full multipathway risk assessment, as the data showed that the persistent and bioaccumulation screening emission rates were exceeded for POM. The commenters do not believe the risk analysis for this source category is final until this step is complete and disagree with the EPA's explanation that the results are biased high and subject to significant uncertainties, arguing that the EPA cannot ignore the implications of this screening assessment. The commenter recommended that the EPA perform a full multipathway assessment to find a number it believes fully represents this risk, or use the number it has created as the best available number, without discounting the impact of that number.

One commenter recommended conducting a full multipathway risk assessment for this source category that includes consideration of a child's multipathway exposure in urban and rural residential scenarios. The commenter further stated that the failure of the EPA to assess an exposed child scenario as part of the cumulative risk assessment ignores the exposures that may pose the most significant risk from this source category. The commenter highlighted the risk to children from contaminated soils, noting that past risk assessments have relied on outdated estimates of incidental soil ingestion exposures and stated that the EPA must update these values. The commenter cited two EPA exposures factors handbooks and a journal article as resources to use for assessing risks.

Response: We disagree with the comment that our multipathway risk assessment does not consider children. The multipathway screening scenario is intended to represent a high-end exposure for children via incidental soil ingestion. The 2011 Exposure Factors Handbook recommended ''upper-percentile'' soil ingestion rate (numeric percentile not specified) for children aged 3 to 6 years is 200 milligrams per

day (mg/d). The EPA also published the Child-Specific Exposure Factors Handbook (2008). No additional data or recommendations for child soil ingestion are presented in this source, and, in fact, an ''upper percentile'' value for this parameter is not provided. Based on these sources, a value of 200 mg/d is used in the current RTR multipathway screening scenario for the child incidental soil ingestion rate.

The multipathway risk assessment conducted for the proposal was a screening-level assessment. The screening assessment used highly conservative assumptions designed to ensure that facilities with results below the screening threshold values did not have the potential for multipathway impacts of concern. The screening scenario is a hypothetical scenario, and, due to the theoretical construct of the screening model, exceedances of the thresholds are not directly translatable into estimates of risk or HQs for these facilities. The scope of the assessment did not change across the tiers in the multipathway screening assessment and is described in the risk assessment documents (and related appendices) available in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2011–0797).

4. What is the rationale for our final approach and final decisions for the risk review?

As discussed above and in the preamble of the 2014 supplemental proposal, after considering health risk information and other factors, including uncertainties, we have determined that the risks from primary aluminum production prebake facilities are acceptable and that the current NESHAP provides an ample margin of safety to protect public health for prebake facilities given that the inhalation cancer MIR was well below 100-in-1 million, the chronic non-cancer risks were low, and the multipathway assessment indicated the maximum cancer risk due to multipathway exposures to HAP emissions from prebake facilities was no higher than 50-in-1 million. In summary, our revised risk assessment indicates that cancer risks due to actual and allowable emissions from prebake facilities are below the presumptive limit of acceptability, and that non-cancer results indicate minimal likelihood of adverse health effects. We evaluated potential risk reductions as well as the cost of control options, but did not identify any control technologies or other measures that would be cost-effective in further reducing risks (or potential risks) for prebake facilities. In particular, we did not identify any cost-effective approaches to further reduce As, Ni, and PAH emissions and risks beyond what is already being achieved by the current NESHAP.

Regarding the Soderberg facilities, as discussed above, since all existing Soderberg facilities are permanently shut down, we necessarily conclude the risks due to emissions from Soderberg facilities are currently acceptable. However, under our ample margin of safety analysis, we have determined that it is appropriate to promulgate standards for Ni, As, and PAH under CAA section 112(f) for the Soderberg subcategory potlines to ensure that excess cancer risk due to HAP emissions from any possible future primary aluminum reduction plant would remain below 100-in-1 million. We estimate the costs to comply with these standards for Soderberg facilities would be zero since there are no existing operating Soderberg facilities in the U.S. Furthermore, we expect any future new primary aluminum reduction plant would use prebake potlines since prebake potlines are more energy efficient (and lower-emitting) than Soderberg potlines. Therefore, we also estimate that these standards would pose no cost for any future new primary aluminum reduction plant.

B. CAA Sections 112(d)(2) and (3) Revisions for the Primary Aluminum Production Source Category

1. What did we propose pursuant to CAA sections 112(d)(2) and (3) for the Primary Aluminum Production source category?

We proposed several MACT standards in the December 2011 proposal pursuant to CAA sections 112(d)(2) and (3), which are summarized in Table 7, below.

We received significant comments on the 2011 proposal from industry representatives, environmental organizations, and state regulatory agencies. After reviewing the comments, and after consideration of additional data and information received since the 2011 proposal, the EPA determined it was appropriate to gather additional data, revise some of the analyses associated with that proposal, and to publish a supplemental proposal.

In support of the supplemental proposal, the EPA sent an information request to owners of currently operating primary aluminum reduction plants in March of 2013. The EPA received associated responses in May through August 2013. As part of this data collection effort, we received emissions data for PM, HAP metals (including antimony, As, beryllium, cobalt, manganese, selenium, Ni, cadmium, chromium, lead, and Hg), PCB, and D/F from potlines, anode bake furnaces, and/or paste production plants from every primary aluminum reduction plant that was operational at that time, including nine prebake-type facilities and one Soderberg-type facility.

Based on evaluation of all the data, we proposed several revised and new MACT standards in the December 2014 proposal pursuant to CAA sections 112(d)(2) and (3), which are summarized in Table 7, below.

TABLE 7—SUMMARY OF PROPOSED MACT STANDARDS

Proposal	HAP	Source	Promulgated MACT standard
2011 proposal (76 FR 76259)	COS	New potlines	3.1 lb/ton aluminum produced.
		Existing potlines	3.9 lb/ton aluminum produced.
	POM	New potlines	0.62 lb/ton aluminum produced.
		Existing potlines.	
		CWPB1	0.62 lb/ton aluminum produced.
		CWPB2	1.3 lb/ton aluminum produced.
		CWPB3	1.26 lb/ton aluminum produced.
		SWPB	0.65 lb/ton aluminum produced.
		VSS2	3.8 lb/ton aluminum produced.
		HSS	3.0 lb/ton aluminum produced.
		Existing pitch storage tanks	Minimum 95-percent reduction of inlet POM emissions.
2014 proposal (79 FR 72914)	POM	New potlines	0.77 lb/ton aluminum produced.
		Existing potlines.	

TABLE 7—SUMMARY OF PROPOSED MACT STANDARDS—Continued

Proposal	HAP	Source	Promulgated MACT standard
		CWPB1	1.1 lb/ton aluminum produced.
		CWPB2	12 lb/ton aluminum produced.
		CWPB3	2.7 lb/ton aluminum produced.
		SWPB	19 lb/ton aluminum produced.
	PM	New potlines	4.6 lb/ton aluminum produced.
		Existing potlines.	
		CWPB1	7.2 lb/ton aluminum produced.
		CWPB2	11 lb/ton aluminum produced.
		CWPB3	20 lb/ton aluminum produced.
		SWPB	4.6 lb/ton aluminum produced.
		VSS2	26 lb/ton aluminum produced.
		New anode bake furnace	0.036 lb/ton of green anode produced.
		Existing anode bake furnace	0.068 lb/ton of green anode produced.
		New paste production plant	0.0056 lb/ton of paste produced.
		Existing paste production plant	0.082 lb/ton of paste produced.

HSS = horizontal stud Soderberg.

2. How did the proposed CAA sections 112(d)(2) and (3) standards change for the Primary Aluminum Production source category?

Commenters provided additional emissions data for POM from SWPB potlines and for PM from CWPB1 potlines and anode bake furnaces, and identified areas where we had misinterpreted data used for the proposed PM and POM standards.

Based on these comments and additional PM and POM emissions data, we re-evaluated the proposed PM and POM MACT standards and revised the following MACT limits:

- POM emission limit of 19 lb/ton aluminum for existing SWPB potlines changed to 17 lb/ton aluminum;
- PM emission limit of 7.2 lb/ton aluminum for existing CWPB1 potlines changed to 7.4 lb/ton aluminum;
- PM emission limit of 4.6 lb/ton aluminum for existing SWPB potlines changed to 4.9 lb/ton aluminum;
- PM emission limit of 4.6 lb/ton aluminum for new potlines changed to 4.9 lb/ton aluminum;
- PM emission limit of 0.068 lb/ton green anode for existing anode bake furnaces changed to 0.2 lb/ton green anode; and
- PM emission limit of 0.036 lb/ton green anode for new anode bake furnaces changed to 0.07 lb/ton green anode.

The EPA discussed at proposal whether to promulgate MACT standards at this time for HAP where much, most, or virtually all of the data showed levels below detection limits. See 79 FR 72936. We received comments claiming that, in addition to the standards listed above, the EPA must promulgate standards for these HAP: Hg, D/F, and PCB. Based on these comments, and considering further reply comments from industry addressing this issue (see email, dated July 1, 2015, from Mr. Curt Wells of The Aluminum Association, which is available in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2011–0797)), we re-evaluated the data we had for PCB, D/F, and Hg to determine whether it would be appropriate to establish emissions limits for these HAP. Based on that evaluation, we determined that the emissions data for PCB from VSS2 Soderberg potlines are above detection limits and that numerical limits reflecting MACT can be set for these sources. Therefore, we are finalizing a MACT limit for PCB of 2.0 μg TEQ/ton for existing Soderberg VSS2 potlines and new Soderberg potlines. These standards were developed based on the 99-percent upper prediction limit (UPL) for PCB emissions from the available emissions data and represent the MACT floor level of control. We also considered beyond-the-floor options, but did not identify any feasible or cost-effective beyond-the-floor options.

Furthermore, we determined that the emissions data for Hg from anode bake furnaces are above detection limits and that MACT limits can be set for these sources. Therefore, we are finalizing a MACT limit for Hg of 1.7 μg/dscm for new and existing anode bake furnaces. These standards are equal to 3 times the representative detection limit (RDL) value for Hg. The RDL is the average method detection level (MDL) achieved in practice by laboratories whose data support the best performing 12 percent of a MACT category (or categories). We use an average value for the RDL because a decision for a new source floor may be based upon a test report where the laboratory chosen has better equipment and/or practices than other laboratories and, therefore, reported a lower MDL. Using that data to set the floor would result in requiring all new sources to choose that laboratory in order to demonstrate compliance with the new limit. We recognize the need to allow sources to conduct business with their local laboratories, or a laboratory of their preference; however, we limit the RDL to the best laboratory performers because we do not want to incentivize the use of the worst performing laboratories. The EPA policy is to set MACT standards for a pollutant at a level of 3 times the RDL level for that pollutant when the 99-percent UPL value for the available emissions data results in a value that is less than 3 times the RDL level for that pollutant, which is the case for Hg emissions from anode bake furnaces. See, *e.g.*, docket item number EPA–HQ–OAR–2009–0559–0157.

We use the multiplication factor of 3 to approximately reduce the imprecision of the analytical method until the imprecision in the field sampling reflects the relative method precision as estimated by the American Society of Mechanical Engineers (ASME) study [11] that also indicates that such relative imprecision, from 10 to 20 percent, remains constant over the range of the methods. For comparing to the floor, if 3 times the RDL were less than the calculated floor or emissions limit (*e.g.*, calculated from the UPL), we would conclude that measurement variability was adequately addressed. The calculated floor or emissions limit would need no adjustment. If, on the other hand, the value equal to 3 times the RDL were greater than the UPL, we would conclude that the calculated floor or emissions limit does not account entirely for measurement variability.

[11] Reference Method Accuracy and Precision (ReMAP): PHASE 1, Precision of Manual Stack Emission Measurements; American Society of Mechanical Engineers, Research Committee on Industrial and Municipal Waste, February 2001.

Therefore, we substituted the value equal to 3 times the RDL for the calculated floor or emissions limit which results in a concentration where the method would produce measurement accuracy on the order of 10 to 20 percent similar to other EPA test methods and the results found in the ASME study.

Please refer to the *Final MACT Floor Analysis for the Primary Aluminum Production Source Category*, which is available in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2011–0797), for more information regarding the new standards.

Regarding the Hg and PCB emissions from the other process units (such as potlines and paste production plants), and D/F from all the process units, most (or all) of the emissions tests were below the detection limit. Therefore, we conclude it is not feasible to prescribe or enforce a numerical emission standard for these HAP emissions, within the meaning of CAA section 112(h)(1) and (2). Specifically, measured values for these HAP would be neither duplicable nor replicable and would not give reliable indication of what (if anything) the source was emitting. Under CAA section 112(h)(2), the EPA may adopt work practice standards when ''the application of measurement methodology to a particular class of sources is not practicable due to technological and economic limitations.'' As discussed more fully in section IV.C below, the EPA does not regard measurements which are unreliable, non-duplicable, and non-replicable to be practicable. Simply put, the CAA simply does not compel promulgation of numerical emission standards that are too unreliable to be meaningful. Therefore, as discussed in section IV.C of this preamble, we are promulgating work practice standards for these HAP under section 112(h) of the CAA for various process units.

3. What key comments did we receive on the CAA sections 112(d)(2) and (3) proposed revisions, and what are our responses?

Comment: Commenters identified POM and PM emissions data from prebake potlines and PM emissions data from anode bake furnaces that were incorrectly represented in the data sets used for MACT limit determinations. Commenters also provided additional PM data for prebake potlines and anode bake furnaces. Commenters requested the EPA to re-evaluate MACT floors and recalculate MACT limits for PM and POM based on the corrected and additional data.

Response: We agree with commenters that the EPA misinterpreted certain data in the supplemental proposal. For example, we misinterpreted the PM and POM emissions from a single exhaust stack of a control device with multiple exhaust stacks to be the total PM and POM emissions from that source and misinterpreted the primary POM emissions from a potline to be total POM emissions from that potline (see pages 5 through 8 of the public comments provided by The Aluminum Association, which are available in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2011–0797). The final rule reflects appropriate data corrections, and the additional data provided have been incorporated in the final limits promulgated for POM and PM from prebake potlines and PM from anode bake furnaces. Further information regarding the development of the final emission limits can be found in the document titled, *Final MACT Floor Analysis for the Primary Aluminum Production Source Category,* which is available in the docket for this action.

Comment: One commenter stated that the EPA must set standards for all HAP emitted by primary aluminum reduction plants. The commenter explained that the EPA's data collection found that primary aluminum reduction plants emit D/F, Hg, and PCB. Nevertheless, the EPA proposed not to set standards to limit these pollutants at all because ''many of the emissions tests were below detection limit'' even though there are emissions data in the record above the detection limits for these pollutants for some sources. The commenter continued their argument by stating that the CAA and D.C. Circuit case law require the EPA to set limits for all emitted pollutants. As the D.C. Circuit has held, the EPA has a ''clear statutory obligation to set emissions standards for each listed HAP [*i.e.*, hazardous air pollutant]'' under CAA section 112.

Response: As explained above, based on consideration of this comment, industry comment, and re-evaluation of the data, we are promulgating numerical emissions limits for Hg from anode bake furnaces and PCB for Soderberg potlines because the data we have support the development of such numerical limits. Furthermore, regarding Hg, D/F, and PCB from the other process units, as described in section IV.C of this preamble, we are promulgating work practice standards under CAA section 112(h) because most of the emissions data were below the detection limit for these HAP and process units.

4. What is the rationale for our final approach for the CAA sections 112(d)(2) and (3) revisions?

All numerical MACT standards proposed and promulgated for the Primary Aluminum Production source category reflect the MACT floor and were developed based on the 99-percent UPL of the available emissions data for this source category,[12] except for the limits set for Hg emissions from anode bake furnaces which were set equal to a value of 3 times the RDL due to data limitations, as explained above. We considered beyond-the-floor options. However, we determined that no cost-effective beyond-the-floor options were available. For more information regarding the development of the MACT standards for this source category and our analyses of beyond-the-floor options, see the document, *Final MACT Floor Analysis for the Primary Aluminum Production Source Category,* which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2011–0797).

C. Revisions to the Work Practice Standards for the Primary Aluminum Production Source Category

1. What work practice standards did we propose pursuant to CAA sections 112(h) and/or 112(d)(6) for the Primary Aluminum Production source category?

In 2011, we proposed work practice standards for TF and POM emissions from potlines during startup periods under 112(h) of the CAA because we determined that it is economically and technically infeasible to measure emissions of these HAP during these startup periods. Subsequently, in 2014 we proposed to expand these standards to also apply to PM.

In 2014, we also realized that these work practices could also help minimize emissions during periods of normal operation. Therefore, as mentioned above, under the technology review pursuant to CAA section 112(d)(6), in 2014 we proposed that these work practice standards for potlines would also apply during normal operations to ensure improved capture and control of TF, POM, and

[12] For determining performance over time, the EPA used the UPL statistical methodology. That is, the best performers, and their level of performance, are determined after accounting for sources' normal operating variability. The UPL represents the value which one can expect the mean of a specified number of future observations (*e.g.*, 3-run average) to fall below for the specified level of confidence, based upon the results of an independent sample from the same population. See MACT Floor Memo and Memorandum, *Use of the Upper prediction limit for Calculating MACT Floors* (Docket ID No. EPA–HQ–OAR–2011–0797).

PM emissions from those sources. For potlines, the work practices included: (1) Ensuring the potline scrubbers and exhaust fans are operational at all times; (2) ensuring that the primary capture and control system is operating at all times; (3) keeping pots covered as much as practicable to include, but not limited to, minimizing the removal of covers or panels of the pots on which work is being performed; and (4) inspecting potlines daily.

Regarding other emissions sources, in 2011 we also proposed work practices for anode bake furnaces during startup periods under CAA section 112(d)(6) that will ensure improved capture and control of HAP emissions from those sources during startup periods. Then, in the 2014 supplemental proposal, we proposed work practices for paste production plants during startup periods under CAA section 112(d)(6) that will ensure improved capture and control of HAP emissions from those sources during startup periods.

For anode bake furnaces and paste production plants, the proposed work practices included ensuring that the associated emission control system is operating within normal parametric limits prior to startup of the emission source and requiring that the anode bake furnace or paste production plants be shut down if the associated emission control system is off line during startup.

2. What changes were made to the work practice standards developed for the Primary Aluminum Production source category pursuant to CAA sections 112(h) and/or 112(d)(6)?

In the final rule, the work practices for potlines, anode bake furnaces, and paste production plants remain unchanged from the proposals. In the final rule, we added additional, more specific VE monitoring requirements, which are applicable during all periods of operation, for emission points that are not equipped with BLDS or PM CEMS, and thus, ensuring improved capture and control of emissions at all times. Furthermore, the work practice standards for anode bake furnaces address PCB emissions (under CAA section 112(h)) for these process units, and the work practice standards for potlines address Hg from all potlines, PCB emissions from prebake potlines, and D/F emissions from Soderberg potlines (under CAA section 112(h)) because in all these cases we determined that it is economically and technically infeasible to reliably measure emissions of these HAP from these process units.

3. What key comments did we receive regarding work practice standards and what are our responses?

Comment: As mentioned above, one commenter stated that the EPA's data collection found that primary aluminum reduction plants emit D/F, Hg, and PCB. The commenter stated that the EPA states that it is not proposing standards for these currently unregulated pollutants because ''many of the emissions tests were below detection limit.'' The commenter stated that the EPA has some emission data in the record above the detection limits for these pollutants for some sources. The commenter stated that the CAA and D.C. Circuit case law require the EPA to set limits for all emitted pollutants.

The commenter stated that as the D.C. Circuit has held, the EPA has a ''clear statutory obligation to set emissions standards for each listed HAP [i.e., hazardous air pollutant]'' under CAA sections 112(d)(1)–(3). The commenter stated that these pollutants are some of the most potent and most harmful, even at extremely low levels of human exposure.

The commenter stated that it would be internally inconsistent not to regulate these HAP, because in this rulemaking, the EPA has recognized the need to set emission standards for unregulated pollutants. The commenter stated that the EPA states that it may, but is not required to set emission standards for these pollutants, citing the Portland Cement decision (665 F.3d at 189). The commenter stated that the Portland Cement decision did not hold that the EPA may avoid setting limits for CAA section 112-listed pollutants emitted by a source category. The commenter stated that the Portland Cement decision affirmed that the EPA may set revised emission standards, including updated MACT floors, whenever it determines this is necessary, including as a result of a CAA section 112(d)(6) review, or more often.

The commenter stated that the revised standards the EPA is proposing here must satisfy CAA sections 112(d)(2)–(3). The commenter stated that the EPA may not ''cherry-pick'' the HAP when initially setting and revising standards. The commenter stated that if the EPA missed HAP that it is legally required to regulate in prior standards, then it has an ongoing obligation to set such standards, and it would be both unlawful and arbitrary and capricious for the EPA not to set such standards as part of this review and revision rulemaking under CAA section 112(d).

The commenter stated that the EPA has recognized the need to assess health risks from these pollutants and has created a method to do so by assuming that the undetected emissions were equal to one-half the detection limit, which the EPA explains is ''the established approach for dealing with non-detects in the EPA's RTR program when developing emissions estimates for input to the risk assessments.'' The commenter stated that the EPA may not ignore these pollutants under CAA section 112(d) when it acknowledges and has found a way to address them under CAA section 112(f)—even though some of the data in the record are below the detection level.

The commenter stated that instead of ignoring the emissions data it has, the EPA must at least use the emission data that are above the detection level to set standards. Furthermore, the commenter stated that for the non-detect values, the EPA may not lawfully ignore these data. The commenter stated that the EPA must recognize that some sources have achieved levels of emissions below the detection level and use an appropriate number at or below the detection level as part of its floor analysis, to satisfy the floor and beyond-the-floor requirements of CAA sections 112(d)(2)–(3).

Response: As mentioned in section IV.B above, based on consideration of this comment, industry comment, and re-evaluation of the data, we are promulgating numerical emissions limits for Hg from anode bake furnaces and PCB from Soderberg potlines because the data we have support the development of such numerical limits. Furthermore, regarding Hg from potlines, PCB from prebake potlines and anode bake furnaces, and D/F from Soderberg potlines, as described in section IV.C of this preamble, we are promulgating work practice standards under CAA section 112(h) because most of the emissions data were below the detection limits for these HAP and process units. However, EPA is not adopting either numerical standards or work practice standards for these HAP from other process units because all of the associated emissions data were below the detection limit or otherwise unreliable (*e.g.*, the test report indicated quality assurance problems). There is certainly no obligation under CAA sections 112(d)(2) and (3) for the EPA to promulgate standards for HAP that are not emitted by a source category.

Given these determinations, the commenter's claims that the EPA is obligated to establish MACT standards for HAP at particular times, and that it must do so if it is making assumptions about emission levels as part of the CAA

section 112(f) risk analysis, are no longer presented.[13]

4. What is the rationale for our final approach regarding work practice standards under CAA sections 112(h) and/or 112(d)(6)?

Based on comments received during the 2014 supplemental proposal public comment period, we determined that it was appropriate to re-evaluate the data we had for PCB, D/F, and Hg. For D/F from potlines, anode bake furnaces, and paste production plants; Hg from potlines and paste production plants; and PCB from prebake potlines, anode bake furnaces, and paste production plants, we found that more than half of the test data were below the detection limit. We maintain our December 2014 proposed position that it is not appropriate to promulgate numerical MACT limits for these HAP from these process units. Instead, as explained below, we are promulgating work practice standards under CAA section 112(h), when appropriate.

Sections 112(h)(1) and (h)(2)(B) of the CAA indicate that the EPA may adopt a work practice standard rather than a numeric standard when ''the application of measurement methodology to a particular class of sources is not practicable due to technological and economic limitations.'' As explained above, the majority of the data collected for Hg, D/F, and PCB during the information request test program for these emissions points were below the detection limit. Under these circumstances, the EPA does not believe that it is technologically and economically practicable to reliably measure Hg, D/F, and PCB emissions from these particular sources. The ''application of measurement methodologies'' (described in CAA section 112(h)(2)(B)) means more than taking a measurement. It must also mean that a measurement has some reasonable relation to what the source is emitting, *i.e.*, that the measurement yields a meaningful value. That is not the case here, and the EPA, therefore, does not believe it reasonable to establish a numerical standard for Hg, D/F, and PCB from these particular process units in this rule. Moreover, a numerical limit established at some level greater than the detection limit (which would be a necessity since any numeric standard would have to be measurable) could actually authorize and allow more emissions of these HAP than would otherwise be the case. The work practices for anode bake furnaces, paste production plants, and potlines discussed in section IV.C.1 of this preamble are those practices utilized by the best performing sources—the sources with the work practices in place that the EPA has evaluated as best controlling emissions of these HAP.

In the cases of PCB from anode bake furnaces and prebake potlines, D/F from Soderberg potlines, and Hg from both Soderberg and prebake potlines, we determined that about 70 to 80 percent of the emissions data were below the detection limits. In previous cases (see, e.g., 76 FR 25046, 78 FR 22387, and docket item number EPA–HQ–OAR–2013–0291–0120) where test results were predominantly (*e.g.*, more than 55 percent of the test run results) found to be below detection limits, the EPA established work practice standards for the pollutants in question from the subject sources, since we believe emissions of the pollutants are too low to reliably measure and quantify. We are adopting that same approach here, for the same reasons, and are, therefore, finalizing work practice standards to address emissions of Hg from potlines, PCB from anode bake furnaces and prebake potlines, and D/F from Soderberg potlines. Specifically, we are finalizing the work practice standards presented in 40 CFR 63.847(l) and (m) and 40 CFR 63.854 of the 2014 supplemental proposal to address emissions of Hg from potlines, D/F from Soderberg potlines, and PCB from prebake potlines. Further, the requirements of 40 CFR 63.847(h)(1) and 40 CFR 63.848(f)(1) of current subpart LL; the work practice standards proposed in sections 40 CFR 63.843(f) and 40 CFR 63.844(f) of the 2011 proposal and 40 CFR 63.847(l) of the 2014 proposal; and the enhanced VE monitoring of 40 CFR 63.848(g)(3) of the final rule address the PCB emissions from anode bake furnaces.

However, as noted above, all of the emissions data for D/F from prebake potlines, anode bake furnaces, and paste production plants were either below the detection limit or otherwise unreliable (*e.g.*, were flagged in the test report as having quality assurance issues). Therefore, we are not promulgating numerical emissions limits or work practices for these HAP since there is no reliable evidence that these sources emit them.

D. What changes did we make to the control device monitoring requirements for the Primary Aluminum Production source category?

1. What control device monitoring requirements did we propose for the Primary Aluminum Production source category?

In the 2014 supplemental proposal, we proposed that the owner or operator of a primary aluminum reduction plant would need to install either a BLDS or a PM CEMS on the exhaust of each control device used to control emissions from a new or existing affected potline, anode bake furnace, or paste production plant.

2. What changes did the EPA make to the proposed control device monitoring requirements developed for the Primary Aluminum Production source category?

In the final rule, the control device monitoring requirements for new potlines, new anode bake furnaces, and new paste production plants remain unchanged. However, for existing potlines, existing anode bake furnaces and existing paste production plants, the owner or operators have the option to conduct enhanced VE monitoring as an alternative to the installation of BLDS or PM CEMS. This enhanced VE monitoring would include twice daily monitoring of VE from the exhaust of each control device, with those two VE monitoring events at least 4 hours apart. If VE are observed, then the owner or operator would need to take corrective action within 1 hour, including isolating, shutting down, and conducting internal inspections of any baghouse compartment associated with VE indicating abnormal operations and fixing the compartment before it is put back in service.

3. What key comments did we receive regarding control device monitoring requirements and what are our responses?

Comment: Several commenters stated that the proposed rule requires either the installation of PM CEMS or the installation of BLDS on stack emission points associated with fabric filter (baghouse) control systems for demonstration of continuous compliance with the PM limit. The commenters stated that the EPA has not considered the large number of stacks involved and the complexity, time, and cost for installing BLDS or PM CEMS monitoring systems on the baghouses of potline primary control systems.

The commenters stated that there are significant and substantial issues with this requirement that merit rethinking.

[13] We disagree with the commenter that standards are compelled at this time, given the EPA's discretion regarding timing of revising MACT standards. See 79 FR 72936 at n. 35. The EPA is exercising its discretion in adopting these standards in the final rule.

The commenters stated that there is already a requirement in the 40 CFR part 63, subpart LL rule for a daily visual check for opacity on all stacks associated with baghouse control systems. The commenters stated that this serves the same function and purpose as the installation of BLDSs and has been working well in that manner since the time the original rules were finalized in 1997.

The commenters stated that the EPA concluded ''. . . that all existing prebake potlines will be able to meet these MACT floor limits for PM without the need to install additional controls because the performance of all sources in the category is similar, all of the potlines within each of the subcategories utilize very similar emission control technology, the average emissions from each source are well below the MACT floor limit and emissions data from every facility that performed emissions testing were included in the dataset used to develop the MACT floor.'' The commenters stated that it is clear that the daily VE inspection, corrective action, and baghouse maintenance practices that facilities have already implemented in response to the enhanced monitoring requirements of current 40 CFR part 63, subpart LL are resulting in a level of baghouse performance that ensures ongoing continuous compliance with the proposed PM emission limits.

The commenters stated that the EPA notes in the proposed rule that potline secondary PM emissions comprise by far the largest share of primary aluminum reduction plant PM emissions, and these would not be addressed with BLDS. The commenters cited test data to highlight this issue and stated that the EPA's own analysis of control options on secondary PM emissions from potlines found them to not be economically feasible yet the resulting risks are still within acceptable risk limits.

The commenters stated that the most common potline primary PM control system, the A–398 scrubber system, has multiple stacks associated with each control device, and there are multiple control devices for each potline. The commenters stated that a survey of U.S. primary aluminum facilities indicated that at present there are 388 potline stack emission points across seven operating plants that would need to install BLDS in response to this proposed new requirement. The commenters stated that there are 50 to 100 individual stacks per potline at some of their facilities and provided a table of the affected sources. The commenters stated that the costs, complexity, and time required for installing BLDS or PM CEMS at a facility with over 100 potline control device stacks are formidable.

The commenters provided a cost analysis of installation and operating cost for BLDS and estimated that industry-wide, this would result in cumulative $5.24 million of initial costs and $1.2 million of annual costs to comply with this requirement for potlines, not including the additional costs relative to compliance for anode bake furnaces and paste production plants. The commenters stated that none of these very significant costs are included in either the December 2014 supplemental proposal preamble discussion of the costs/benefit calculation or the *Revised Draft Cost Impacts for the Primary Aluminum Source Category* document dated November 13, 2014. The commenters stated that inclusion of these bag leak detector costs alters the cost/benefit dynamic substantially such that it changes the calculation from a slight net benefit to a significant net cost. The commenters stated that the bag leak detector option is the most cost-effective of the two compliance options presented in the proposed rule (BLDS versus PM CEMS). The commenters urged the EPA to recalculate the revised cost estimate to address the installation of BLDS or PM CEMS on existing sources and to provide for the opportunity to comment on the changes.

The commenters stated that the proposed requirements of 40 CFR 63.848(o)(3)(i) require initiation of procedures to determine the cause of a BLDS alarm with 30 minutes. The commenters stated that the subpart LL requirements of 40 CFR 63.848(h) all require the initiation of corrective action within 1 hour. The commenters stated that the EPA should set the time frame for initiating a response to BLD events at 1 hour so as to be consistent with the other corrective action requirements.

The commenters stated that the proposed timelines for compliance do not consider the time required to design, procure, and install and operate a BLDS or PM CEMS on each baghouse stack. The commenters stated that since the proposed requirement to install BLDS or PM CEMS on potline control devices is unnecessary and cost-prohibitive for existing potlines, they strongly recommend that BLDS and PM CEMS provisions be deleted from the final rule requirements in their entirety.

The commenters stated that the EPA's proposed requirements of 40 CFR 63.848(o)(1) pertain to baghouse preventative maintenance requirements. The commenters stated that facilities already have to comply with similar requirements for proper operation and maintenance of emission control equipment under state or federal requirements as included in their title V air operating permits. The commenters stated that the EPA should tailor the proposed requirements to specifically address the development and implementation of procedures pertaining to the BLDS.

The commenters recommended (in the event that BLDS is in the final rule) revisions to 40 CFR 63.848(o)(1) and (3)(i).

Response: The EPA agrees that installation of BLDS or PM CEMS for certain existing emission control configurations would be both technically challenging and cost prohibitive for some facilities due to the large number of individual stacks supporting these control devices. We also agree with the commenters that PM emissions from potlines are dominated by secondary roof vent emissions. This is a result of effective emissions control on the primary stacks and the difficulty (technical and economic) associated with installation and operation of secondary roof vent emission controls. Moreover, we further find that under these circumstances, enhanced VE monitoring provides sufficiently reliable and timely information for determining compliance with the PM standards—in particular, the twice daily VE monitoring with requirement for initiation of corrective actions (if applicable), including isolation and internal inspection of a scrubber compartment, within 1 hour.[14] Therefore, we are providing owners or operators of existing affected sources the options to monitor these sources with either BLDS, PM CEMS, or enhanced VE observations, as described above. Further, for those sources that do have BLDS, we agree that 1 hour is the appropriate length of time for initiation of root cause analysis for alarms and, therefore, are promulgating this requirement.

4. What is the rationale for our final approach regarding control device monitoring requirements?

The final rule will require annual PM testing of the primary control device and continuous or frequent monitoring

[14] See *Sierra Club* v. *EPA*, 353 F. 3d 976, 991 (D.C. Cir. 2004) (per Roberts, J.) (enhanced monitoring requirement in CAA section 114(a)(3) does not mandate continuous monitoring or create a presumption for such monitoring. Consistent with that reading, CAA section 504 (b) provides that ''continuous emissions monitoring need not be required if alternative methods are available that provide sufficiently reliable and timely information for determining compliance'').

with BLDS, PM CEMS, or VE observations. The EPA believes it is necessary that facilities conduct at least one of these monitoring measures to ensure that the primary control device is maintained in good working order throughout the year. As mentioned above, as an alternative to BLDS or PM CEMS, we are finalizing a third option of twice daily visual inspections of each exhaust stack(s) of each control device using Method 22 (at least 4 hours apart) for existing sources. Existing sources will have the option to perform Method 22 inspections, install BLDS, or install PM CEMS. We believe that the twice daily visual inspection alternative will provide adequate assurance that the control devices are properly operated and maintained.

We believe that future potline air pollution control systems will be constructed/installed with a newer technology (dry injection type), rather than the currently installed (older) technology A–398 type. The newer technologies have significantly fewer stack emission points than the many stacks of the A–398 systems. Consequently, the number of BLDS needed would be substantially less with those systems than for the A–398 systems. For this reason, we are maintaining the requirement to install BLDS or PM CEMS on new sources.

E. What changes did we make to compliance dates for the Primary Aluminum Production source category?

1. What existing source compliance dates did we propose for the Primary Aluminum Production source category?

The proposed compliance dates for existing sources in the December 2014 supplemental proposal were as follows:

- Date of publication of final rule for the malfunction provisions and the electronic reporting provisions;
- One year after date of publication of final rule for potlines subject to the COS and PM emission limits; prebake potlines subject to POM emission limits; the potline, paste production plant, and anode bake furnace work practices; anode bake furnaces and paste production plants subject to PM emission limits; and pitch storage tanks subject to POM standards; and
- Two years after date of publication of final rule for Soderberg potlines subject to the POM, Ni, and As emission limits.

2. What changes is EPA making to the proposed existing source compliance dates for the Primary Aluminum Production source category?

The EPA has revised the compliance dates for existing sources in the Primary Aluminum Production source category from those proposed in 2014 as follows:

- The compliance date was changed from 1 year after date of publication of final rule to 2 years after date of publication of final rule for prebake potlines subject to POM and PM emission limits and for pitch storage tanks subject to POM equipment standards;
- The compliance date of 1 year after date of publication of final rule was added for Soderberg potlines subject to PCB emission limits; and
- The compliance date of 2 years after date of publication of final rule was added for anode bake furnaces subject to Hg emission limits.

For more discussion of the promulgated compliance dates, refer to the document, *Final Rationale for Selection of Compliance Dates for the Primary Aluminum Production Source Category,* which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2011–0797).

3. What key comments did we receive regarding compliance dates and what are our responses?

Comment: Several commenters stated concern with the compliance dates outlined in the supplemental proposal. The commenters stated that the compliance dates in the December 2014 proposal are in marked contrast to the 2011 proposal that included a 3-year compliance window for all changes. The commenters stated that they are concerned that the rationale used to dramatically shorten the compliance timelines is not reflective of actual on-site conditions and decision-making/approval processes for the changes required for compliance. The commenters stated that new emission limits imposed on the affected facilities will require installation of additional emission controls and/or monitoring devices.

The commenters stated that at least one facility will be required to install a Method 14 manifold or Method 14A cassette system in a currently operating potline for collecting roof monitor samples to determine emissions of PM and POM. The commenters stated that a number of facilities currently do not have an emission control system on their existing pitch storage tanks. The commenters stated that these facilities will be required to install and test (or certify) an emission control system to meet the 95-percent POM reduction requirement.

The commenters stated that the effort involved in the determination of the exact changes that will be needed; the selection, installation, and startup of new controls and their associated equipment; and consideration of the business planning cycle for making significant new capital and operating expense monetary outlays all indicate that more than 1 year is needed to have the emissions control and monitoring devices installed and properly operational.

The commenters requested an increased amount of time for compliance dates for malfunction and ERT provisions, work practices, and emission limits.

Response: The EPA has received information from Alcoa that their Wenatchee facility currently has two potlines (potlines 2 and 3) that are not equipped with a Method 14 manifold or Method 14A cassette system. Either a manifold or cassette system is required to monitor secondary potline emissions and to demonstrate compliance with the potline PM and POM emission limits. Alcoa provided cost estimates for the installation of a Method 14 manifold and a Method 14A cassette system. These costs were estimated at $500,000 (or approximately $55,000 per year annualized) for either system (see Installation of Method 14 or 14A Sampling Equipment at Alcoa Wenatchee, Docket item number EPA–HQ–OAR–2011–0797–0385). After considering this comment and after further evaluation, we agree that a compliance date of 2 years after publication of the final rule is appropriate for the demonstration of compliance with the potline emissions limits because some facilities may need to install Method 14 manifolds or Method 14A cassette systems to demonstrate compliance, and we believe that up to 2 years may be needed to plan, design, construct, and install such systems and complete the required testing and analyses.

After further evaluation, the EPA determined that the appropriate compliance date for the 95-percent POM reduction requirement for pitch storage tanks is 2 years from the publication date of the final rule. The EPA agrees with the commenters that this additional time may be needed to install, test, and certify emission control systems.

We are finalizing the proposed compliance dates for existing sources for the malfunction provisions and the electronic reporting provisions.

We are finalizing a compliance date of 1 year after date of publication of the final rule for potlines subject to the work practice standards and the COS emission limits, and for anode bake furnaces and paste production plants

subject to work practices and PM emission limits.

We are finalizing a compliance date of 2 years after date of publication of the final rule for prebake potlines subject to POM emission limits; for Soderberg potlines subject to revised POM emission limits and emission limits for Ni, As, and PCB; for potlines subject to PM emissions limits; and for existing pitch storage tank POM equipment standards.

We are finalizing a compliance date of 2 years after date of publication of final rule for anode bake furnaces subject to Hg emission limits.

4. What is the rationale for our final approach regarding compliance dates?

The EPA extended the compliance dates for prebake potlines subject to POM and PM emissions limits from 1 to 2 years after date of publication of the final rule to give owners or operators an appropriate amount of time to install the manifolds or cassette systems necessary to sample the potline fugitive emissions. Monitoring of potline fugitive emissions will be required in order to demonstrate compliance with the promulgated POM and PM emissions limits unless the owner or operator can demonstrate potline similarity for purposes of these HAP pursuant to 40 CFR 63.848(d) of subpart LL, and the EPA finds that the 2 year compliance time allows adequate time for owners or operators to apply for similarity determinations.

Similarly, the compliance date for existing pitch storage tanks subject to POM equipment standards was extended by EPA from 1 to 2 years after date of publication of the final rule to give owners or operators an appropriate amount of time to install, test, and certify the emission control systems.

The compliance date of 1 year after date of publication of the final rule was added for Soderberg potlines subject to a PCB emission limit or D/F work practice standards. We believe that 1 year will be sufficient to demonstrate compliance with these requirements for existing Soderberg potlines, in the unlikely event that the existing Soderberg potlines are restarted, since the available data suggests that no modifications or additional controls are necessary to meet that limit.

The EPA added a compliance date of 2 years after date of publication of the final rule for anode bake furnaces subject to the Hg emission limit. We believe 2 years is justified in this case to provide industry sufficient time to schedule and perform testing and take appropriate subsequent steps to ensure compliance.

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected sources?

The affected sources are new and existing potlines, new and existing pitch storage tanks, new and existing anode bake furnaces (except for one that is located at a facility that only produces anodes for use off-site and is subject to the state MACT determination established by the regulatory authority), and new and existing paste production plants.

B. What are the air quality impacts?

We estimate that the promulgated lower VSS2 potline POM emissions limit would reduce POM emissions from the one Soderberg facility by approximately 53 tpy if the facility were to resume operation. Furthermore, we estimate that these standards would also result in about 1 tpy reduction of HAP metals and 40 tpy reduction of PM with diameter of 2.5 microns and less ($PM_{2.5}$) if the one Soderberg facility reopened. We consider this very unlikely as the owner of that facility, Columbia Falls Aluminum Company, has publicly announced its permanent closure. However, we include this analysis because the potlines have not been demolished yet.

Finally, we estimate that the addition of controls to the eight existing uncontrolled pitch storage tanks located at prebake facilities would reduce POM emissions by 1.55 tpy.

C. What are the cost impacts?

Under the final amendments, facilities are subject to additional testing, monitoring, and equipment costs. Owners and operators are required to conduct semiannual tests for PM and POM emissions from potline roof vents, annual tests for PM and POM from potline primary emissions, annual tests of PM and Hg from anode bake furnace exhausts, and annual tests of PM from paste production plant exhausts. These testing costs are offset by reduced frequency of secondary potline TF emissions testing (from monthly to semiannual). In addition, all emission stacks not equipped with either BLDS or PM CEMS are subject to increased frequency (from daily to twice daily) VE testing. Additional monitoring to demonstrate continuous compliance with PM standards for anode bake furnaces and paste production plants is required by the rule. Eight owners or operators of facilities operating uncontrolled pitch storage tanks are required to install and operate controls on these tanks, and the owner or operator of one facility with two potlines (one idle and one in operation) not currently equipped with either a manifold or a cassette system may be required to install this equipment. These amendments result in a net estimated reduction in testing costs of $1.05 million, a net estimated increase in monitoring costs of $625,000, and a net increase in estimated annualized capital equipment costs of $260,000. Nationwide annual costs to industry are expected to decrease by an estimated $165,000 per year under these amendments.

The memorandum, *Final Cost Impacts for the Primary Aluminum Production Source Category,* includes a description of the details and assumptions used for this analysis and is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2011–0797).

D. What are the economic impacts?

We performed an economic impact analysis for the modifications in this action. That analysis estimates a net savings for each primary aluminum reduction facility based on the belief that the Columbia Falls Soderberg facility will not reopen. In March of 2015, the Columbia Falls Aluminum Company announced the permanent closure of their Soderberg facility. For more information, please refer to the *Economic Impact Analysis for National Emissions Standards for Hazardous Air Pollutants: Primary Aluminum Reduction Plants* and *Final Economic Impact Analysis for the Primary Aluminum Production Source Category* documents, which are available in the docket for this rulemaking.

E. What are the benefits?

If the Columbia Falls Soderberg facility were to resume operations, there would be an estimated reduction in its annual HAP emissions (*i.e.*, about 53 tons) that would provide significant benefits to public health. In addition to the HAP reductions, which would ensure an ample margin of safety, we also estimate that this final rule would achieve about 230 tons of reductions in PM (including 40 tons of $PM_{2.5}$) emissions as a co-benefit of the HAP reductions annually (again assuming resumption of plant operation).

Further, we estimate that the addition of controls to the eight existing uncontrolled pitch storage tanks at prebake facilities would reduce POM emissions by 1.55 tpy.

This rulemaking is not an ''economically significant regulatory action'' under Executive Order 12866 because it is not likely to have an annual effect on the economy of $100

million or more. Therefore, we have not conducted a Regulatory Impact Analysis (RIA) for this rulemaking or a benefits analysis. While we expect that these avoided emissions will improve air quality and reduce health effects associated with exposure to air pollution associated with these emissions, we have not quantified or monetized the benefits of reducing these emissions for this rulemaking. This does not imply that there are no benefits associated with these emission reductions. We provide a qualitative description of benefits associated with reducing these pollutants below. When determining whether the benefits of an action exceed its costs, Executive Orders 12866 and 13563 direct the Agency to consider qualitative benefits that are difficult to quantify, but nevertheless essential to consider.

Directly emitted particles are precursors to secondary formation of $PM_{2.5}$. Controls installed to reduce HAP would also reduce ambient concentrations of $PM_{2.5}$ as a co-benefit. Reducing exposure to $PM_{2.5}$ is associated with significant human health benefits, including avoiding mortality and morbidity from cardiovascular and respiratory illnesses. Researchers have associated $PM_{2.5}$ exposure with adverse health effects in numerous toxicological, clinical, and epidemiological studies (U.S. EPA, 2009).[15] When adequate data and resources are available and an RIA is required, the EPA generally quantifies several health effects associated with exposure to $PM_{2.5}$ (*e.g.,* U.S. EPA, 2012).[16] These health effects include premature mortality for adults and infants, cardiovascular morbidities such as heart attacks, hospital admissions, and respiratory morbidities such as asthma attacks, acute bronchitis, hospital and emergency department visits, work loss days, restricted activity days, and respiratory symptoms. The scientific literature also suggests that exposure to $PM_{2.5}$ is associated with adverse effects on birth weight, pre-term births, pulmonary function, and other cardiovascular and respiratory effects (U.S. EPA, 2009), but the EPA has not quantified these impacts in its benefits analyses. $PM_{2.5}$ also increases light extinction, which is an important aspect of visibility.

The rulemaking may prevent increases in emissions of other HAP, including HAP metals (As, cadmium, chromium (both total and hexavalent), lead, manganese, Hg, and Ni) and PAH. Some of these HAP are carcinogenic (*e.g.,* As, PAH), and some have effects other than cancer (*e.g.,* kidney disease from cadmium, respiratory and immunological effects from Ni). While we cannot quantitatively estimate the benefits achieved by reducing emissions of these HAP, we expect benefits by reducing exposures to these HAP. More information about the health effects of these HAP can be found on the IRIS,[17] U.S. Agency for Toxic Substances and Disease Registry (ATSDR),[18] and California EPA [19] Web sites.

F. What analysis of environmental justice did we conduct?

To examine the potential for any EJ issues that might be associated with the Primary Aluminum Production source category, we performed a demographic analysis, which is an assessment of risks to individual demographic groups, of the population close to the facilities. In this analysis, we evaluated the distribution of HAP-related cancer risks and non-cancer hazards from this source category across different social, demographic, and economic groups within the populations living near facilities identified as having the highest risks. The results of the demographic analysis are summarized in Table 6 in section IV.A.3 of this preamble and indicate that there are no significant disproportionate risks to any particular minority, low income, or indigenous population (see the discussion in section IV.A.3 of this preamble). The methodology and the results of the demographic analyses are included in a technical report, *Analysis of Socio-Economic Factors for Populations Living Near Primary Aluminum Facilities,* which is available in the docket for this rulemaking (docket item No. EPA–HQ–OAR–2011–0797–0360).

G. What analysis of children's environmental health did we conduct?

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because the Agency does not believe the environmental health risks or safety risks addressed by this action present a disproportionate risk to children. The report, *Analysis of Socio-Economic Factors for Populations Living Near Primary Aluminum Facilities,* which is available in the docket for this rulemaking, indicates that the percentages for all demographic groups exposed to various risk levels, including children, are similar to their respective nationwide percentages. That report further shows that, prior to the implementation of the provisions included in this final rule, on a nationwide basis, there are approximately 900,000 people exposed to a cancer risk at or above 1-in-1 million and no people exposed to a chronic non-cancer TOSHI greater than 1 due to emissions from the source category.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to the OMB under the PRA. The ICR document prepared by the EPA has been assigned EPA ICR number 2447.01. You can find a copy of the ICR in the docket for this rule (Docket ID No. EPA–HQ–OAR–2011–0797) and it is briefly summarized below. The information collection requirements are not enforceable until OMB approves them.

We are finalizing changes to the paperwork requirements for the Primary Aluminum Production source category facilities subject to 40 CFR part 63, subpart LL. In this final rule, we are promulgating less frequent testing of TF emissions from potlines. In addition, we are removing the burden associated with the affirmative defense provisions included in the December 2011 proposal.

[15] U.S. Environmental Protection Agency (U.S. EPA). 2009. *Integrated Science Assessment for Particulate Matter* (Final Report). EPA–600–R–08–139F. National Center for Environmental Assessment—RTP Division. Available on the Internet at *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=216546.*

[16] U.S. Environmental Protection Agency (U.S. EPA). 2012. Regulatory Impact Analysis for the Final Revisions to the National Ambient Air Quality Standards for Particulate Matter. Office of Air and Radiation, Research Triangle Park, NC. Available on the Internet at *http://www.epa.gov/ttn/ecas/regdata/RIAs/finalria.pdf.http://www.epa.gov/ttnecas1/regdata/RIAs/PMRIACombinedFile_Bookmarked.pdf.*

[17] U.S. EPA, 2006. Integrated Risk Information System. *http://www.epa.gov/iris/index.html.*

[18] ATSDR, 2013. Minimum Risk Levels (MRLs) for Hazardous Substances. *http://www.atsdr.cdc.gov/mrls/index.html.*

[19] California Office of Environmental Health Hazard Assessment. Chronic Reference Exposure Levels Adopted by OEHHA as of December 2008. *http://www.oehha.ca.gov/air/chronic_rels.*

We estimate 11 regulated entities are currently subject to CFR part 63, subpart LL and will be subject to this action. The annual monitoring, reporting, and recordkeeping burden for this collection (averaged over the first 3 years after the effective date of the standards) as a result of the final amendments to 40 CFR part 63, subpart LL (NESHAP for Primary Aluminum Reduction Plants) is estimated to be −$931,000 per year.

This includes 361 labor hours per year at a total labor cost of $27,400 per year, and total non-labor capital, and operation and maintenance costs of −$958,000 per year. This estimate includes performance tests, notifications, reporting, and recordkeeping associated with the new requirements for primary aluminum reduction plant operations. The total burden for the federal government (averaged over the first 3 years after the effective date of the standard) is estimated to be 181 hours per year at a total labor cost of $8,250 per year. Burden is defined at 5 CFR 1320.3(b).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. There are no small entities in this regulated industry. For this source category, which has the NAICS code 331312, the Small Business Administration (SBA) small business size standard is 1,000 employees according to the SBA small business standards definitions.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It 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 levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. This action does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in the *Residual Risk Assessment for the Primary Aluminum Production Source Category in Support of the September 2015 Risk and Technology Review Final Rule,* which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2011–0797).

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This final action involves technical standards. The rule requires the use of either ASTM D4239–14e1, ''Standard Test Method for Sulfur in the Analysis Sample of Coal and Coke Using High-Temperature Tube Furnace Combustion,'' approved March 1, 2014, or ASTM D6376–10, ''Test Method for Determination of Trace Metals in Petroleum Coke by Wavelength Dispersive X-ray Fluorescence Spectroscopy,'' approved July 1, 2010. ASTM D4239–14e1, approved March 1, 2014, covers the determination of sulfur in samples of coal or coke by high temperature tube furnace combustion. ASTM D6376–10, approved July 1, 2010, covers the x-ray fluorescence spectrometric determination of total sulfur and trace metals in samples of raw or calcined petroleum coke. These are voluntary consensus methods. These methods can be obtained from the American Society for Testing and Materials, 100 Bar Harbor Drive, West Conshohocken, Pennsylvania 19428 (telephone number (610) 832–9500). These methods were promulgated in the final rule because they are commonly used by primary aluminum reduction plants to demonstrate compliance with sulfur dioxide emission limitations imposed in their current title V permits.

This final rule also requires use of Method 428, ''Determination of Polychlorinated Dibenzo-P-Dioxin (PCDD), Polychlorinated Dibenzofuran (PCDF), and Polychlorinated Biphenyle Emissions (PCB) from Stationary Sources,'' amended September 12, 1990. Method 428, amended September 12, 1990, covers the determination of PCDD, PCDF, or PCB from stationary sources. The standard is available from the California Air Resources Board, 1001 ''I'' Street, Sacramento, CA 95812 (telephone number (800) 242–4450) or at their Web site, *http://www.arb.ca.gov/testmeth/vol3/m_428.pdf.*

The EPA has decided to use EPA Method 29 for the determination of the concentration of Hg. While the EPA identified ASTM D6784–02 (2008), ''Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method),'' ASTM International, West Conshohocken, PA, 2008, as being potentially applicable, the Agency decided not to use it. The use of this voluntary consensus standard would be more expensive and is inconsistent with the final Hg standard that was determined using EPA Method 29 data.

Under 40 CFR 63.7(f) and 40 CFR 63.8(f) of Subpart A of the General Provisions, a source may apply to the EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures in this final rule.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes the human health or environmental risk addressed by this

action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority, low-income or indigenous populations. For the Primary Aluminum Production source category, the EPA determined that the current health risks posed to anyone by actual emissions from this source category are within the acceptable range, and that this action will not appreciably reduce these risks further.

These final standards will improve public health and welfare, now and in the future, by reducing HAP emissions contributing to environmental and human health impacts. These reductions in HAP associated with the rule will benefit all populations.

To examine the potential for any EJ issues that might be associated with this source category, we evaluated the distributions of HAP-related cancer and non-cancer risks across different social, demographic, and economic groups within the populations living near the facilities where this source category is located. The methods used to conduct demographic analyses for this final rule, and the results of these analyses, are described in the document, *Analysis of Socio-Economic Factors for Populations Living Near Primary Aluminum Facilities,* which can be found in the docket for this rulemaking (Docket item number EPA–HQ–OAR–2011–0797–0360).

In the demographics analysis, we focused on populations within 50 kilometers of the facilities in this source category with emissions sources subject to 40 CFR part 63, subpart LL. More specifically, for these populations we evaluated exposures to HAP that could result in cancer risks of 1-in-one million or greater. We compared the percentages of particular demographic groups within the focused populations to the total percentages of those demographic groups nationwide.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: September 10, 2015.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, Title 40, chapter I, of the Code of Federal Regulations (CFR) is amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart A—General Provisions

■ 2. Section 63.14 is amended:
■ a. By redesignating paragraphs (b)(1) and (2) as paragraphs (b)(2) and (3), respectively, and adding new paragraph (b)(1);
■ b. By redesignating paragraphs (h)(77) through (95) as paragraphs (h)(80) through (98), respectively;
■ c. By redesignating paragraphs (h)(53) through (76) as paragraphs (h)(55) through (78), respectively;
■ d. By redesignating paragraphs (h)(33) through (52) as paragraphs (h)(34) through (53), respectively;
■ e. By adding new paragraphs (h)(33), (54) and (79); and
■ f. By redesignating paragraphs (k)(1) through (4) as paragraphs (k)(2) through (5), respectively, and adding new paragraph (k)(1).

The additions read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(b) * * *

(1) Industrial Ventilation: A Manual of Recommended Practice, 22nd Edition, 1995, Chapter 3, ''Local Exhaust Hoods'' and Chapter 5, ''Exhaust System Design Procedure.'' IBR approved for §§ 63.843(b) and 63.844(b).

* * * * *

(h) * * *

(33) ASTM D2986–95A, ''Standard Practice for Evaluation of Air Assay Media by the Monodisperse DOP (Dioctyl Phthalate) Smoke Test,'' approved September 10, 1995, IBR approved for section 7.1.1 of Method 315 in appendix A to this part.

* * * * *

(54) ASTM D4239–14e1, ''Standard Test Method for Sulfur in the Analysis Sample of Coal and Coke Using High-Temperature Tube Furnace Combustion,'' approved March 1, 2014, IBR approved for § 63.849(f).

* * * * *

(79) ASTM D6376–10, ''Standard Test Method for Determination of Trace Metals in Petroleum Coke by Wavelength Dispersive X-Ray Fluorescence Spectroscopy,'' Approved July 1, 2010, IBR approved for § 63.849(f).

* * * * *

(k) * * *

(1) Method 428, ''Determination Of Polychlorinated Dibenzo-P-Dioxin (PCDD), Polychlorinated Dibenzofuran (PCDF), and Polychlorinated Biphenyle Emissions from Stationary Sources,'' amended September 12, 1990, IBR approved for § 63.849(a)(13) and (14).

* * * * *

Subpart LL—National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants

■ 3. Section 63.840 is amended by revising paragraph (a) to read as follows:

§ 63.840 Applicability.

(a) Except as provided in paragraph (b) of this section, the requirements of this subpart apply to the owner or operator of each new or existing pitch storage tank, potline, paste production plant and anode bake furnace associated with primary aluminum production and located at a major source as defined in § 63.2.

* * * * *

§ 63.841 [Removed and reserved]

■ 4. Section 63.841 is removed and reserved.

■ 5. Section 63.842 is amended by:
■ a. Adding, in alphabetical order, a definition of ''High purity aluminum'';
■ b. Removing the definition for ''Horizontal stud Soderberg (HSS) process'';
■ c. Adding, in alphabetical order, definitions of ''Operating day'' and ''Particulate matter (PM)'';
■ d. Revising the definition for ''Paste production plant'';
■ e. Adding, in alphabetical order definitions of ''Polychlorinated biphenyl (PCB)'', ''Startup of an anode bake furnace'', and ''Toxicity equivalence (TEQ)''; and
■ f. Removing the definition for ''Vertical stud Soderberg one (VSS1)''.The revisions and additions read as follows:

§ 63.842 Definitions.

* * * * *

High purity aluminum means aluminum produced with an average purity level of at least 99.9 percent.

* * * * *

Operating day means a 24-hour period between 12 midnight and the following midnight during which an affected source operates at any time. It is not necessary for operations to occur for the entire 24-hour period.

Particulate matter (PM) means, for the purposes of this subpart, emissions of particulate matter that serve as a measure of total particulate emissions and as a surrogate for metal hazardous air pollutants contained in the particulates, including but not limited to: Antimony, arsenic, beryllium, cadmium, chromium, cobalt, lead, manganese, nickel and selenium.

Paste production plant means the processes whereby calcined petroleum coke, coal tar pitch (hard or liquid) and/or other materials are mixed, transferred and formed into briquettes or paste for vertical stud Soderberg (VSS) processes or into green anodes for a prebake process. This definition includes all operations from initial mixing to final forming (i.e., briquettes, paste, green anodes) within the paste production plant, including conveyors and units managing heated liquid pitch.

* * * * *

Polychlorinated biphenyl (PCB) means any or all of the 209 possible chlorinated biphenyl isomers.

* * * * *

Startup of an anode bake furnace means the process of initiating heating to the anode bake furnace. The startup or re-start of the furnace begins when the heating begins. The startup or re-start concludes at the start of the second anode bake cycle if the furnace was at ambient temperature upon startup or when the anode bake cycle resumes if the furnace was not at ambient temperature.

* * * * *

Toxicity equivalence (TEQ) means an international method of expressing toxicity equivalents for PCBs as defined in U.S. EPA, Recommended Toxicity Equivalence Factors (TEFs) for Human Health Risk Assessments of 2,3,7,8-Tetrachlorodibenzo-p-dioxin and Dioxin-Like Compounds, EPA/100/R–10/005 December 2010.

* * * * *

■ 6. Section 63.843 is amended by:
■ a. Revising paragraph (a) introductory text, and paragraphs (a)(1)(iv), (a)(1)(vi), and (a)(2)(iii);
■ b. Removing paragraph (a)(1)(vii);
■ c. Removing and reserving paragraphs (a)(1)(v), (a)(2)(i) and (a)(2)(ii);
■ d. Adding paragraphs (a)(2)(iv) through (vii);
■ e. Redesignating paragraph (a)(3) as (a)(7) and adding new paragraphs (a)(3) through (6);
■ f. Revising paragraph (b) introductory text, and paragraph (b)(1);
■ g. Adding paragraph (b)(4);
■ h. Revising paragraph (c); and
■ i. Adding paragraphs (d), (e) and (f).

The revisions and additions read as follows:

§ 63.843 Emission limits for existing sources.

(a) *Potlines.* The owner or operator shall not discharge or cause to be discharged into the atmosphere any emissions of TF, POM, PM, nickel, arsenic or PCB in excess of the applicable limits in paragraphs (a)(1) through (6) of this section.

(1) * * *

(iv) 0.8 kg/Mg (1.6 lb/ton) of aluminum produced for each SWPB potline; and

(v) [Reserved]

(vi) 1.35 kg/Mg (2.7 lb/ton) of aluminum produced for each VSS2 potline.

(2) * * *

(i) [Reserved]

(ii) [Reserved]

(iii) 0.85 kg/Mg (1.9 lb/ton) of aluminum produced for each VSS2 potline;

(iv) 0.55 kg/Mg (1.1 lb/ton) of aluminum produced for each CWPB1 prebake potline;

(v) 6.0 kg/Mg (12 lb/ton) of aluminum produced for each CWPB2 prebake potline;

(vi) 1.4 kg/Mg (2.7 lb/ton) of aluminum produced for each CWPB3 prebake potline; and

(vii) 8.5 kg/Mg (17 lb/ton) of aluminum produced for each SWPB prebake potline.

(3) *PM limits.* Emissions of PM shall not exceed:

(i) 3.7 kg/Mg (7.4 lb/ton) of aluminum produced for each CWPB1 potline;

(ii) 5.5 kg/Mg (11 lb/ton) of aluminum produced for each CWPB2 potline;

(iii) 10 kg/Mg (20 lb/ton) of aluminum produced for each CWPB3 potline;

(iv) 2.45 kg/Mg (4.9 lb/ton) of aluminum produced for each SWPB potline; and

(v) 13 kg/Mg (26 lb/ton) of aluminum produced for each VSS2 potline.

(4) *Nickel limit.* Emissions of nickel shall not exceed 0.07 lb/ton of aluminum produced from each VSS2 potline at a primary aluminum reduction plant.

(5) *Arsenic limit.* Emissions of arsenic shall not exceed 0.006 lb/ton of aluminum produced from each VSS2 potline at a primary aluminum reduction plant.

(6) *PCB limit.* Emissions of PCB shall not exceed 2.0 µg toxicity equivalence (TEQ) per ton of aluminum produced from each VSS2 potline at a primary aluminum reduction plant.

(7) * * *

(b) *Paste production plants.* The owner or operator shall install, operate and maintain equipment to capture and control POM and PM emissions from each paste production plant.

(1) The emission capture system shall be installed and operated to meet the generally accepted engineering standards for minimum exhaust rates as published by the American Conference of Governmental Industrial Hygienists in Chapters 3 and 5 of ''Industrial Ventilation: A Handbook of Recommended Practice'' (incorporated by reference; see § 63.14); and

* * * * *

(4) *PM limit.* Emissions of PM shall not exceed 0.041 kg/Mg (0.082 lb/ton) of paste.

(c) *Anode bake furnaces.* The owner or operator shall not discharge or cause to be discharged into the atmosphere any emissions of TF, POM, PM or mercury in excess of the limits in paragraphs (c)(1) through (4) of this section.

(1) *TF limit.* Emissions of TF shall not exceed 0.10 kg/Mg (0.20 lb/ton) of green anode;

(2) *POM limit.* Emissions of POM shall not exceed 0.09 kg/Mg (0.18 lb/ton) of green anode;

(3) *PM limit.* Emissions of PM shall not exceed 0.10 kg/Mg (0.20 lb/ton) of green anode; and

(4) *Mercury limit.* Emissions of mercury shall not exceed 1.7 µg/dscm.

(d) *Pitch storage tanks.* Each pitch storage tank shall be equipped with an emission control system designed and operated to reduce inlet emissions of POM by 95 percent or greater.

(e) *COS limit.* Emissions of COS must not exceed 1.95 kg/Mg (3.9 lb/ton) of aluminum produced for each potline.

(f) At all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of

operation and maintenance records and inspection of the source.

■ 7. Section 63.844 is amended by:
■ a. Revising paragraph (a) introductory text, and paragraph (a)(2);
■ b. Adding paragraphs (a)(3) through (6);
■ c. Revising paragraph (b);
■ d. Revising paragraph (c); and
■ e. Adding paragraphs (e) and (f).

The revisions and additions read as follows:

§ 63.844 Emission limits for new or reconstructed sources.

(a) *Potlines.* The owner or operator shall not discharge or cause to be discharged into the atmosphere any emissions of TF, POM, PM, nickel, arsenic or PCB in excess of the applicable limits in paragraphs (a)(1) through (6) of this section.

* * * * *

(2) *POM limit.* Emissions of POM from potlines must not exceed 0.39 kg/Mg (0.77 lb/ton) of aluminum produced.

(3) *PM limit.* Emissions of PM from potlines must not exceed 2.45 kg/Mg (4.9 lb/ton) of aluminum produced.

(4) *Nickel limit.* Emissions of nickel shall not exceed 0.035 kg/Mg (0.07 lb/ton) of aluminum produced from each Soderberg potline at a primary aluminum reduction plant.

(5) *Arsenic limit.* Emissions of arsenic shall not exceed 0.003 kg/Mg (0.006 lb/ton) of aluminum produced from each Soderberg potline at a primary aluminum reduction plant.

(6) *PCB limit.* Emissions of PCB shall not exceed 2.0 µg TEQ/ton of aluminum produced from each Soderberg potline at a primary aluminum reduction plant.

(b) *Paste production plants.* (1) The owner or operator shall meet the requirements in § 63.843(b)(1) through (3) for existing paste production plants and shall not discharge or cause to be discharged into the atmosphere any emissions of PM in excess of the limit in paragraph (b)(2) of this section.

(2) Emissions of PM shall not exceed 0.0028 kg/Mg (0.0056 lb/ton) of green anode.

(c) *Anode bake furnaces.* The owner or operator shall not discharge or cause to be discharged into the atmosphere any emissions of TF, PM, POM or mercury in excess of the limits in paragraphs (c)(1) through (4) of this section.

(1) *TF limit.* Emissions of TF shall not exceed 0.01 kg/Mg (0.02 lb/ton) of green anode;

(2) *POM limit.* Emissions of POM shall not exceed 0.025 kg/Mg (0.05 lb/ton) of green anode;

(3) *PM limit.* Emissions of PM shall not exceed 0.035 kg/Mg (0.07 lb/ton) of green anode; and

(4) *Mercury limit.* Emissions of mercury shall not exceed 1.7 µg/dscm.

* * * * *

(e) *COS limit.* Emissions of COS must not exceed 1.55 kg/Mg (3.1 lb/ton) of aluminum produced for each potline.

(f) At all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records and inspection of the source.

■ 8. Section 63.846 is amended by:
■ a. Revising paragraph (b);
■ b. Revising paragraph (c);
■ c. Revising paragraphs (d)(2)(ii) through (iv) and (d)(4)(i) through (iii); and
■ d. Removing paragraph (d)(4)(iv).

The revisions read as follows:

§ 63.846 Emission averaging.

* * * * *

(b) *Potlines.* The owner or operator may average emissions from potlines and demonstrate compliance with the limits in Tables 1 through 3 of this subpart using the procedures in paragraphs (b)(1) through (3) of this section.

(1) Semiannual average emissions of TF shall not exceed the applicable emission limit in Table 1 of this subpart. The emission rate shall be calculated based on the total primary and secondary emissions from all potlines comprising the averaging group over the period divided by the quantity of aluminum produced during the period, from all potlines comprising the averaging group. To determine compliance with the applicable emission limit in Table 1 of this subpart for TF emissions, the owner or operator shall determine the average emissions (in lb/ton) from each potline from at least three runs per potline semiannually for TF secondary emissions and at least three runs per potline primary control system each year using the procedures and methods in §§ 63.847 and 63.849. The owner or operator shall combine the results of secondary TF average emissions with the TF results for the primary control system and divide total emissions by total aluminum production.

(2) Semiannual average emissions of POM shall not exceed the applicable emission limit in Table 2 of this subpart. The emission rate shall be calculated based on the total primary and secondary emissions from all potlines comprising the averaging group over the period divided by the quantity of aluminum produced during the period, from all potlines comprising the averaging group. To determine compliance with the applicable emission limit in Table 2 of this subpart for POM emissions, the owner or operator shall determine the average emissions (in lb/ton) from each potline from at least three runs per potline semiannually for POM secondary emissions and at least three runs per potline primary control system each year for POM primary emissions using the procedures and methods in §§ 63.847 and 63.849. The owner or operator shall combine the results of secondary POM average emissions with the POM results for the primary control system and divide total emissions by total aluminum production.

(3) Semiannual average emissions of PM shall not exceed the applicable emission limit in Table 3 of this subpart. The emission rate shall be calculated based on the total primary and secondary emissions from all potlines comprising the potline group over the period divided by the quantity of aluminum produced during the period, from all potlines comprising the averaging group. To determine compliance with the applicable emission limit in Table 3 of this subpart for PM emissions, the owner or operator shall determine the average emissions (in lb/ton) from each potline from at least three runs per potline semiannually for PM secondary emissions and at least three runs per potline primary control system each year for PM primary emissions using the procedures and methods in §§ 63.847 and 63.849. The owner or operator shall combine the results of secondary PM average emissions with the PM results for the primary control system and divide total emissions by total aluminum production.

(c) *Anode bake furnaces.* The owner or operator may average TF emissions from anode bake furnaces and demonstrate compliance with the limits in Table 4 of this subpart using the procedures in paragraphs (c)(1) and (2) of this section. The owner or operator also may average POM emissions from anode bake furnaces and demonstrate compliance with the limits in Table 4 of this subpart using the procedures in paragraphs (c)(1) and (2) of this section. The owner or operator also may average

PM emissions from anode bake furnaces and demonstrate compliance with the limits in Table 4 of this subpart using the procedures in paragraphs (c)(1) and (2) of this section.

(1) Annual emissions of TF, POM and/or PM from a given number of anode bake furnaces making up each averaging group shall not exceed the applicable emission limit in Table 4 of this subpart in any one year; and

(2) To determine compliance with the applicable emission limit in Table 4 of this subpart for anode bake furnaces, the owner or operator shall determine TF, POM and/or PM emissions from the control device for each anode bake furnace at least once each year using the procedures and methods in §§ 63.847 and 63.849.

(d) * * *

(2) * * *

(ii) The assigned TF, POM and/or PM emission limit for each averaging group of potlines and/or anode bake furnaces;

(iii) The specific control technologies or pollution prevention measures to be used for each emission source in the averaging group and the date of its installation or application. If the pollution prevention measures reduce or eliminate emissions from multiple sources, the owner or operator must identify each source;

(iv) The test plan for the measurement of TF, POM and/or PM emissions in accordance with the requirements in § 63.847(b);

* * * * *

(4) * * *

(i) Any averaging between emissions of differing pollutants or between differing sources. Emission averaging shall not be allowed between TF, POM and/or PM, and emission averaging shall not be allowed between potlines and anode bake furnaces;

(ii) The inclusion of any emission source other than an existing potline or existing anode bake furnace or the inclusion of any potline or anode bake furnace not subject to the same operating permit; or

(iii) The inclusion of any potline or anode bake furnace while it is shut down, in the emission calculations.

* * * * *

■ 9. Section 63.847 is amended by:

■ a. Revising paragraph (a) introductory text, and paragraphs (a)(1) and (a)(2);

■ b. Removing and reserving paragraph (a)(3);

■ c. Adding paragraphs (a)(5) through (9);

■ d. Removing and reserving paragraph (b)(6);

■ e. Revising paragraph (c) introductory text, paragraph (c)(1), and paragraph (c)(2) introductory text;

■ f. Adding paragraph (c)(2)(iv);

■ g. Revising paragraph (c)(3) introductory text;

■ h. Adding paragraphs (c)(3)(iii) and (iv);

■ i. Revising paragraph (d) introductory text and paragraph (d)(1);

■ j. Removing and reserving paragraph (d)(2);

■ k. Revising paragraph (d)(4);

■ l. Adding paragraphs (d)(5) through (7);

■ m. Revising paragraph (e) introductory text, and paragraph (e)(1);

■ n. Removing and reserving paragraph (e)(2);

■ o. Revising paragraphs (e)(3) and (e)(4);

■ p. Adding paragraph (e)(8);

■ q. Revising paragraph (f);

■ r. Revising paragraph (g) introductory text, and paragraphs (g)(2)(ii) and (iv);

■ s. Adding and reserving paragraph (i); and

■ t. Adding paragraphs (j), (k), (l) and (m).

The revisions and additions read as follows:

§ 63.847 Compliance provisions.

(a) *Compliance dates.* The owner operator of a primary aluminum reduction plant must comply with the requirements of this subpart by the applicable compliance date in paragraph (a)(1), (a)(2) or (a)(4) of this section:

(1) Except as noted in paragraph (a)(2) of this section, the compliance date for an owner or operator of an existing plant or source subject to the provisions of this subpart is October 7, 1999.

(2) The compliance dates for existing plants and sources are:

(i) October 15, 2015 for the malfunction provisions of § 63.850(d)(2) and (e)(4)(xvi) and (xvii) and the electronic reporting provisions of § 63.850(b), (c) and (f) which became effective October 15, 2015.

(ii) October 17, 2016 for potline work practice standards in § 63.854 and COS emission limit provisions of § 63.843(e); for anode bake furnace startup practices in § 63.847(l) and PM emission limits in § 63.843(c)(3); for Soderberg potline PM and PCB emission limits in § 63.843(a)(3)(v) and (a)(6); and for paste production plant startup practices in § 63.847(m) and PM emission limits in § 63.843(b)(4) which became effective October 15, 2015.

(iii) October 16, 2017 for prebake potline POM emission limits in § 63.843(a)(2)(iv) through (vii); for Soderberg potline POM, As and Ni emission limits in §§ 63.843(a)(2)(iii), (a)(4) and (5); for prebake potline PM emission limits in § 63.843(a)(3); for anode bake furnace Hg emission limits in § 63.843(c)(4); and for the pitch storage tank POM limit provisions of § 63.843(d) which became effective October 15, 2015.

(3) [Reserved]

* * * * *

(5) Except as provided in paragraphs (a)(6) and (7) of this section, a new affected source is one for which construction or reconstruction commenced after September 26, 1996.

(6) For the purposes of compliance with the emission standards for PM, a new affected potline, anode bake furnace or paste production plant is one for which construction or reconstruction commenced after December 8, 2014.

(7) For the purposes of compliance with the emission standards for POM and COS, a new affected prebake potline is one for which construction or reconstruction commenced after December 8, 2014.

(8) For the purposes of compliance with the emission standards for As, Ni and POM, a new affected Soderberg potline is one for which construction or reconstruction commenced after December 8, 2014.

(9) For the purposes of compliance with the emission standards for Hg, a new affected anode bake furnace is one for which construction or reconstruction commenced after December 8, 2014.

* * * * *

(b) * * *

(6) [Reserved]

* * * * *

(c) Following approval of the site-specific test plan, the owner or operator must conduct a performance test to demonstrate initial compliance according to the procedures in paragraph (d) of this section. If a performance test has been conducted on the primary control system for potlines, the anode bake furnace, the paste production plant, or (if applicable) the pitch storage tank control device within the 12 months prior to the compliance date, the results of that performance test may be used to demonstrate initial compliance. The owner or operator must conduct the performance test:

(1) During the first month following the compliance date for an existing potline (or potroom group), anode bake furnace, paste production plant or pitch storage tank.

(2) By the date determined according to the requirements in paragraph (c)(2)(i), (ii), (iii), or (iv) of this section for a new or reconstructed potline, anode bake furnace, or pitch storage tank (for which the owner or operator

elects to conduct an initial performance test):

* * * * *

(iv) By the 30th day following startup of a paste production plant. The 30-day period starts when the paste production plant produces green anodes.

(3) By the date determined according to the requirements in paragraph (c)(3)(i), (ii), (iii) or (iv) of this section for an existing potline, anode bake furnace, paste production plant, or pitch storage tank that was shut down at the time compliance would have otherwise been required and is subsequently restarted:

* * * * *

(iii) By the 30th day following startup of a paste production plant. The 30-day period starts when the paste production plant produces green anodes.

(iv) By the 30th day following startup for a pitch storage tank. The 30-day period starts when the tank is first used to store pitch.

(d) *Performance test requirements.* The initial performance test and all subsequent performance tests must be conducted in accordance with the applicable requirements of the general provisions in subpart A of this part, the approved test plan and the procedures in this section. Performance tests must be conducted under such conditions as the Administrator specifies to the owner or operator based on representative performance of the affected source for the period being tested. Upon request, the owner or operator must make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(1) *TF, POM and PM emissions from potlines.* For each potline, the owner or operator shall measure and record the emission rates of TF, POM and PM exiting the outlet of the primary control system and the rate of secondary emissions exiting through each roof monitor, or for a plant with roof scrubbers, exiting through the scrubbers. Using the equation in paragraph (e)(1) of this section, the owner or operator shall compute and record the average of at least three runs semiannually for secondary emissions and at least three runs each year for the primary control system to determine compliance with the applicable emission limit. Compliance is demonstrated when the emission rates of TF, POM, and PM are equal to or less than the applicable emission limits in § 63.843, § 63.844, or § 63.846.

(2) [Reserved]

* * * * *

(4) *TF, POM, PM and Hg emissions from anode bake furnaces.* For each anode bake furnace, the owner or operator shall measure and record the emission rate of TF, POM, PM and Hg exiting the exhaust stacks(s) of the primary emission control system. In accordance with paragraphs (e)(3) and (4) of this section, the owner or operator shall compute and record the average of at least three runs each year to determine compliance with the applicable emission limits for TF, POM, PM and Hg. Compliance is demonstrated when the emission rates of TF, POM, PM and Hg are equal to or less than the applicable TF, POM, PM and Hg emission limits in § 63.843, § 63.844 or § 63.846.

(5) *Nickel emissions from VSS2 Potlines and new Soderberg potlines.* (i) For each VSS2 potline, and for each new Soderberg potline, the owner or operator must measure and record the emission rate of nickel exiting the primary emission control system and the rate of secondary emissions of nickel exiting through each roof monitor, or for a plant with roof scrubbers, exiting through the scrubbers. Using the equation in paragraph (e)(1) of this section, the owner or operator must compute and record the average of at least three runs each year for secondary emissions and at least three runs each year for primary emissions.

(ii) Compliance is demonstrated when the emissions of nickel are equal to or less than the applicable emission limit in § 63.843(a)(4) or § 63.844(a)(4).

(6) *Arsenic emissions from VSS2 Potlines and from new Soderberg potlines.* (i) For each VSS2 potline, and for each new Soderberg potline, the owner or operator must measure and record the emission rate of arsenic exiting the primary emission control system and the rate of secondary emissions of arsenic exiting through each roof monitor, or for a plant with roof scrubbers, exiting through the scrubbers. Using the equation in paragraph (e)(1) of this section, the owner or operator must compute and record the average of at least three runs each year for secondary emissions and at least three runs each year for primary emissions.

(ii) Compliance is demonstrated when the emissions of arsenic are equal to or less than the applicable emission limit in § 63.843(a)(5) or § 63.844(a)(5).

(7) *PCB emissions from VSS2 Potlines and from new Soderberg potlines.* (i) For each VSS2 potline, and for each new Soderberg potline, the owner or operator must measure and record the emission rate of PCB exiting the primary emission control system and the rate of secondary emissions of PCB exiting through each roof monitor, or for a plant with roof scrubbers, exiting through the scrubbers. Using the equation in paragraph (e)(1) of this section, the owner or operator must compute and record the average of at least three runs each year for secondary emissions and at least three runs each year for primary emissions.

(ii) Compliance is demonstrated when the emissions of PCB are equal to or less than the applicable emission limit in § 63.843(a)(6) or § 63.844(a)(6).

(e) The owner or operator shall determine compliance with the applicable TF, POM, PM, nickel, arsenic or PCB emission limits using the following equations and procedures:

(1) Compute the emission rate (E_p) of TF, POM, PM, nickel, arsenic or PCB from each potline using Equation 1:

$$E_p = \frac{\left[\left(C_{s1} \times Q_{sd}\right)_1 + \left(C_{s2} \times Q_{sd}\right)_2\right]}{\left(P \times K\right)} \qquad (Equation\ 1)$$

Where:

E_p = emission rate of TF, POM, PM, nickel or arsenic from a potline, kg/Mg (lb/ton) (or µg TEQ/ton for PCB);

C_{s1} = concentration of TF, POM, PM, nickel or arsenic from the primary control system, mg/dscm (mg/dscf) (or µg TEQ/dscf for PCB);

Q_{sd} = volumetric flow rate of effluent gas corresponding to the appropriate subscript location, dscm/hr (dscf/hr);

C_{s2} = concentration of TF, POM, PM, nickel or arsenic as measured for roof monitor emissions, mg/dscm (mg/dscf) (or µg TEQ/dscf for PCB);

P = aluminum production rate, Mg/hr (ton/hr);

K = conversion factor, 10^6 mg/kg (453,600 mg/lb) for TF, POM, PM, nickel or arsenic (= 1 for PCB);

1 = subscript for primary control system effluent gas; and

2 = subscript for secondary control system or roof monitor effluent gas.

(2) [Reserved]

(3) Compute the emission rate (E_b) of TF, POM or PM from each anode bake furnace using Equation 2,

$$E_b = \frac{(C_s \times Q_{sd})}{(P_b \times K)} \qquad (Equation\ 2)$$

Where:

E_b = emission rate of TF, POM or PM, kg/mg (lb/ton) of green anodes;
C_s = concentration of TF, POM or PM, mg/dscm (mg/dscf);
Q_{sd} = volumetric flow rate of effluent gas, dscm/hr (dscf/hr);
P_b = quantity of green anode material placed in the furnace, mg/hr (ton/hr); and
K = conversion factor, 10^6 mg/kg (453,600 mg/lb).

(4) Compliance with the anode bake furnace Hg emission standard is demonstrated if the Hg concentration of the exhaust from the anode bake furnace control device is equal to or less than the applicable concentration standard in § 63.843(c)(4) or § 63.844(c)(4).

* * * * *

(8) Compute the emission rate (E_{PMpp}) of PM from each paste production plant using Equation 3,

$$E_{PMpp} = \frac{(C_s \times Q_{sd})}{(P_b \times K)} \qquad Equation\ 3$$

Where:

E_{PMpp} = emission rate of PM, kg/mg (lb/ton) of green anode material exiting the paste production plant;
C_s = concentration of PM, mg/dscm (mg/dscf);
Q_{sd} = volumetric flow rate of effluent gas, dscm/hr (dscf/hr);
P_b = quantity of green anode material exiting the paste production plant, mg/hr (ton/hr); and
K = conversion factor, 10^6 mg/kg (453,600 mg/lb).

(f) *Paste production plants.* (1) Initial compliance with the POM standards for existing and new paste production plants in §§ 63.843(b) and 63.844(b) will be demonstrated through site inspection(s) and review of site records by the applicable regulatory authority.

(2) For each paste production plant, the owner or operator shall measure and record the emission rate of PM exiting the exhaust stacks(s) of the primary emission control system. Using the equation in paragraph (e)(8) of this section, the owner or operator shall compute and record the average of at least three runs each year to determine compliance with the applicable emission limits for PM. Compliance with the PM standards for existing and new paste production plants is demonstrated when the PM emission rates are less than or equal to the applicable PM emission limits in §§ 63.843(b)(4) and 63.844(b)(2).

(g) *Pitch storage tanks.* The owner or operator must demonstrate initial compliance with the standard for pitch storage tanks in §§ 63.843(d) and 63.844(d) by preparing a design evaluation or by conducting a performance test. The owner or operator must submit for approval by the regulatory authority the information specified in paragraph (g)(1) of this section, along with the information specified in paragraph (g)(2) of this section where a design evaluation is performed or the information specified in paragraph (g)(3) of this section where a performance test is conducted.

* * * * *

(2) * * *

(ii) If an enclosed combustion device with a minimum residence time of 0.5 seconds and a minimum temperature of 760 degrees C (1,400 degrees F) is used to meet the emission reduction requirement specified in § 63.843(d) and § 63.844(d), documentation that those conditions exist is sufficient to meet the requirements of § 63.843(d) and § 63.844(d);

* * * * *

(iv) If the pitch storage tank is vented to the emission control system installed for control of emissions from the paste production plant pursuant to § 63.843(b) or § 63.844(b)(1), documentation of compliance with the requirements of § 63.843(b) is sufficient to meet the requirements of § 63.843(d) or § 63.844(d);

* * * * *

(i) [Reserved]

(j) *Carbonyl sulfide (COS) emissions.* The owner operator must calculate, for each potline, the emission rate of COS for each calendar month of operation using Equation 4:

$$E_{COS} = [K] \times \left[\frac{Y}{Z}\right] \times [S] \quad \cdots (Equation\ 4)$$

Where:

E_{COS} = the emission rate of COS during the calendar month, pounds per ton of aluminum produced;
K = factor accounting for molecular weights and conversion of sulfur to carbonyl sulfide = 234;
Y = the mass of anode consumed in the potline during the calendar month, tons;
Z = the mass of aluminum produced by the potline during the calendar month, tons; and
S = the weighted average fraction of sulfur in the anode coke consumed in the production of aluminum during the calendar month (*e.g.,* if the weighted average sulfur content of the anode coke consumed during the calendar month was 2.5 percent, then S = 0.025). The weight of anode coke used during the calendar month of each different concentration of sulfur is used to calculate the overall weighted average fraction of sulfur.

Compliance is demonstrated if the calculated value of E_{COS} is less than the applicable standard for COS emissions in §§ 63.843(e) and 63.844(e).

(k) *Startup of potlines.* The owner or operator must develop a written startup

plan as described in § 63.854(b) that contains specific procedures to be followed during startup periods of potline(s). Compliance with the applicable standards in § 63.854(b) will be demonstrated through site inspection(s) and review of site records by the regulatory authority.

(l) *Startup of anode bake furnaces.* The owner or operator must develop a written startup plan as described in paragraphs (l)(1) through (4) of this section, to be followed during startup periods of bake furnaces. Compliance with the startup plan will be demonstrated through site inspection(s) and review of site records by the regulatory authority. The written startup plan must contain specific procedures to be followed during startup periods of anode bake furnaces, including the following:

(1) A requirement to develop an anode bake furnace startup schedule.

(2) Records of time, date, duration of anode bake furnace startup and any nonroutine actions taken during startup of the furnaces.

(3) A requirement that the associated emission control system be operating within normal parametric limits prior to startup of the anode bake furnace.

(4) A requirement to take immediate actions to stop the startup process as soon as practicable and continue to comply with § 63.843(f) or § 63.844(f) if the associated emission control system is off line at any time during startup. The anode bake furnace restart may resume once the associated emission control system is back on line and operating within normal parametric limits.

(m) *Startup of paste production plants.* The owner or operator must develop a written startup plan as described in paragraphs (m)(1) through (3) of this section, to be followed during startup periods for paste production plants. Compliance with the startup plan will be demonstrated through site inspection(s) and review of site records by the regulatory authority. The written startup plan must contain specific procedures to be followed during startup periods of paste production plants, including the following:

(1) Records of time, date, duration of paste production plant startup and any nonroutine actions taken during startup of the paste production plants.

(2) A requirement that the associated emission control system be operating within normal parametric limits prior to startup of the paste production plant.

(3) A requirement to take immediate actions to stop the startup process as soon as practicable and continue to comply with § 63.843(f) or § 63.844(f) if the associated emission control system is off line at any time during startup. The paste production plant restart may resume once the associated emission control system is back on line and operating within normal parametric limits.

■ 10. Section 63.848 is amended by:
■ a. Revising paragraphs (a), (b), (c), (d) introductory text, (d)(1)(ii), and (d)(7);
■ b. Removing and reserving paragraph (e);
■ c. Adding paragraphs (f)(6) and (7);
■ d. Revising paragraph (g); and
■ e. Adding paragraphs (n), (o) and (p).

The revisions and additions read as follows:

§ 63.848 Emission monitoring requirements.

(a) *TF and PM emissions from potlines.* Using the procedures in § 63.847 and in the approved test plan, the owner or operator shall monitor emissions of TF and PM from each potline by conducting annual performance tests on the primary control system and semiannual performance tests on the secondary emissions. The owner or operator shall compute and record the average semiannually from at least three runs for secondary emissions and the average from at least three runs for the primary control system to determine compliance with the applicable emission limit. The owner or operator must include all valid runs in the semiannual average. The duration of each run for secondary emissions must represent a complete operating cycle. Potline emissions shall be recorded as the sum of the average of at least three runs from the primary control system and the average of at least three runs from the roof monitor or secondary emissions control device.

(b) *POM emissions from potlines.* Using the procedures in § 63.847 and in the approved test plan, the owner or operator must monitor emissions of POM from each potline stack annually and secondary potline POM emissions semiannually. The owner or operator must compute and record the semiannual average from at least three runs for secondary emissions and at least three runs for the primary control systems to determine compliance with the applicable emission limit. The owner or operator must include all valid runs in the semiannual average. The duration of each run for secondary emissions must represent a complete operating cycle. The primary control system must be sampled over an 8-hour period, unless site-specific factors dictate an alternative sampling time subject to the approval of the regulatory authority. Potline emissions shall be recorded as the sum of the average of at least three runs from the primary control system and the average of at least three runs from the roof monitor or secondary emissions control device.

(c) *TF, PM, Hg and POM emissions from anode bake furnaces.* Using the procedures in § 63.847 and in the approved test plan, the owner or operator shall determine TF, PM, Hg and POM emissions from each anode bake furnace on an annual basis. The owner or operator shall compute and record the annual average of TF, PM, Hg and POM emissions from at least three runs to determine compliance with the applicable emission limits. A minimum of four dscm per run must be collected for monitoring of Hg emissions. The owner or operator must include all valid runs in the annual average.

(d) *Similar potlines.* As an alternative to semiannual monitoring of TF, POM or PM secondary emissions from each potline using the methods in § 63.849, the owner or operator may perform semiannual monitoring of TF, POM or PM secondary emissions from one potline using the test methods in § 63.849(a) or (b) to represent the performance of similar potline(s). The similar potline(s) must be monitored using an alternative method that meets the requirements of paragraphs (d)(1) through (7) of this section. Two or more potlines are similar if the owner or operator demonstrates that their structure, operability, type of emissions, volume of emissions and concentration of emissions are substantially equivalent.

(1) * * *

(ii) For TF, POM and PM emissions, must meet or exceed Method 14 criteria.

* * * * *

(7) If the alternative method is approved by the applicable regulatory authority, the owner or operator must perform semiannual emission monitoring using the approved alternative monitoring procedure to demonstrate compliance with the alternative emission limit for each similar potline.

(e) [Reserved]

(f) * * *

(6) For emission sources control device exhaust streams for which the owner or operator chooses to demonstrate continuous compliance through bag leak detection systems you must install and operate a bag leak detection system according to the requirements in paragraph (o) of this section, and you must set your operating limit such that the sum of the durations of bag leak detection system alarms does not exceed 5 percent of the process operating time during a 6-month period.

(7) For emission sources control device exhaust streams for which the owner or operator chooses to demonstrate continuous compliance through a PM CEMS, you must install and operate a PM CEMS according to the requirements in paragraph (p) of this section. You must determine continuous compliance averaged on a rolling 30 operating day basis, updated at the end of each new operating day. All valid hours of data from 30 successive operating days shall be included in the arithmetic average. Compliance is demonstrated when the 30 operating day PM emissions are equal to or less than the applicable emission limits in § 63.843, § 63.844, or § 63.846.

(g) The owner or operator of a new or reconstructed affected source that is subject to a PM limit shall comply with the requirements of either paragraph (f)(6) or (7) of this section. The owner or operator of an existing affected source that is equipped with a control device and is subject to a PM limit shall:

(1) Install and operate a bag leak detection system in accordance with paragraph (f)(6) of this section; or

(2) Install and operate a PM CEMS in accordance with paragraph (f)(7) of this section; or

(3) Visually inspect the exhaust stack(s) of each fabric filter using Method 22 on a twice daily basis (at least 4 hours apart) for evidence of any visible emissions indicating abnormal operations and, must initiate corrective actions within 1 hour of a visible emissions inspection that indicates abnormal operation. Corrective actions shall include, at a minimum, isolating, shutting down and conducting an internal inspection of the baghouse compartment that is the source of the visible emissions that indicate abnormal operations.

* * * * *

(n) *PM emissions from paste production plants.* Using the procedures in § 63.847 and in the approved test plan, the owner or operator shall monitor PM emissions from each paste production plant on an annual basis. The owner or operator shall compute and record the annual average of PM emissions from at least three runs to determine compliance with the applicable emission limits. The owner or operator must include all valid runs in the annual average.

(o) *Bag leak detection system.* For each new affected source subject to a PM emissions limit, you must install, operate and maintain a bag leak detection system according to paragraphs (o)(1) through (3) of this section, unless a system meeting the requirements of paragraph (p) of this section, for a CEMS, is installed for monitoring the concentration of PM.

(1) You must develop and implement written procedures for control device maintenance that include, at a minimum, a preventative maintenance schedule that is consistent with the control device manufacturer's instructions for routine and long-term maintenance.

(2) Each bag leak detection system must meet the specifications and requirements in paragraphs (o)(2)(i) through (viii) of this section.

(i) The bag leak detection system must be certified by the manufacturer to be capable of detecting PM emissions at concentrations of 1.0 milligram per dry standard cubic meter (0.00044 grains per actual cubic foot) or less.

(ii) The bag leak detection system sensor must provide output of relative PM loadings.

(iii) The bag leak detection system must be equipped with an alarm system that will alarm when an increase in relative particulate loadings is detected over a preset level.

(iv) You must install, calibrate, operate and maintain the bag leak detection system according to the manufacturer's written specifications and recommendations.

(v) The initial adjustment of the system must, at a minimum, consist of establishing the baseline output by adjusting the sensitivity (range) and the averaging period of the device and establishing the alarm set points and the alarm delay time.

(vi) Following initial adjustment, you must not adjust the sensitivity or range, averaging period, alarm set points, or alarm delay time, except in accordance with the procedures developed under paragraph (o)(1) of this section. You cannot increase the sensitivity by more than 100 percent or decrease the sensitivity by more than 50 percent over a 365-day period unless such adjustment follows a complete PM control device inspection that demonstrates that the PM control device is in good operating condition.

(vii) You must install the bag leak detector downstream of the PM control device.

(viii) Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

(3) You must include in the written procedures required by paragraph (o)(1) of this section a corrective action plan that specifies the procedures to be followed in the case of a bag leak detection system alarm. The corrective action plan must include, at a minimum, the procedures that you will use to determine and record the time and cause of the alarm as well as the corrective actions taken to minimize emissions as specified in paragraphs (o)(3)(i) and (ii) of this section.

(i) The procedures used to determine the cause of the alarm must be initiated within 1 hour of the alarm.

(ii) The cause of the alarm must be alleviated by taking the necessary corrective action(s) that may include, but not be limited to, those listed in paragraphs (o)(3)(ii)(A) through (F) of this section.

(A) Inspecting the PM control device for air leaks, torn or broken filter elements, or any other malfunction that may cause an increase in emissions.

(B) Sealing off defective bags or filter media.

(C) Replacing defective bags or filter media, or otherwise repairing the control device.

(D) Sealing off a defective baghouse compartment.

(E) Cleaning the bag leak detection system probe, or otherwise repairing the bag leak detection system.

(F) Shutting down the process producing the particulate emissions.

(p) *Particulate Matter CEMS.* If you are using a CEMS to measure particulate matter emissions to meet requirements of this subpart, you must install, certify, operate and maintain the particulate matter CEMS as specified in paragraphs (p)(1) through (4) of this section.

(1) You must conduct a performance evaluation of the PM CEMS according to the applicable requirements of § 60.13, and Performance Specification 11 at 40 CFR part 60, Appendix B of this chapter.

(2) During each PM correlation testing run of the CEMS required by Performance Specification 11 at 40 CFR part 60, Appendix B of this chapter, collect data concurrently by both the CEMS and by conducting performance tests using Method 5, 5D or 5I at 40 CFR part 60, Appendix A–3.

(3) Operate and maintain the CEMS in accordance with Procedure 2 at 40 CFR part 60, Appendix F of this chapter. Relative Response Audits must be performed annually and Response Correlation Audits must be performed every three years.

■ 11. Section 63.849 is amended by:

■ a. Revising paragraph (a) introductory text, and paragraphs (a)(6) and (a)(7); and

■ b. Adding paragraphs (a)(8) through (14), and (f).

The revisions and additions read as follows:

§ 63.849 Test methods and procedures.

(a) The owner or operator shall use the following reference methods to determine compliance with the applicable emission limits for TF, POM, PM, Ni, As, Hg, PCB and conduct visible emissions observations:

* * * * *

(6) Method 315 in appendix A to this part or an approved alternative method for the concentration of POM where stack or duct emissions are sampled;

(7) Method 315 in appendix A to this part and Method 14 or 14A in appendix A to part 60 of this chapter or an approved alternative method for the concentration of POM where emissions are sampled from roof monitors not employing wet roof scrubbers. Method 315 need not be set up as required in the method. Instead, when using Method 14A, replace the Method 14A monitor cassette filter with the filter specified by Method 315. Recover and analyze the filter according to Method 315. When using Method 14, test at ambient conditions, do not heat the filter and probe, and do not analyze the back half of the sampling train;

(8) Method 5 in appendix A to part 60 of this chapter or an approved alternative method for the concentration of PM where stack or duct emissions are sampled;

(9) Method 17 and Method 14 or Method 14A in appendix A to part 60 of this chapter or an approved alternative method for the concentration of PM where emissions are sampled from roof monitors not employing wet roof scrubbers. Method 17 need not be set up as required in the method. Instead, when using Method 14A, replace the Method 14A monitor cassette filter with the filter specified by Method 17. Recover and analyze the filter according to Method 17. When using Method 14, test at ambient conditions, do not heat the filter and probe, and do not analyze the back half of the sampling train;

(10) Method 29 in appendix A to part 60 of this chapter or an approved alternative method for the concentration of mercury, nickel and arsenic where stack or duct emissions are sampled;

(11) Method 29 and Method 14 or Method 14A in appendix A to part 60 of this chapter or an approved alternative method for the concentration of nickel and arsenic where emissions are sampled from roof monitors not employing wet roof scrubbers. Method 29 need not be set up as required in the method. Instead, replace the Method 14A monitor cassette filter with the filter specified by Method 29. Recover and analyze the filter according to Method 29. When using Method 14, test at ambient conditions, do not heat the filter and probe, and do not analyze the back half of the sampling train;

(12) Method 22 in Appendix A to part 60 of this chapter or an approved alternative method for determination of visual emissions;

(13) Method 428 of the California Air Resources Board (incorporated by reference; see § 63.14) for the measurement of PCB where stack or duct emissions are sampled; and

(14) Method 428 of the California Air Resources Board (incorporated by reference; see § 63.14) and Method 14 or Method 14A in appendix A to part 60 of this chapter or an approved alternative method for the concentration of PCB where emissions are sampled from roof monitors not employing wet roof scrubbers.

* * * * *

(f) The owner or operator must use either ASTM D4239–14e1 or ASTM D6376–10 (incorporated by reference; see § 63.14) for determination of the sulfur content in anode coke shipments to determine compliance with the applicable emission limit for COS emissions.

■ 12. Section 63.850 is amended by:

■ a. Revising paragraphs (b), (c), and (d);

■ b. Removing and reserving paragraph (e)(4)(iii);

■ c. Revising paragraphs (e)(4)(xiv) and (e)(4)(xv); and

■ d. Adding paragraphs (e)(4)(xvi), (e)(4)(xvii) and (f).

The revisions and additions read as follows:

§ 63.850 Notification, reporting and recordkeeping requirements.

* * * * *

(b) *Performance test reports.* Within 60 days after the date of completing each performance test (as defined in § 63.2) required by this subpart, you must submit the results of the performance tests following the procedure specified in either paragraph (b)(1) or (b)(2) of this section.

(1) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (*http://www.epa.gov/ttn/chief/ert/index.html*) at the time of the test, you must submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/epa_home.asp*). Performance test data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit performance test data in an electronic file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT Web site once the XML schema is available. If you claim that some of the performance test information being submitted is confidential business information (CBI), you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(2) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the test, you must submit the results of the performance test to the Administrator at the appropriate address listed in § 63.13.

(3) For data collected which requires summation of results from both ERT and non-ERT supported test methods in order to demonstrate compliance with an emission limit, you must submit the results of the performance test(s) used to demonstrate compliance with that emission limit to the Administrator at the appropriate address listed in § 63.13.

(c) *Performance evaluation reports.* Within 60 days after the date of completing each continuous emissions monitoring system performance evaluation (as defined in § 63.2), you must submit the results of the performance evaluation following the procedure specified in either paragraph (c)(1) or (2) of this section.

(1) For performance evaluations of continuous monitoring systems measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the test, you must submit the results of the performance evaluation to the EPA via the CEDRI. (CEDRI can be accessed through the EPA's CDX.) Performance evaluation data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit performance evaluation data in an electronic file format consistent with the XML schema listed on the EPA's ERT Web site once the XML schema is available. If you claim that some of the

performance evaluation information being transmitted is CBI, you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic storage media must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(2) For any performance evaluations of continuous monitoring systems measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the test, you must submit the results of the performance evaluation to the Administrator at the appropriate address listed in § 63.13.

(d) *Reporting.* In addition to the information required under § 63.10 of the General Provisions, the owner or operator must provide semiannual reports containing the information specified in paragraphs (d)(1) and (2) of this section to the Administrator or designated authority.

(1) Excess emissions report. As required by § 63.10(e)(3), the owner or operator must submit a report (or a summary report) if measured emissions are in excess of the applicable standard. The report must contain the information specified in § 63.10(e)(3)(v) and be submitted semiannually unless quarterly reports are required as a result of excess emissions.

(2) If there was a malfunction during the reporting period, the owner or operator must submit a report that includes the number, duration and a brief description for each type of malfunction which occurred during the reporting period and which caused or may have caused any applicable emission limitation to be exceeded. The report must also include a description of actions taken by an owner or operator during a malfunction of an affected source to minimize emissions in accordance with §§ 63.843(f) and 63.844(f), including actions taken to correct a malfunction.

(e) * * *

(4) * * *

(iii) [Reserved]

* * * * *

(xiv) Records documenting any POM data that are invalidated due to the installation and startup of a cathode;

(xv) Records documenting the portion of TF that is measured as particulate matter and the portion that is measured as gaseous when the particulate and gaseous fractions are quantified separately using an approved test method;

(xvi) Records of the occurrence and duration of each malfunction of operation (*i.e.* process equipment) or the air pollution control equipment and monitoring equipment; and

(xvii) Records of actions taken during periods of malfunction to minimize emissions in accordance with §§ 63.843(f) and 63.844(f), including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation.

(f) All reports required by this subpart not subject to the requirements in paragraph (b) or (c) of this section must be sent to the Administrator at the appropriate address listed in § 63.13. If acceptable to both the Administrator and the owner or operator of a source, these reports may be submitted on electronic media. The Administrator retains the right to require submittal of reports subject to paragraph (b) of this section in paper format.

■ 13. Section 63.854 is added to read as follows:

§ 63.854 Work practice standards for potlines.

(a) *Periods of operation other than startup.* If you own or operate a new or existing primary aluminum reduction affected source, you must comply with the requirements of paragraphs (a)(1) through (8) of this section during periods of operation other than startup.

(1) Ensure the potline scrubbers and exhaust fans are operational at all times.

(2) Ensure that the primary capture and control system is operating at all times.

(3) Hood covers should be replaced as soon as possible after each potroom operation.

(4) Inspect potlines daily and perform the work practices specified in paragraphs (a)(4)(i) through (iii) of this section.

(i) Identify unstable pots as soon as practicable but in no case more than 12 hours from the time the pot became unstable;

(ii) Reduce cell temperatures to as low as practicable, and follow the written operating plan described in paragraph (b)(4) of this section if the cell temperature exceeds the specified high temperature limit; and

(iii) Reseal pot crusts that have been broken as often and as soon as practicable.

(5) Ensure that hood covers fit properly and are in good condition.

(6) If the exhaust system is equipped with an adjustable damper system, the hood exhaust rate for individual pots must be increased whenever hood covers are removed from a pot, provided that the exhaust system will not be overloaded by placing too many pots on high exhaust.

(7) Dust entrainment must be minimized during material handling operations and sweeping of the working aisles.

(8) Only tapping crucibles with functional aspirator air return systems (for returning gases under the collection hooding) can be used, unless the regulatory authority approves an alternative tapping crucible.

(b) *Periods of startup.* If you own or operate a new or existing primary aluminum reduction affected source, you must comply with the requirements of paragraphs (a)(1) through (8) and (b)(1) through (4) of this section during periods of startup for each affected potline.

(1) Develop a potline startup schedule before starting up the potline.

(2) Keep records of the number of pots started each day.

(3) Inspect potlines daily and adjust pot parameters to their optimum levels, as specified in the operating plan described in paragraph (b)(4) of this section, including, but not limited to: alumina addition rate, exhaust air flow rate, cell voltage, feeding level, anode current and liquid and solid bath levels.

(4) Prepare a written operating plan to minimize emissions during startup to include, but not limited to, the requirements in (b)(1) through (3) of this section. The operating plan must include a specified high temperature limit for pots that will trigger corrective action.

■ 14. Section 63.855 is added to read as follows:

§ 63.855 Alternative emissions limits for co-controlled new and existing anode bake furnaces.

(a) *Applicability.* The owner or operator of a new anode bake furnace meeting the criteria of paragraphs (a)(1) and (2) of this section may demonstrate compliance with alternative TF and POM emission limits according to the procedures of this section.

(1) The new anode bake furnace must have been permitted to operate prior to May 1, 1998; and

(2) The new anode bake furnace must share a common control device with one or more existing anode bake furnaces.

(b) *TF emission limit.* (1) Prior to the date on which each TF emission test is required to be conducted, the owner or operator must determine the applicable TF emission limit using Equation 6–A,

$$L_{TFC} = \left[\left(L_{TFE} \times P_E\right) + \left(0.018 \times P_N\right)\right] / \left(P_E + P_N\right) \qquad Eq.\ 6\text{-}A$$

Where:

L_{TFC} = Combined emission limit for TF, lb/ton green anode material placed in the bake furnace;

L_{TFE} = TF limit for emission averaging for the total number of new and existing anode bake furnaces from Table 4 to this subpart;

P_E = Mass of green anode placed in existing anode bake furnaces in the twelve months preceding the compliance test, ton/year; and

P_N = Mass of green anode placed in new anode bake furnaces in the twelve months preceding the compliance test, ton/year.

(2) The owner or operator of a new anode bake furnace that is controlled by a control device that also controls emissions of TF from one or more existing anode bake furnaces must not discharge, or cause to be discharged into the atmosphere, any emissions of TF in excess of the emission limits established in paragraph (b)(1) of this section.

(c) *POM emission limits.* (1) Prior to the date on which each POM emission test is required to be conducted, the owner or operator must determine the applicable POM emission limit using Equation 6–B,

$$L_{POMC} = \left[\left(0.17 \times P_E\right) + \left(0.045 \times P_N\right)\right] / \left(P_E + P_N\right) \qquad Eq.\ 6\text{-}B$$

Where:

L_{POMC} = Combined emission limit for POM, lb/ton green anode material placed in the bake furnace.

(2) The owner or operator of a new anode bake furnace that is controlled by a control device that also controls emissions of POM from one or more existing anode bake furnaces must not discharge, or cause to be discharged into the atmosphere, any emissions of TF in excess of the emission limits established in paragraph (c)(1) of this section.

■ 15. Table 1 to Subpart LL of Part 63 is revised to read as follows:

TABLE 1 TO SUBPART LL OF PART 63—POTLINE TF LIMITS FOR EMISSION AVERAGING

Type	Semiannual TF limit (lb/ton) [for given number of potlines]						
	2 lines	3 lines	4 lines	5 lines	6 lines	7 lines	8 lines
CWPB1	1.7	1.6	1.5	1.5	1.4	1.4	1.4
CWPB2	2.9	2.8	2.7	2.7	2.6	2.6	2.6
CWPB3	2.3	2.2	2.2	2.1	2.1	2.1	2.1
SWPB	1.4	1.3	1.3	1.2	1.2	1.2	1.2
VSS2	2.6	2.5	2.5	2.4	2.4	2.4	2.4

■ 16. Table 2 to Subpart LL of Part 63 is revised to read as follows:

TABLE 2 TO SUBPART LL OF PART 63—POTLINE POM LIMITS FOR EMISSION AVERAGING

Type	Semiannual POM limit (lb/ton) [for given number of potlines]						
	2 lines	3 lines	4 lines	5 lines	6 lines	7 lines	8 lines
CWPB1	1	0.9	0.9	0.9	0.8	0.8	0.8
CWPB2	11.6	11.2	10.8	10.8	10.4	10.4	10.4
CWPB3	2.5	2.4	2.4	2.3	2.3	2.3	2.3
SWPB	14.8	13.8	13.8	13.8	13.8	13.8	13.8
VSS2	1.7	1.6	1.5	1.5	1.4	1.4	1.4

■ 17. Table 3 to Subpart LL of Part 63 is redesignated as Table 4 to Subpart LL of Part 63 and revised to read as follows:

TABLE 4 TO SUBPART LL OF PART 63—ANODE BAKE FURNACE LIMITS FOR EMISSION AVERAGING

Number of furnaces	Emission limit (lb/ton of anode)		
	TF	POM	PM
2	0.11	0.17	0.11

TABLE 4 TO SUBPART LL OF PART 63—ANODE BAKE FURNACE LIMITS FOR EMISSION AVERAGING—Continued

Number of furnaces	Emission limit (lb/ton of anode)		
	TF	POM	PM
3	0.09	0.17	0.091
4	0.077	0.17	0.076
5	0.07	0.17	0.071

■ 18. New Table 3 to Subpart LL of Part 63 is added to read as follows:

TABLE 3 TO SUBPART LL OF PART 63—POTLINE PM LIMITS FOR EMISSION AVERAGING

Type	Semiannual PM limit (lb/ton) [for given number of potlines]						
	2 lines	3 lines	4 lines	5 lines	6 lines	7 lines	8 lines
CWPB1	6.1	6.1	5.3	5.3	5.0	5.0	5.0
CWPB2	10.6	10.3	9.9	9.9	9.5	9.5	9.5
CWPB3	18.4	17.6	17.6	16.8	16.8	16.8	16.8
SWPB	4.3	3.9	3.9	3.7	3.7	3.7	3.7
VSS2	25	24.1	24.1	23.1	23.1	23.1	23.1

■ 19. Appendix A to Subpart LL of Part 63 is revised to read as follows:

APPENDIX A TO SUBPART LL OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A)

Reference section(s)	Requirement	Applies to subpart LL	Comment
63.1(a)(1) through (4)	General Applicability	Yes.	
63.1(a)(5)		No	[Reserved].
63.1(a)(6)		Yes.	
63.1(a)(7) through (9)		No	[Reserved].
63.1(a)(10) through (12)		Yes.	
63.1(b)(1) through (3)	Initial Applicability Determination	Yes	(b)(2) Reserved.
63.1(c)(1)	Applicability after standard Established	Yes.	
63.1(c)(2)		Yes	Area sources are not subject to this subpart.
63.1(c)(3) and (4)		No	[Reserved].
63.1(c)(5)		Yes.	
63.1(d)		No	[Reserved].
63.1(e)	Applicability of Permit Program	Yes.	
63.2	Definitions	Yes	Reconstruction defined in § 63.842.
63.3	Units and Abbreviations	Yes.	
63.4(a)(1) and (2)	Prohibited activities	Yes.	
63.4(a)(3) through (5)		No	[Reserved].
63.4(b) and (c)	Circumvention/Severability	Yes.	
63.5(a)	Construction/Reconstruction Applicability	Yes.	
63.5(b)(1)	Existing, New, Reconstructed Sources Requirements.	Yes.	
63.5(b)(2)		No	[Reserved].
63.5(b)(3) and (4)		Yes.	
63.5(b)(5)		No	[Reserved].
63.5(b)(6)		Yes.	
63.5(c)		No	[Reserved].
63.5(d)	Application for Approval of Construction/Reconstruction.	Yes.	
63.5(e)	Approval of Construction/Reconstruction	Yes.	
63.5(f)	Approval of Construction/Reconstruction Based on State Review.	Yes.	
63.6(a)	Compliance with Standards and Maintenance Applicability.	Yes.	
63.6(b)(1) through (5)	New and Reconstructed Source Dates	Yes	See § 847(a)(6) and (7).
63.6(b)(6)		No	[Reserved].
63.6(b)(7)		Yes.	
63.6(c)(1)	Existing Source Dates	No	See § 847(a).
63.6(c)(2)		Yes.	
63.6(c)(3) and (4)		No	[Reserved].
63.6(c)(5)		Yes.	
63.6(d)		No	[Reserved].

APPENDIX A TO SUBPART LL OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A)—Continued

Reference section(s)	Requirement	Applies to subpart LL	Comment
63.6(e)(1)(i)		No	See §§ 63.843(f) and 63.844(f) for general duty requirement.
63.6(e)(1)(ii)		No.	
63.6(e)(1)(iii)		Yes.	
63.6(e)(2)		No	[Reserved].
63.6(e)(3)	Startup, Shutdown and Malfunction Plan	No.	
63.6(f)(1)	Compliance with Emissions Standards	No.	
63.6(f)(2)	Methods/Finding of Compliance	Yes.	
63.6(g)	Alternative Standard	Yes.	
63.6(h)	Compliance with Opacity/VE Standards	Only in § 63.845	Opacity standards applicable only when incorporating the NSPS requirements under § 63.845.
63.6(i)(1) through (14)	Extension of Compliance	Yes.	
63.6(i)(15)		No	[Reserved].
63.6(i)(16)		Yes.	
63.6(j)	Exemption from Compliance	Yes.	
63.7(a)	Performance Test Requirements Applicability.	Yes.	
63.7(b)	Notification	Yes.	
63.7(c)	Quality Assurance/Test Plan	Yes.	
63.7(d)	Testing facilities	Yes.	
63.7(e)(1)	Conduct of Tests	No	See § 63.847(d).
63.7(e)(2) through (4)		Yes.	
63.7(f), (g), (h)	Alternative Test Method	Yes.	
63.8(a)(1) and (2)	Monitoring Requirements Applicability	Yes.	
63.8(a)(3)		No	[Reserved].
63.8(b)	Conduct of Monitoring	Yes.	
63.8(c)(1)(i)		No	See §§ 63.843(f) and 63.844(f) for general duty requirement.
63.8(c)(1)(ii)		Yes.	
63.8(c)(1)(iii)		No.	
63.8(c)(2) through (d)(2)		Yes.	
63.8(d)(3)		Yes, except for last sentence.	
63.8(e) through (g)		Yes.	
63.9(a)	Notification Requirements Applicability	Yes.	
63.9(b)	Initial Notifications	Yes	Notification of re-start specified in § 63.850(a)(9).
63.9(c)	Request for Compliance Extension	Yes.	
63.9(d)	New Source Notification for Special Compliance Requirements.	Yes.	
63.9(e)	Notification of Performance Test	No.	
63.9(f)	Notification of VE/Opacity Test	No.	
63.9(g)	Additional CMS Notifications	No.	
63.9(h)(1) through (3)	Notification of Compliance Status	Yes.	
63.9(h)(4)		No	[Reserved].
63.9(h)(5) and (6)		Yes.	
63.9(i)	Adjustment of Deadlines	Yes.	
63.9(j)	Change in Previous Information	Yes.	
63.10(a)	Recordkeeping/Reporting Applicability	Yes.	
63.10(b)(1)	General Recordkeeping Requirements	Yes.	
63.10(b)(2)(i)		No.	
63.10(b)(2)(ii)		No	See §§ 63.850(e)(4)(xvi) and (xvii) for recordkeeping of occurrence and duration of malfunctions and recordkeeping of actions taken during malfunction.
63.10(b)(2)(iii)		Yes.	
63.10(b)(2)(iv) and (v)		No.	
63.10(b)(2)(vi) through (xiv)		Yes.	
63.(10)(b)(3)		Yes.	
63.10(c)(1) through (9)		Yes.	
63.10(c)(10) and (11)		No	See §§ 63.850(e)(4)(xvi) and (xvii) for recordkeeping of malfunctions.
63.10(c)(12) through (14)		Yes.	
63.10(c)(15)		No.	
63.10(d)(1)	General Reporting Requirements	Yes.	
63.10(d)(2)		No	See § 63.850(b).
63.10(d)(3) and (4)		Yes.	
63.10(d)(5)	Startup-Shutdown and Malfunction Reports.	No	See § 63.850(d)(2) for reporting of malfunctions.

APPENDIX A TO SUBPART LL OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A)—Continued

Reference section(s)	Requirement	Applies to subpart LL	Comment
63.10(e) and (f)	Additional CMS Reports and Record-keeping/Reporting Waiver.	Yes.	
63.11	Control Device/work practices requirements Applicability.	No.	
63.12	State Authority and Delegations	Yes.	
63.13	Addresses	Yes.	
63.14	Incorporation by Reference	Yes.	
63.15	Information Availability/Confidentiality	Yes.	
63.16	Performance Track Provisions	No.	

[FR Doc. 2015–25137 Filed 10–14–15; 8:45 am]

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