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## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

### 9 CFR Part 320

**[Docket No. FSIS–2009–0011]**

**RIN 0583–AD46**

## Records To Be Kept by Official Establishments and Retail Stores That Grind Raw Beef Products

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is amending its recordkeeping regulations to require that all official establishments and retail stores that grind raw beef products for sale in commerce maintain the following records: The establishment numbers of establishments supplying material used to prepare each lot of raw ground beef product; all supplier lot numbers and production dates; the names of the supplied materials, including beef components and any materials carried over from one production lot to the next; the date and time each lot of raw ground beef product is produced; and the date and time when grinding equipment and other related food-contact surfaces are cleaned and sanitized. These requirements also apply to raw beef products that are ground at an individual customer's request when new source materials are used.

**DATES:** Effective June 20, 2016.

**FOR FURTHER INFORMATION CONTACT:** Dr. Daniel Engeljohn, Assistant Administrator, Office of Policy and Program Development, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250; Telephone: (202) 205–0495; Fax (202) 720–2025.

**SUPPLEMENTARY INFORMATION:**

**Executive Summary**

This rule requires official establishments and retail stores that grind raw beef for sale in commerce to maintain specific information about their grinding activities. This rule is necessary to improve FSIS's ability to accurately trace the source of foodborne illness outbreaks involving ground beef and to identify the source materials that need to be recalled. The recordkeeping requirements in this final rule will greatly assist FSIS in doing so.

FSIS has often been impeded in its efforts to trace ground beef products back to a supplier because of the lack of documentation identifying all source materials used in their preparation. On July 22, 2014, FSIS published a proposed rule (79 FR 42464) to require official establishments and retail stores to maintain records concerning their suppliers and source materials received. Having reviewed and considered all comments received in response to the proposed rule, FSIS is finalizing the rule and making several changes in response to comments. Most of the proposed requirements are retained in this final rule. This final rule requires establishments and retail facilities that grind raw beef to keep the following records: The establishment numbers of the establishments supplying the materials used to prepare each lot of raw ground beef; all supplier lot numbers and production dates; the names of the supplied materials, including beef components and any materials carried over from one production lot to the next; the date and time each lot of raw ground beef is produced; and the date and time when grinding equipment and other related food-contact surfaces are cleaned and sanitized. These requirements also apply when official establishments and retail stores grind new source materials at an individual customer's request.

In response to comments, FSIS is not adopting two proposed requirements. First, under this final rule, establishments and retail stores that grind raw beef products will not have to maintain records concerning the weight of each source component used in a lot of ground beef. After considering comments, FSIS concluded that weighing each component in a lot of ground beef was time-consuming and offered little food safety benefit because contamination in a lot of ground beef is not dependent on the weight of any contaminated component. FSIS is also not requiring that establishments and stores that grind raw beef products maintain records of the names, points of contact, and phone numbers of each official establishment supplying source material because FSIS already has this information in its Public Health Information System (PHIS). Any marginal benefit presented by these two proposed requirements would be outweighed by the time burden associated with recording the information. In response to comments, this rule also differs from the proposed rule in terms of the place where the records must be maintained and the retention period. Under the proposed rule, based on existing recordkeeping requirements (9 CFR 320.1), establishments and retail stores would have been allowed to keep the required records at a business headquarters location if the grinding activity is conducted at multiple locations. In response to comments, however, this rule requires the grinding records to be kept at the location where the beef is ground. This change in the final rule will save investigators valuable time and will reduce the risk that records will be lost or misplaced. Finally, in response to comments, for purposes of this rule, FSIS is including the definition of a lot as set out in the regulatory text at the end of this document (9 CFR 320.1(b)(4)(iii)).

Under the proposed rule, based on existing regulations (9 CFR 320.3(a)), the required grinding records would have been required to be maintained for up to three years. However, in response to comments, FSIS concluded that because the records required by this rule are needed primarily to investigate foodborne illness outbreaks, their utility diminishes over time. FSIS consulted with its investigators and public health experts and determined that the records would rarely be needed after one year. Considering this fact and comments concerning the burden of keeping records on-site, particularly at retail stores, FSIS shortened the retention period in the final rule to one year after the date of the recorded grinding activity.

The final rule will result in storage and labor costs to official establishments and retail stores that grind raw beef for sale in commerce. Benefits will accrue

in terms of averted foodborne illnesses, less costly outbreaks and recalls, and increased consumer confidence when purchasing ground beef. These costs and benefits are listed in Table 1.

TABLE 1—EXECUTIVE SUMMARY TABLE

| | |
|---|---|
| *Costs:* | |
| Labor | ▪ $56.6 million annually ($45.8 million to $67.4 million). |
| Storage | ▪ $2.7 million annually. |
| Unquantified Costs | ▪ Non-labor costs associated with recordkeeping for customer-requested grinds.<br>▪ Potential for slight costs to consumers in the form of ground beef price increases. |
| *Benefits:* | |
| Unquantified Benefits | ▪ Benefits to consumers in the form of averted foodborne illnesses as a result of contaminated ground beef.<br>▪ Benefits to retailers and official establishments grinding raw beef in the form of less costly food safety events, such as outbreaks and recalls.<br>▪ Benefits to official establishments supplying ground beef components in the form of less costly recalls and insulation from costly spillover effects during food safety events. |

**Background**

Under the authority of the Federal Meat Inspection Act (FMIA) and its implementing regulations (9 CFR 329.1 and 329.6), FSIS investigates reports of consumer foodborne illness associated with FSIS-regulated products. FSIS investigators and other public health officials use records kept at all levels of the food distribution chain, including the retail level, to identify the sources of outbreaks.

FSIS has often been impeded in these efforts when an outbreak involves ground beef because of a lack of documentation identifying all source materials used in its preparation (79 FR 42464). In some situations, official establishments and retail stores have not kept adequate records that would allow effective traceback and traceforward activities. Without such records, FSIS cannot conduct timely and effective consumer foodborne illness investigations and other public health activities throughout the stream of commerce.

As FSIS also explained in the proposed rule, official establishments and retail stores that grind raw beef products for sale in commerce must keep records that will fully and correctly disclose all transactions involved in their business that are subject to the FMIA (*see* 21 U.S.C. 642) (79 FR 42465). Businesses must also provide access to, and permit inspection of, these records by FSIS personnel.

The proposed rule also explained that under 9 CFR 320.1(a), every person, firm, or corporation required by 21 U.S.C. 642 to keep records must keep records that will fully and correctly disclose all transactions involved in the aspects of their business that are subject to the FMIA. Records specifically required to be kept under 9 CFR 320.1(b) include, but are not limited to, bills of sale, invoices, bills of lading, and receiving and shipping papers. With respect to each transaction, the records must provide the name or description of the livestock or article, the number of outside containers, the name and address of the buyer or seller of the livestock or animal, and the date and method of shipment.

The recordkeeping requirements contained in the FMIA and 9 CFR part 320 are intended to permit FSIS to trace product, including raw ground beef product associated with consumer foodborne illness, from the consumer, or the place where the consumer purchased the product, back through its distribution chain to the establishment that was the source of the product. Having this information available will make it easier to determine where the contamination occurred. Investigators should also be able to conduct effective traceforward investigations so as to identify other potentially contaminated product that has been shipped from the point of origin of its contamination to other official establishments, retail stores, warehouses, distributors, restaurants, or other firms. FSIS must be able to carry out these investigations using records that should be kept routinely by official establishments and retail stores.

In the proposed rule, FSIS explained past efforts it has made to ensure that official establishments and retail stores that produce raw ground beef maintain necessary records. For example, the proposal explained that in 2002, FSIS published a **Federal Register** notice that listed the data that FSIS intended to collect when any samples of raw ground beef produced at an official establishment tested positive for *E. coli* O157:H7 (67 FR 62325, Oct. 7, 2002). FSIS also listed the information it intended to gather from retail stores at the time it collected a sample of raw ground beef for *E. coli* O157:H7 testing.

In the proposed rule in the present rulemaking, FSIS explained that shortly after issuing the 2002 **Federal Register** notice, the Agency began collecting the information listed in the **Federal Register** notice from official establishments and retail stores (79 FR 42465).[1] However, as the proposal explained, some retail stores and official establishments still did not maintain records sufficient for traceback, and some retail stores did not document or maintain supplier information at times other than when FSIS collected samples of ground raw beef product from the stores for *E. coli* O157:H7 testing.[2] As a result, FSIS was, and remains, disadvantaged in its foodborne disease investigations.

In 2009, FSIS provided guidance to a retail industry association, which was made available on the FSIS Web site, stating that retail stores should keep appropriate records to aid in investigations involving FSIS-regulated products associated with foodborne illnesses and other food safety incidents.

To further address the issue, on December 9–10, 2009, the Food and Drug Administration (FDA) and FSIS held a public meeting to discuss the essential elements of product tracing systems, gaps in then-current product tracing systems, and mechanisms to enhance product tracing systems for food.[3] This meeting was followed on

[1] FSIS Notice 47–02, November 20, 2002, ''FSIS Actions Concerning Suppliers that may be Associated with Escherichia coli (E. coli) 0157:H7 Positive Raw Ground Beef Product.''

[2] On June 4, 2012, FSIS implemented routine verification testing for six Shiga toxin-producing *E. coli* (STEC), in addition to *E. coli* O157:H7, in raw beef manufacturing trimmings. See *Shiga Toxin-Producing Escherichia coli in Certain Raw Beef Products* (77 FR 31975, May 31, 2012).

[3] Comments from this hearing are available at: *http://www.regulations.gov/#!searchResults;rpp=10;po=0;s=FDA-2009-N-0523;dct=PS*. A transcript of this meeting is

March 10, 2010, by an FSIS public meeting that discussed its procedures for identifying suppliers of source material used to produce raw beef product that FSIS found positive for *E. coli* O157:H7. FSIS sought input from meeting participants on ways to improve its procedures for identifying product that may be positive for *E. coli* O157:H7.

Despite these actions, as explained in the proposed rule, some official establishments and retail stores still did not keep and maintain the records necessary for effective investigation by FSIS. With this history in mind, FSIS conducted a retrospective review of 28 foodborne disease investigations from October 2007 through September 2011 in which beef products were ground or re-ground at retail stores.[4] When records were available and complete, enabling FSIS to identify specific production in an official establishment, the Agency was able to request a recall of product from the supplying establishment in six of eleven investigations. In contrast, when records were not available or incomplete, FSIS was able to request a product recall only two of seventeen times. These results confirmed FSIS's experience in specific cases where the presence of records at the retail level was often instrumental in identifying the source of an outbreak, as well as the implicated products that should be recalled. The proposed rule includes a fuller description of this review, including specific examples (79 FR 42464).

Since the review in the proposed rule, FSIS has completed nine ground beef outbreak investigations. Of these nine investigations, grinding records were available and complete in four of them and incomplete or not available in five. When records were available and complete, FSIS was able to request a recall of product from the supplying establishment in one of four investigations. For the remaining three, two led to store level recalls. For these two, FSIS did not request recalls at supplier establishments because in one investigation, the trim for retail product had over ten suppliers, and in the other, FSIS was not able to narrow down the list of suppliers because the retailer did not clean up in between grinding different products. FSIS did not request a recall for the third case in which records were available and complete because there were multiple products and multiple federal establishments involved, and FSIS was not able to identify the product associated with the illnesses or the supplying establishment. In the five investigations where records were not available or incomplete, FSIS was unable to request a recall from a supplying establishment.

The investigations reviewed in the proposed rule, and those reviewed since the proposed rule, confirm the Agency's findings that the records kept by official establishments and retail stores vary in type and quality and are often incomplete or inaccurate. Overall, FSIS has concluded that voluntary recordkeeping by retail stores that grind raw beef has been insufficient, as evidenced by continuing outbreaks linked to pathogens in raw ground beef that FSIS cannot trace back to the source. The lack of specific information about supplier lot numbers, product codes, production dates, and the cleaning and sanitizing of grinding equipment has prevented or delayed FSIS in identifying the source of outbreaks, as well as other product that might be adulterated. The cleaning and sanitizing of equipment used to grind raw beef is important because it prevents the transfer of *E. coli* O157:H7 and other bacteria from one lot of product to another.

**Proposed Rule**

On July 22, 2014 (79 FR 42464), FSIS proposed to amend the Federal meat inspection regulations to require that all official establishments and retail stores that grind raw beef for sale keep records disclosing the following: The names, points of contact, phone numbers, and establishment numbers of suppliers of source materials used in the preparation of each lot of raw ground beef; the names of each source material, including any components carried over from one production lot to the next; the supplier lot numbers and production dates; the weight of each beef component used in each lot (in pounds); the date and time each lot was produced; and the date and time when grinding equipment and other related food-contact surfaces were cleaned and sanitized. FSIS also proposed that official establishments and retail stores would have to comply with these requirements with respect to raw beef products ground at an individual customer's request when new source materials are used.

FSIS posted the sample grinding log record below (Table 2) on its Web site in late 2011 and included it with the 2009 guidance and the proposed rule. FSIS proposed requiring the items in the sample record marked with asterisks. The proposed rule specifically stated that the information under the other column headings would not be required, but that some official establishments and retail stores might choose to keep and maintain this information.

available at: *http://www.regulations.gov/#!searchResults;rpp=10;po=0;s=FDA-2009-N-0523;dct=O.*

[4] Ihry, T., White, P., Green, A., and Duryea, P. Review of the Adequacy of Ground Beef Production Records at Retail Markets for Traceback Activities During Foodborne Disease Investigations. Poster presented at: Annual Conference of the Council of State and Territorial Epidemiologists; 2012, June 4–6; Omaha, NE. A copy of this document is available at: *http://www.fsis.usda.gov/wps/wcm/connect/87caa3f9-0c76-45c7-be4e-84d73151ed9e/RD-2009-0011-072114.pdf?MOD=AJPERES.*

Table 2: Grinding log record that FSIS posted (2009)

NEW WAVE STORE

123 Main Street

Anytown, USA, Zip Code

FRESH GROUND BEEF PRODUCTION LOG/TRACKING LIST

Employee Name_____ Today's Date_____

| Date and Time of Grind* | Lot/Batch # (lot = same source material) | Exact Name/ Type of Product Produced | Package Size of Product Produced | Amount (in lbs) of Source Material Used in Each Lot, including Carryover* | Production Code of Product Produced | Manufacturer Name of Source Material Used for Product Produced* | Supplier Lot #s, Product Code and/or Pack Date of Source Material Used* | Estab. Info. from Label of Source Material Used (Est. #, ph #, contact info)* | Date and Time Grinder and Related FCSs Cleaned and Sanitized* | Comments |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | |
| | | | | | | | | | | |

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Signature of Store Management Reviewer Date

*Information that would have been required by the proposed rule.

**Final Rule**

As stated above, the final rule is mostly consistent with the proposed rule. It requires official establishments and retail stores that grind raw beef products to maintain the following records: The establishment numbers of the establishments supplying the material used to prepare each lot of raw ground beef; all supplier lot numbers and production dates; the names of the supplied materials, including beef components and any materials carried over from one production to the next; the date and time each lot is produced; and the date and time when grinding equipment and other related food-contact surfaces are cleaned and sanitized. These requirements also apply to raw ground beef products that are prepared at an individual customer's request when new source materials are used. If new source materials are not used, there is no reason to record the customer-requested grind separately.

The final rule will not require records concerning the names, points of contact, and phone numbers of each official establishment supplying source material or the weight of each source component. In consideration of comments that it received, FSIS has concluded that the records concerning the names, points of contact, and phone numbers of each official establishment supplying source material were unnecessary given that FSIS already possesses this information through the establishment profiles in PHIS. In addition, FSIS concluded, in response to the comments submitted, that weighing each component in a lot of ground beef was time-consuming and offered little food safety benefit. Contamination occurs in a lot of ground beef regardless of the weight of the contaminated component.

In conformance with these changes, FSIS has updated its sample grinding log as pictured in Table 3 below to reflect the requirements of this final rule.

Table 3: Sample Grinding log with final rule requirements.

NEW WAVE STORE

123 Main Street

Anytown, USA, Zip Code

FRESH GROUND BEEF PRODUCTION LOG/TRACKING LIST

Employee Name_____ Today's Date_____

| Date and Time of Grind | Manufacturer Name of Source Material Used for Product Produced | Supplier Lot #s, Product Code and/or Pack Date of Source Material Used | Est. Number(s) of Est. providing source material | Date and Time Grinder and Related FCSs Cleaned and Sanitized | Comments |
|---|---|---|---|---|---|
| | | | | | |
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Signature of Store Management Reviewer Date

The final rule also differs from the proposed rule with respect to the place of maintenance and the retention period of the required records. Based on 9 CFR 320.2, the proposed rule would have required records to be kept at the place

where the business, in this case the grinding activity, is conducted, unless the business is conducted at multiple locations, in which case the proposal would have allowed the records to be maintained at a business's headquarters office. In response to comments, FSIS has concluded that keeping the required information at the location where the beef is ground will save investigators time and reduce the risk that records are misplaced when they are moved. This rule, therefore, establishes a new 9 CFR 320.2(b), which requires that all the information required by this final rule be kept at the location where the beef is ground.

Based on 9 CFR 320.3(a), the proposed rule would have required that the proposed grinding records be retained for a period of two years after December 31 of the year in which the transaction giving rise to the record (grinding) occurred. In response to comments discussed below, FSIS concluded that because the vast majority of ground beef is consumed within several months of its production, a one-year retention period is adequate to trace the source of any foodborne disease outbreak involving raw ground beef. Accordingly, this final rule creates a 9 CFR 320.3(c) which requires that official establishments and retail stores covered by this rule retain the required records for one year.

The final rule also makes technical changes to 9 CFR 320.2 and 320.3 to improve readability.

**Summary of Comments and Responses**

FSIS received 40 comments on the proposed rule from individuals, retailers, beef producers and processors, beef industry and retail trade groups, consumer advocacy groups, an organization representing food and drug officials, a State department of agricultural and rural development, a food technology company, and two members of Congress. Most of the commenters supported the proposed rule. Industry groups supported recording information for effective investigation in the event of a foodborne illness outbreak but stated that the costs of compliance were higher than estimated, and that several pieces of information were unnecessary or overly burdensome. A summary of the relevant issues raised by the commenters and the Agency's responses follows.

*1. Covered Entities*

*Comment:* Consumer and retail trade groups stated that the rule should apply to supermarkets, grocery stores, meat markets, warehouse clubs, cooperatives, supercenters, convenience stores, wholesalers, and restaurants.

*Response:* This final rule applies to all official establishments and retail stores that grind raw beef products for sale to consumers in normal retail quantities. The rule covers supermarkets and other grocery stores, meat markets, warehouse clubs, cooperatives, supercenters, convenience stores, and wholesalers, if they grind raw beef product.

FSIS is not applying this final rule to restaurants. Only a small percentage of all raw beef grinding occurs at restaurants and only on a very small scale. It is thus likely that any outbreak traced to a restaurant that grinds its own raw beef will be traceable to a specific supplier.

*2. Content of Records*

*Comment:* Retail organizations, a food technology company, and a beef brand recommended reducing costs by removing from the proposed rule the requirement to weigh each source component. These commenters stated that the proposed requirement was time-consuming, disruptive to workflow, unfeasible with current equipment, and offered no public health benefit.

*Response:* FSIS agrees that the requirement to weigh each source component is not necessary. If a foodborne illness outbreak occurs, the weight of a source component in a lot of ground beef is not significant in tracing the material back to the suppliers. Also, any amount of adulterated source material in a lot of ground beef would adulterate the product. Accordingly, FSIS has removed this provision from the final rule and has adjusted the paperwork burden estimates and costs accordingly.

*Comment:* An independent grocers' trade group suggested removing the requirement to record supplier lot numbers and production dates.

*Response:* Supplier lot numbers and production dates are necessary to identify product at a supplier's location that may be associated with an outbreak. By including supplier lot numbers and production dates, investigators can more easily and quickly determine the source of a foodborne illness outbreak and limit the amount of product recalled.

*Comment:* Industry groups generally opposed recordkeeping for customer-requested grinds. They stated that it was impractical to clean grinding equipment between customer requests, meat case items usually lack supplier information, and public health benefits from logging these grinds would be limited. One meat industry trade group suggested only requiring the proposed recordkeeping provisions for customer-requested grinds over thirty pounds. A retail trade group recommended that its members perform customer-requested grinds at the end of the day or during a clear production cycle break.

*Response:* Customer-requested grinds present the same food safety risk as other raw ground beef. Retailers should keep customer-requested grinds separate and must record the information required in this rule when new source materials are used for customer-requested grinds. It is also in the store's interest to perform a clean up before and after customer-requested grinds. If the source is not clear, or if there is no clean up, traceback to the supplier will be impossible. The retailer would have produced the product associated with the outbreak, and in such circumstances, FSIS will have to request that the retailer recall product. Also, if the source is not clear, FSIS will likely have to request that the retailer recall more product than would be necessary if the retailer had recorded the necessary information.

FSIS agrees that customer-requested grinds present unique challenges but estimates that the benefits of being able to rapidly identify a customer-grind associated with an outbreak outweigh the recordkeeping and clean-up costs.

*Comment:* Two food-safety non-profits, a grocery store chain, and a consumer group stated that the name of the retail product should be recorded to assist in identifying product subject to recall. One individual and a food-safety non-profit stated that retail products should include specific day or production lot codes to assist in tracing products back to specific grinding lots.

*Response:* FSIS does not believe that including retail product names on records listing source materials used to produce those products is practical. Products from different source materials may have the same name, *e.g.,* 80/20 Ground Chuck. In addition, products from the same source materials may be marketed differently. For example, packages of ''Bob's Ground Beef'' and ''Jan's Ground Beef'' may originate from the same lot of source materials, despite bearing different retail names.

FSIS is also not requiring official establishments and retail stores to label retail products with timestamps or production lot codes to identify them with the specific lot or lots of ground beef from which they were produced. Retail ground beef products can usually be traced back to their specific grinding lots through stores' inventory data, the product's date and time of sale, and information stored on customers' shopper cards. Once a retail product is traced back to the grinding lot or lots,

the records required by this final rule will enable FSIS investigators to identify the source materials, suppliers, and production lots from which the product was produced.

*Comment:* Industry groups opposed recording the names, points of contact, and phone numbers of suppliers because FSIS already has this information through PHIS.

*Response:* FSIS agrees that the names, points of contact, and phone numbers of official establishments supplying source materials are already located in the establishment profiles within PHIS. Therefore, the establishment numbers of suppliers provide sufficient information to FSIS, and FSIS has removed those pieces of information from the recordkeeping requirements, leaving the requirement that official establishments and retail stores keep the establishment number of their suppliers of source materials. FSIS has updated its paperwork burden and costs estimates to reflect this change.

*3. Use of Sample Grinding Log*

*Comment:* A consumer group recommended that FSIS provide a sample grinding log containing all of the required information. A grocery store chain and retail trade group stated that grinders should be able to create their own logs, so long as all required information is included. A retail trade group questioned whether grinders would be required to use the sample log shown above.

*Response:* While FSIS has provided a sample grinding log that is depicted above, FSIS is not specifying in the final rule how official establishments and retail stores must record the required information. Entities may record the required information as they see fit, so long as the records of the required information are maintained in accordance with 9 CFR 320.2 and 320.3.

*4. Imports*

*Comment:* One individual stated that the proposed rule should apply to imported beef.

*Response:* FSIS' regulations do not apply directly to establishments in foreign countries, and retail stores in foreign countries are not eligible to export product to the United States. To be eligible to export raw beef product to the United States, countries must maintain an equivalent inspection system for beef. Therefore, in the event of *Salmonella* or shiga-toxin producing *E. coli* (STEC) outbreaks, countries that ship beef to the United States will need to have traceback and traceforward systems for beef products that allow the country to identify the source of contamination. Countries that export beef to the United States may choose to establish recordkeeping requirements consistent with this rule. However, they may also have other means to track the necessary information.

*5. Other Species*

*Comment:* Individual commenters and food safety groups believed that the rule should apply to ground product produced from swine, poultry, lamb, and turkey.

*Response:* FSIS issued the proposed rule to address deficiencies in recordkeeping that hampered investigations into foodborne illness investigations involving raw ground beef. Between 2007 and 2013, FSIS investigated 130 outbreaks of human illness. Of those, 31 (24 percent) were linked to beef ground at a retail venue. FSIS did not propose that new records be maintained for ground products other than beef because the Agency is most often impeded in its efforts to trace back and identify sources of human illness when beef ground in retail stores is the vehicle for those illnesses. FSIS considers the comments requesting similar requirements for other ground product to be outside the scope of this rule.

*6. Consumer Education*

*Comment:* A meat processor, a meat products company, and two individuals stated that more outreach was needed to educate consumers on how to properly handle and cook meats.

*Response:* FSIS promotes consumer awareness of food safety issues and encourages proper food preparation practices. For example, FSIS posts consumer food safety information on its Web page.[5] The posted information includes the kind of bacteria that can be found in ground beef, specific information as to why the *E. coli* O157:H7 bacterium is of special concern in ground beef, and the best way to handle raw ground beef when shopping and when at home. This Web page also contains the *Food Safe Families Campaign* guidelines to keep food safe, which tells consumers to cook ground beef to a safe minimum internal temperature of 160 °F (71.1 °C) as measured with a food thermometer. FSIS also provides food safety education in other forms (*e.g.,* FSIS has continued to work with the Ad Council to launch food safety public service announcements, and FSIS staff provide in-person food safety education through the mobile Food Safety Discovery Zone).

Nonetheless, recordkeeping by retail establishments will more quickly and efficiently address the concerns (*i.e.,* traceback and identifying sources of human illness when beef ground in retail stores is the vehicle for those illnesses) raised in this final rule.

*7. Supplier Process Control Actions*

*Comment:* One individual urged official establishments to improve contamination control at slaughter. A meat products company that did not support the rule believed that suppliers cannot control *E. coli,* but that the answer is not more recordkeeping because that does not address the core problem, which is the interdependent relationship between animals and *E. coli.*

*Response:* FSIS is continuing to address process control actions that should be taken by beef suppliers to control *E. coli.* For example, FSIS made available updated guidance on testing and high event periods[6] in 2013 and implemented new traceback activities in 2014.[7] However, while better process control may reduce the incidence of *E. coli* O157:H7-adulterated ground beef, it will not address the issue of official establishments and retail stores not keeping adequate records that allow effective traceback and traceforward activities. Without the records required by this final rule, FSIS cannot conduct timely and effective consumer foodborne illness investigations and other public health activities through the stream of commerce.

*8. Implementation*

*Comment:* An independent grocers' trade group recommended a two-year delayed effective date for small businesses to comply with the rule. Alternatively, the commenter stated that small businesses should be exempt from the rule's requirements altogether. Similarly, a retail trade group believed that small retailers would need more time for outreach and training and that implementation would take longer than anticipated by the proposed rule

[5] FSIS food safety guidance for meat preparation, available at: *http://www.fsis.usda.gov/wps/portal/fsis/topics/food-safety-education/get-answers/food-safety-fact-sheets/meat-preparation.*

[6] Compliance Guideline for Establishments Sampling Beef Trimmings for Shiga Toxin-Producing Escherichia coli (STEC) Organisms or Virulence Markers, available at: *http://www.fsis.usda.gov/wps/wcm/connect/e0f06d97-9026-4e1e-a0c2-1ac60b836fa6/Compliance-Guide-Est-Sampling-STEC.pdf?MOD=AJPERES.*

[7] FSIS Directive 10,010.3, Traceback Methodology for Escherichia Coli (E. Coli) 0157:H7 in Raw Ground Beef Products and Bench Trim, available at: *http://www.fsis.usda.gov/wps/wcm/connect/ae5e81d0-c636-4de1-93f3-7a30d142ae69/10010.3.pdf?MOD=AJPERES.*

because of the need to create or modify records forms.

*Response:* FSIS has provided sample grinding logs in this rule and the proposed rule. Small businesses may use these logs, or any other recordkeeping system they wish, to record the required information. FSIS believes that the recordkeeping requirements are straightforward and do not require extensive training or guidance materials. FSIS has also not adopted the proposed requirements that grinders record and maintain records of the weight of each source material used in a grinding lot, and the names, points of contact, and phone numbers of each official establishment supplying source material.

In addition, as is discussed above, FSIS has advised official establishments and retailers to maintain these types of records since 2002. Nonetheless, in response to comments, this final rule provides that retailers and official establishments will have 180 days from the date of publication of this final rule to comply with its requirements. This effective date should provide industry sufficient time to comply with the requirements because FSIS has simplified the requirements originally proposed, and FSIS will ensure that establishments and retailers are aware of the new requirements through the outreach activities discussed below and through partnering with the States and other organizations, such as retail organizations.

*9. Training*

*Comment:* One consumer group recommended face-to-face contact by FSIS with entities that grind raw beef to explain the rule's requirements. A beef producers' trade group encouraged FSIS to conduct outreach through webinars and by attending industry meetings. One individual stated that operators should be trained to understand the risks of *E. coli* in grinding. Another individual suggested more training on keeping logs, proper attire, and hand-washing. A State agriculture department believed it would incur costs associated with responding to questions from grinders and training State personnel to field such questions appropriately.

*Response:* As noted above, the recordkeeping requirements in the final rule are straightforward and do not require extensive training or guidance materials. FSIS will update its Sanitation Guidance for Beef Grinders,[8] which includes sample grinding logs and instructions, and will hold webinars to explain the requirements of this final rule and answer questions from official establishments, retailers, and other organizations. FSIS will also provide guidance to small businesses through its Small Plant Help Desk and *Small Plant News* newsletter, and at industry conferences, exhibitions and workshops.

*10. Retention and Maintenance of Records*

*Comment:* A food-safety non-profit organization suggested that records required under this rule be retained for at least ninety days. A grocery store chain believed six-to-twelve months would be adequate. A retail trade group believed six months was appropriate. The latter two commenters mentioned that frozen beef should be consumed within three to four months.

*Response:* While ground beef is safe indefinitely if kept frozen, it will lose quality over time. FSIS recommends consuming fresh ground beef within two days and frozen ground beef within four months.[9] These recommendations suggest that records documenting the grinding of raw beef need only be kept for a short period of time. However, the Agency is aware that consumers do not always follow such recommendations, sometimes keeping ground beef in their freezers for up to a year, for example. FSIS is therefore requiring in the final rule that official establishments and retailers maintain the prescribed records for one year (9 CFR 320.3).

*Comment:* A trade group representing food safety officials stated that records should always be maintained at the location where the beef was ground.

*Response:* This final rule amends 9 CFR 320.2 to require that official establishments and retail stores maintain the required records at the place where the raw beef is ground. This approach, along with the shorter record retention period being required in 9 CFR 320.3, balances the burden on retailers of storing records for the necessary period of time with the needs of investigators to have such records available at the grinding location.

*11. Enforcement*

*Comment:* Three individuals stated that FSIS should assess additional fines or penalties to enforce the final rule's requirements. A consumer group recommended FSIS perform verification checks at retailers to monitor compliance. A trade group representing food safety officials asked how FSIS would enforce the rule and urged FSIS to work more cooperatively with State and local food safety agencies. The commenter also recommended that local officials have access to the new records, as they are often involved at the earliest stages of an outbreak.

*Response:* The FMIA provides FSIS with authority to require specified persons, firms, and corporations to keep records that will fully and correctly disclose all transactions involved in their businesses subject to the FMIA and to provide access to facilities, inventory, and records (21 U.S.C. 642). If official establishments do not maintain the required records, FSIS will issue noncompliance records. FSIS may also take any regulatory control actions as defined in 9 CFR 500.1(a), including the tagging of product, equipment, or areas.

FSIS personnel conduct in-commerce surveillance related to wholesomeness, adulteration, misbranding, sanitation, and recordkeeping.[10] When this rule becomes final, FSIS compliance investigators will verify that retail grinders meet the recordkeeping requirements. If compliance investigators find they do not, they may issue a Notice of Warning to the retail store.

If FSIS personnel find noncompliance at an official establishment, the Agency could issue non-compliance reports, letters of warning, or request the Department of Justice to initiate a civil proceeding in Federal court to enjoin the defendant from further violations of the applicable laws and regulations. If FSIS personnel find noncompliance at a retail facility, the Agency may issue notices of warning or request the Department of Justice to initiate a civil proceeding to enjoin the defendant from further violations of the applicable laws and regulations.

States with their own meat and poultry inspection (MPI) programs will need to be aware of the requirements of this rule and are required to enforce requirements ''at least equal to'' the Federal inspection program. Therefore, they will need to require that establishments under State inspection maintain records consistent with what FSIS is requiring.

FSIS will also explore ways to partner with States, with or without MPI programs, so that State employees can provide information about the recordkeeping requirements to grocery stores, help them to keep logs in the most efficient and effective way

[8] Available at: *http://www.fsis.usda.gov/shared/PDF/Sanitation_Guidance_Beef_Grinders.pdf.*

[9] FSIS Ground Beef and Food Safety, available at: *http://www.fsis.usda.gov/wps/portal/fsis/topics/food-safety-education/get-answers/food-safety-fact-sheets/meat-preparation/ground-beef-and-food-safety/CT_Index.*

[10] FSIS Directive 8080.1, Rev. 4, *Methodology for Conducting In-Commerce Surveillance Activities,* April 24, 2014.

possible, and provide other information that will enhance the efficiency and effectiveness of store efforts. FSIS intends to provide information to State officials about the grinding logs requirement during regular monthly Webinars that FSIS conducts for State MPI Directors and State HACCP Contacts and Coordinators.

FSIS also routinely cooperates with State and local authorities to conduct effective foodborne illness investigations, including by sharing epidemiological data, records, and investigative resources. FSIS intends to provide information to State and local authorities during the course of these illness investigations about the role that grinding logs can play in facilitating these investigations.

*12. Grinding Frequency and Time Burden*

*Comment:* To reduce costs, a grocers' trade group stated that FSIS should require records only for all source materials used in grinds during a single production day, requiring a new log for production that would begin only after the end-of-day full cleaning of the grinding equipment. Several commenters also stated that many retail stores grind several times per day and may use several different suppliers, significantly increasing recordkeeping costs.

*Response:* In the proposed rule, FSIS considered requiring documentation of information on a weekly basis, but rejected this approach because it would be difficult to differentiate between lots ground from different suppliers throughout the week (79 FR 42469). The same holds true for daily logs. In either situation, investigators would be unable to effectively conduct traceback and traceforward activities in the event of an outbreak because of limited detail. FSIS is not dictating how often the required information must be physically recorded. Under the final rule, the required information must be recorded whenever any of the information required for the lot of product being ground changes. For example, if an entity uses the same source material for multiple grinds throughout the day, it would only need to record the source material information (9 CFR 320.1(b)(4)(i)(A)–(C)) once but would need to record the date and time of each grind (9 CFR 320.1(b)(4)(i)(D)). However, if a store or establishment were to start using a different supplier or lot number during the day, it would need to document that change (9 CFR 320.1(b)(4)(i)(B)). This approach minimizes the recordkeeping burden but preserves the information needed by investigators.

*Comment:* A grocery store chain disagreed with FSIS's estimates of grinds per day and average number of suppliers at retail, suggesting that beef is ground every day, several times per day as needed, and with several different cases of raw material. A retail trade group estimated more average grinds at retail per day than FSIS's estimate, stating that its average member grinds four times per day. A State agriculture department and a beef producers' trade group urged further study of the economic impact of the rule on small businesses, including feedback from industry. A retail trade group estimated that the time needed for the proposed recordkeeping is much higher per respondent per year than estimated by FSIS, suggesting that a conservative estimate would be 214 hours per year.

*Response:* FSIS has taken into account comments on the amount of time required for recordkeeping and made adjustments to its cost estimate. For the final estimates, FSIS adjusted the average number of recordkeeping tasks per day at official establishments and retail stores from one to a range of four-to-five-and-a-half, plus an additional task if an entity conducts a grind composed of only trim. FSIS also adjusted the assumed time required to complete a record at official establishments and retail stores to account for multiple source materials, from 30-to-90 seconds to one minute for grinds not including trim, two minutes for grinds including trim and other ground beef components, and six-to-ten minutes for trim-only grinds. Trim-only grinds are usually composed of trim from different suppliers and production lots. Therefore, more time is needed to document the required information as compared to other grinding activities. In updating these estimates, FSIS has taken into account, in addition to the comments, the changes in the final rule concerning required records. Specifically, FSIS is using the low end of time estimates from the comments because, for the final rule, FSIS has significantly reduced the information required to be kept compared to the proposed rule.

*13. Waste*

*Comment:* Two individuals and an independent grocers' trade group stated that retailers would simply throw out bench trim to avoid the recordkeeping requirements.

*Response:* In its proposed rule, FSIS considered a 2008 study that found that recording grinding information is already prevalent among official establishments and retail stores that grind raw beef. The 2008 study found that 74 percent of chain retail stores and 12 percent of independent retail stores kept grinding logs. Of the stores that kept grinding logs, the study reported that 78 percent of those logs were incomplete (79 FR 42471). Although insufficient voluntary recording is one impetus for this rule, FSIS is not aware of any instance when official establishments and retail stores that were keeping necessary records discarded source material in lieu of recording necessary records. Therefore, FSIS concludes that the costs of recordkeeping will rarely be greater than the costs of discarding bench trim, and that the amount of product discarded as a result of the rule should be negligible.

*14. Effect on Small Businesses*

*Comment:* An independent grocers' trade group stated that the proposed rule would have a significant economic impact on a substantial number of small entities, and, therefore, FSIS must conduct an initial regulatory flexibility analysis.

*Response:* While the rule will affect a substantial number of small businesses, the cost of complying with the proposed regulations will be relatively small on a per firm basis. FSIS has provided guidance and a sample grinding log, which FSIS will update as appropriate. Similar guidance is available from other providers, including industry associations.[11] Entities can use these materials to minimize the costs of their recordkeeping programs. In addition, as is discussed above, FSIS will hold webinars to provide small businesses additional information on the rule and will publish information through its Small Plant Help Desk and *Small Plant News* newsletter. The fact that a number of small firms already maintain adequate grinding records suggests that the cost of the practice is not prohibitive to doing business.

*15. Definition of a Lot of Ground Beef*

*Comment:* A beef industry trade group commented that some ground beef producers have different definitions for ''lots'' or ''batches'' of ground beef.

[11] Food Marketing Institute, Comprehensive Guide Meat Ground at Retail Recordkeeping and Sanitation, available at: *http://www.fmi.org/docs/default-source/food-safety-best-practice-guides/meat-ground-at-retail-comprehensive-guide.pdf?sfvrsn=6.* Conference for Food Protection, Guidance Document for the Production of Raw Ground Beef at Various Types of Retail Food Establishments, available at: *http://www.foodprotect.org/media/guide/CFP%20Beef%20Grinding%20Log%20Template%20Guidance%20Document%20-%208-8-2014.pdf.*

*Response:* FSIS did not propose a definition for a ''lot'' of ground beef in the proposed rule. In response to this comment, and for the sake of consistency in implementing this final rule, FSIS has added a new 9 CFR 320.1(b)(4)(iii), which defines a lot.

**Implementation**

All retailers and official establishments will have 180 days from the date of publication of this final rule to comply with its requirements.

As is discussed above, this rule does not prescribe the method by which official establishments and retail stores must keep the required information but does require that the information be kept at the location where the beef is ground. The records must be retained for one year after the transaction giving rise to the record (grinding) occurred. FSIS will update its Sanitation Guidance for Beef Grinders,[12] which currently includes sample grinding logs and instructions, and hold webinars to explain the requirements of the final rule and answer questions from official establishments, retailers, and other organizations. FSIS will also provide information to small businesses through its Small Plant Help Desk and *Small Plant News* newsletter. FSIS will provide guidance to State MPI programs on the requirements of this rule and seek to partner with States to ensure that the requirements of this rule are communicated to official establishments inspected by State MPI programs and to retail stores that grind raw beef. FSIS will also work with States and universities around the nation to conduct outreach workshops targeted to retailers and official establishments to explain the requirements of the rule. Records of the required information must be made available to authorized USDA officials upon request (9 CFR 300.6(a)(2)). These officials may examine and copy such records (9 CFR 320.4). At official establishments, FSIS inspection personnel will verify compliance. As is discussed above, if FSIS personnel find noncompliance at an official establishment, the Agency could issue non-compliance reports, letters of warning, or request the Department of Justice to initiate a civil proceeding in Federal court to enjoin the defendant from further violations of the applicable laws and regulations. At retail stores, FSIS compliance investigators will verify that retail grinders meet the recordkeeping requirements. If compliance investigators find they do not, the Agency may issue notices of warning or request the Department of Justice to initiate a civil proceeding to enjoin the defendant from further violations of the applicable laws and regulations.

**Executive Orders 12866 and 13563 and Regulatory Flexibility Act**

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a ''non-significant regulatory action'' under section 3(f) of Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget.

In updating the preliminary regulatory impact analysis of the proposed rule, FSIS has made several changes in response to public comments and newly available information. Specifically, FSIS has made the following changes in the final regulatory impact analysis:

- Increased the number of retail firms in the baseline using new U.S. Census Bureau data;
- Added assumptions about the percentage of retail firms that grind raw beef;
- Incorporated new distributions relating to source materials used to reflect the complexity of grinding operations;
- Adjusted the time estimates for recordkeeping activities, the frequency of recordkeeping tasks, and the number of active grinding days per week based on comments received;
- Added estimates of labor to incorporate recordkeeping for grinds, including pieces of trim and customer-requested grinds;
- Updated the wage rate and benefits factor for firm employees that record or maintain required records based on the newest available information;
- Added discussion about unquantified costs associated with maintaining records for customer-requested grinds; and
- Expanded the benefits discussion to include benefits not previously addressed, such as the mitigation of costly spillover effects from foodborne illness outbreaks, and the incentive traceability provides to produce safe product.

**Need for the Rule**

During investigations of foodborne illness outbreaks attributed to ground beef, grinding records are an important part of the traceback and traceforward processes. Without accurate records, it is difficult to identify where ground beef components originated. If investigators cannot identify a source, it is likely that adulterated product will remain in commerce and more consumers will eat the product and become ill. Delays in identifying the source of contamination can also negatively affect sales of ground beef due to loss in consumer confidence. Despite efforts by FSIS, industry associations, and other regulators to provide retailers and official processing establishments with guidance and examples of best practices, the current level of recordkeeping is still less than what is needed for timely and accurate traceability investigations.

Traceability systems are a potential way to lessen the costs of foodborne illness outbreaks and other food safety events. In the case of private regulation, each firm will ultimately decide what level of traceability to implement on the basis of costs and potential benefits, such as smaller losses of reputation and reduced liability costs during foodborne illness outbreaks.[13] Some firms may decide not to invest at all. Insufficient traceability, however, is not optimal for the industry as a whole.[14] In some cases industry associations and third parties can influence firms to adopt traceability measures, but in the case of grinding records, these efforts have not achieved an acceptable level.[15]

Forms of private regulation, such as those currently in place for raw beef grinding entities, are vulnerable to firms that do not invest their fair share to the detriment of others, commonly referred to as the ''free rider'' problem.[16] In the event of a foodborne illness outbreak

[12] Available at: *http://www.fsis.usda.gov/shared/PDF/Sanitation_Guidance_Beef_Grinders.pdf.*

[13] Hobbs, Jill E., (2004) ''Information Asymmetry and the Role of Traceability Systems,'' *Agribusiness,* Vol. 20 (4), 397–415, available at: *http://onlinelibrary.wiley.com/doi/10.1002/agr.20020/pdf.*

[14] McEvoy, David M. and Souza-Monteiro, Diogo M., (2008) ''Can an Industry Voluntary Agreement on Food Traceability Minimize the Cost of Food Safety Incidents?'' *12th Congress of the European Association of Agricultural Economists,* Gent, Belgium, July 26–29, available at: *http://ageconsearch.umn.edu/bitstream/43860/2/397.pdf.*

[15] Gould, Hannah L. et al. (2011) ''Recordkeeping Practices of Beef Grinding Activities at Retail Establishments,'' *Journal of Food Protection,* Vol. 74 (6), 1022–1024, available at: *http://www.ncbi.nlm.nih.gov/pubmed/21669085.*

[16] Havinga, Tetty, (2006) ''Private Regulation of Food Safety by Supermarkets,'' *Law and Policy,* Vol. 28 (4), 515–533, available at: *http://www.ru.nl/publish/pages/552245/havingasupermarketslapo2006.pdf.*

attributed to ground beef, if traceback is conducted at an entity that maintains adequate records, there is a strong chance that the source of contamination will be identified. When this happens, losses in reputation, consumer confidence, and sales are generally limited to the firm supplying the adulterated product. Other firms, such as the retailers (both those that invest in traceability and those that do not), are to some degree insulated from negative spillover effects. In this case, free-rider firms—those that do not invest in traceability—benefit from the investments of others.

If, however, traceback occurs at a firm that does not invest in recordkeeping, the chances of investigators successfully tracing adulterated product to its source are low. An illness outbreak attributed to ground beef in which the source is unidentified will negatively affect ground beef producers and retailers indiscriminately. In this case, firms that have invested in traceability will bear costs that could have been avoided were it not for the free-rider firm. Mandatory recordkeeping requirements will help to eliminate insufficient traceability systems and therefore mitigate the free rider problem.

Inadequate traceability systems can also contribute to moral hazard, which, in the case of ground beef, is a lack of incentives to produce a safe product.[17] Producers of ground beef components endeavor to produce safe product because the consequences of producing unsafe product are great. However, if adulterated ground beef is often unable to be traced back to its source, producers face less risk when the components they produce are unsafe. Mandatory recordkeeping requirements can help to reduce moral hazard by increasing the chances that adulterated product is traced back to its source, thereby strengthening the incentives for fabricators of ground beef components to supply the safest product that they can produce.

**Industry Baseline**

FSIS has identified four groups of businesses that will be subject to the final rule.

1. Official, federally-inspected establishments that grind beef: FSIS used information from PHIS to determine the number of federally inspected establishments subject to FSIS sampling of ground beef product for *E. coli* O157:H7 and *Salmonella* in the past calendar year (2014). To ensure that only those establishments that receive ground beef components from a supplier are included in the total, FSIS excluded those establishments that also slaughtered beef in the past calendar year.[18] Using the Hazard Analysis and Critical Control Point (HACCP) size categories available in PHIS, FSIS determined that there are 12 large establishments and 1,132 small (including HACCP size small and HACCP size very small) establishments that fall into this category.

2. Supermarkets and other grocery stores that grind beef: FSIS used data from the U.S. Census Bureau to determine the number of grocery stores in the U.S. Specifically, FSIS used the 2012 Statistics of U.S. Business (SUSB) data set[19] to determine the number of stores under the North American Industry Classification System (NAICS) code 445110—Supermarkets and Other Grocery (except Convenience) Stores. FSIS found that there are 21,543 stores owned by large firms (≥500 employed), and 44,504 stores owned by small firms (<500 employed). FSIS is aware that not all supermarkets and grocery stores grind beef in store. However, for the purposes of the cost estimate, FSIS assumed that 100 percent of supermarkets and grocery stores grind beef. While this results in a minor overestimate, FSIS lacks the data needed to support a different assumption.

3. Meat markets that grind beef: FSIS used the 2012 SUSB Census data to determine the number of stores under the NAICS code 445210—Meat Markets. FSIS found that there are 123 stores owned by large firms, and 5,105 stores owned by small firms. The NAICS code for meat markets includes six subcategories, three of which do not grind beef, including Baked Ham Stores, Frozen Meat Stores, and Poultry Dealers. To account for these stores, FSIS assumed that 50 percent of large stores and 50 percent of small stores in this category grind beef.

4. Warehouse clubs and supercenters that grind beef: FSIS used the 2012 SUSB Census data to determine the number of stores under the NACIS code 452910—Warehouse Clubs and Supercenters. FSIS determined that there are 5,124 such stores owned by large firms, and 40 stores owned by small firms. FSIS is aware that not all warehouse clubs and supercenters grind beef in store. To account for this, FSIS assumed that 20 percent of large stores and 100 percent of small stores grind beef.[20]

TABLE 4—ENTITIES THAT GRIND RAW BEEF

| Entity type | Total entities | | Percent grinding | | Entities grinding | |
|---|---|---|---|---|---|---|
| Establishment type | Large | Small | Large | Small | Large | Small |
| Official Establishments | 12 | 1,132 | 100 | 100 | 12 | 1,132 |
| Supermarkets and Other Grocery Stores | 21,543 | 44,504 | 100 | 100 | 21,543 | 44,504 |
| Meat Markets | 123 | 5,105 | 50 | 50 | 62 | 2,553 |
| Warehouse Clubs and Supercenters | 5,124 | 40 | 20 | 100 | 1,025 | 40 |
| Total | 26,802 | 50,781 | | | 22,641 | 48,229 |

Values in Table may not sum to totals because of rounding.

[17] Starbird, S. A., Amanor-Boadu, V., and Roberts, T. (2008) ''Traceability, Moral Hazard, and Food Safety,'' *12th Congress of the European Association of Agricultural Economists,* available at: *http://ageconsearch.umn.edu/bitstream/43840/2/EAAE_0398.pdf.*

[18] If an official establishment slaughters beef, then it is likely the only source of components for its own ground beef production, and therefore it would not need to keep records pertaining to suppliers. While it is possible that some official establishments both slaughter beef and receive components from other official establishments for grinding, the number of such establishments is likely very small.

[19] U.S. Census Bureau, (2012), Statistics of U.S. Businesses, accessed January 28, 2015, available at: *http://www.census.gov/econ/susb/.*

[20] FSIS was able to determine that the majority of large stores in this category do not grind beef in store because two large firms which account for approximately 80 percent of supercenters have ceased this practice. These firms purchase beef pre-ground and pre-packaged from federally inspected establishments or have it shipped from one of their other branded chains.

To estimate the number of entities that are already maintaining adequate records, FSIS used a Centers for Disease Control and Prevention (CDC) study of ground beef recordkeeping practices at retail stores and applied the distributions in the study to the entities that grind raw beef. The study found that 74 percent of chain retail stores and 12 percent of independent retail stores kept grinding logs. Of the stores that kept grinding logs, the study reported 78 percent of those logs as incomplete.[21] For the purposes of this estimate, FSIS used the chain stores surveyed in the study as a proxy for large retailers and official establishments, and the independent stores as a proxy for small retailers and official establishments. Therefore, the recordkeeping distribution of large entities based on the survey results is approximately 16 percent complete (74 percent*(1–78 percent)), 58 percent incomplete (74 percent*78 percent), and 26 percent no records. For small entities, the distribution is approximately 3 percent complete (12 percent*(1–78 percent)), 9 percent incomplete (12 percent*78 percent), and 88 percent no records. FSIS applied these distributions to the set of all grinding entities in Table 4, above. The current recordkeeping practices of beef grinding entities are displayed in Table 5.

TABLE 5—BASELINE RECORDKEEPING PRACTICES AT ENTITIES THAT GRIND RAW BEEF

| Entity size | Recordkeeping | Distribution (percent) | Entities |
|---|---|---|---|
| Large | Complete | 16 | 3,686 |
| | Incomplete | 58 | 13,069 |
| | No Records | 26 | 5,887 |
| | Total | | 22,641 |
| Small | Complete | 3 | 1,273 |
| | Incomplete | 9 | 4,514 |
| | No Records | 88 | 42,441 |
| | Total | | 48,229 |

Values in table may not sum to Totals because of rounding.

**Alternative Regulatory Approaches**

FSIS considered a number of alternatives designed to achieve the regulatory objective outlined in the Need for the Rule section. The final rule was chosen as the least burdensome, technically acceptable regulatory approach to ensure that adequate grinding records are maintained for the purposes of outbreak investigation and product trace back. While some alternatives would result in lesser costs to industry, and some alternatives would result in more complete information for outbreak investigators, in FSIS's judgment the final rule is the alternative that maximizes net benefits. Cost estimates were developed for the final rule but not for the rejected alternatives because the costs for these alternatives are discernibly higher or lower because of the amount of time spent on recordkeeping.

**Alternatives Considered**

(1) Encouraging rather than requiring grinding records: FSIS provided industry voluntary guidelines (see Table 2) in 2009. As stated previously, the Agency has concluded that a policy of voluntary guidelines for recordkeeping has not ensured that all official establishments and retail stores maintain complete records that will ensure quick identification of contaminated product.

(2) Regulated Daily Recordkeeping Program: FSIS considered requiring that retail stores and official establishments maintain grinding records such that each producer recorded grinding activities once per day, and information on all suppliers that were used during that day but not on when during the day those suppliers were used. Daily recording may have been sufficient if entities typically cleaned their equipment once a day, rarely changed suppliers, and conducted few grinds per day, but FSIS has found that the majority of retailers grind product and clean their equipment multiple times per day. A single daily recordkeeping task is, therefore, insufficient to provide the necessary information for traceback and could inhibit FSIS's ability to identify suppliers during ongoing outbreaks. In addition, the time savings of daily recordkeeping over per-grind recordkeeping is likely low since most of the same information will need to be kept. Therefore, FSIS rejected this alternative.

(3) The Final Rule: The chosen alternative requires that retail stores and official establishments maintain grinding records such that each producer must record the required information whenever any of the required information for the lot of product being ground changes. To minimize the burden placed on these entities, FSIS has removed certain pieces of information from the requirements that were included in the proposed rule, ensuring that only the necessary information for traceability is maintained. Requiring records that pertain to each individual grind guarantees that investigators will be able to identify the components included in an adulterated package of ground beef, creating a narrower list of potential sources of adulterated product and increasing the chances that the source of contamination is identified. FSIS has determined that this alternative is the least burdensome option that achieves the regulatory objective.

(4) More Detailed Recordkeeping Program: FSIS also considered expanding the proposed recordkeeping requirements to include all fields suggested in the 2009 FSIS guidance (all fields in the Table 2 sample log). This approach would provide FSIS with more detailed records to use during an investigation, which may improve traceability slightly. However, the small improvement in the trace back process provided by the additional level of detail would place an unnecessarily large burden on those entities that grind product and must keep records. Any such small improvement would not outweigh the costs incurred for keeping the more detailed records. For this reason, FSIS decided to require that only the most critical information be recorded. Other information, including

[21] See footnote 3.

that which appears on the sample log, is voluntary.

The costs and benefits of the final rule and each regulatory alternative are displayed in Table 6.

TABLE 6—REGULATORY ALTERNATIVES CONSIDERED

| Alternative | Costs | Benefits |
|---|---|---|
| (1) Encouraging Voluntary Recordkeeping. | No additional costs | No additional benefits. |
| (2) Regulated Daily Recordkeeping. | Slightly less costly alternative to industry due to small time savings over per-grind recordkeeping. | Improvement over voluntary recordkeeping because records are required and must be created every day of grinding, but the records will in most cases not be detailed enough to facilitate traceability. Therefore, any benefits that can realistically be expected will be minimal, and the objective of facilitating traceability will not be met. |
| (3) The Final Rule | $59.3 million ($48.5 million to $70.2 million) annual costs to the industry, plus additional costs associated with recording the source of trim and customer-requested grind components. Potential slight costs to consumers. | Achievement of regulatory objective resulting in benefits to consumers in the form of averted foodborne illness, to retailers and official establishments grinding components from suppliers in the form of less costly outbreaks and recalls, and to official establishments supplying ground beef components in the form of less costly recalls and insulation from costly spillover effects during food safety events. |
| (4) More Detailed Recordkeeping. | Most costly alternative to industry | Achievement of regulatory objective resulting in the benefits described above. Potential for small increase in traceback speed and therefore small increase in avoided illnesses. |

**Expected Costs of the Final Rule**

*Costs to Industry*

Retailers and official establishments that grind raw beef will incur costs to comply with the final rule. These include the labor cost of employees who record and maintain the records, storage costs, and those costs associated with trim and customer-requested grinds. FSIS has attempted to estimate the cost of labor and storage using information obtained from industry associations, the U.S. Census Bureau, the U.S. Bureau of Labor Statistics, a commercial real estate services firm report, and public comments.

In order to keep adequate records when grinding trim, entities will need to keep track of the source of each cut of beef from which the trim was separated. If not all of the trim is ground in a single batch, then entities will need to record each lot in which the trim is used. Similarly, if retail stores grind beef at the request of customers, they will need to record the required information for that small grind if new source materials are used. How entities choose to deal with the requirements will differ, and the costs associated with these requirements will vary greatly because of differences in firm size, component ordering practices, and grinding practices. FSIS used labor-time estimates from a grocery store chain's public comments to estimate additional costs related to grinding trim. FSIS left additional costs related to customer requested grinds unquantified because of the many variations in how retail stores will deal with the requirements and the relatively small number of customer grinds that take place.

Entities may incur other costs for training and investment should they choose to implement complex recordkeeping systems. Electronic recordkeeping options exist, which are likely more expensive than paper records but provide additional benefits such as improved accuracy, lower labor requirements, useful reporting and recall management tools, and supply-side management functions. Firms will decide individually whether these systems are suitable to their needs, and the proportion of those choosing more complex systems is uncertain. For the purposes of the cost estimate, FSIS has only estimated costs and benefits of the basic, paper-based system of recordkeeping. FSIS assumes that if firms choose to invest more in their recordkeeping systems, they will do so because the benefits achieved outweigh the costs.

Model records are available in the preamble of this final rule, on the FSIS Web site,[22] and on the Web sites of industry associations. Best practices and guidance for beef grinders are also available from a number of sources.[23] Therefore, FSIS does not anticipate that entities will incur significant costs for the development of records and standard operating procedures. FSIS also believes that training for recordkeeping can be done informally, on the job, and will therefore result in minimal costs. Also, as noted above, FSIS will conduct webinars and provide guidance to help inform industry of the new requirements, which will help minimize training costs.

To estimate the labor costs associated with recordkeeping, FSIS divided the entities keeping no records and incomplete records into categories based on three basic types of grinding activities:

1. No trim—grinds in which no trim is used, only chubs of ground beef;
2. With trim—grinds in which trim is added to chubs of ground beef; and
3. Trim-only—grinds consisting only of trim.

Using distributions from the CDC recordkeeping study, FSIS was able to estimate the number of official establishments and retail stores that do not use trim in their grinds (no trim), that use trim in their grinds (with trim), and that use no trim in some grinds and

[22] FSIS, (2012) Sanitation Guidance for Beef Grinders, available at: *http://www.fsis.usda.gov/wps/wcm/connect/b002d979-1e1e-487e-ac0b-f91ebd301121/Sanitation_Guidance_Beef_Grinders.pdf?MOD=AJPERES.*

[23] Food Marketing Institute, (2013) ''Comprehensive Guide Meat Ground at Retail Recordkeeping and Sanitation,'' accessed February 12, 2015, available at: *http://www.fmi.org/docs/default-source/food-safety-best-practice-guides/meat-ground-at-retail-comprehensive-guide.pdf?sfvrsn=6.* Beef Industry Food Safety Council, (2005) ''Best Practices For Retailer Operations Producing Raw Ground Beef,'' accessed February 12, 2015, available at: *https://www.bifsco.org/CMDocs/BIFSCO/Best%20Practices/bestpracticesforretail4-05.pdf.*

only trim in others (trim-only). While there are likely other combinations of practices, and not all entities will fall into the three defined categories, these categories are sufficient for the purposes of the cost estimate. The categorization of entities is displayed in Table 7.

TABLE 7—ENTITIES CATEGORIZED BY TYPES OF GRINDING PERFORMED

| Size | Recordkeeping | Entities | Trim or no trim | Trim practices | Entities |
|---|---|---|---|---|---|
| Large ... | Incomplete ..... | 13,069 | Using Trim (91%) ..... | Trim-Only (90%) ..... | 10,703 |
| | | | | With Trim (10%) ..... | 1,189 |
| | | | No Trim (9%) ..... | ..... | 1,176 |
| | No Records ..... | 5,887 | Using Trim (91%) ..... | Trim-Only (90%) ..... | 4,821 |
| | | | | With Trim (10%) ..... | 536 |
| | | | No Trim (9%) ..... | ..... | 530 |
| Small .... | Incomplete ..... | 4,514 | Using Trim (61%) ..... | Trim-Only (52%) ..... | 1,432 |
| | | | | With Trim (48%) ..... | 1,322 |
| | | | No Trim (39%) ..... | ..... | 1,761 |
| | No Records ..... | 42,441 | Using Trim (61%) ..... | Trim-Only (52%) ..... | 13,462 |
| | | | | With Trim (48%) ..... | 12,427 |
| | | | No Trim (39%) ..... | ..... | 16,552 |

Values in table may not sum to Totals because of rounding.

FSIS assigned time estimates for each of the three types of grinds based on public comments. For no trim grinds, FSIS assumed that recordkeeping would take approximately 1 minute per grind.[24] For with trim grinds, FSIS assumed that the number of components would approximately double, and therefore recordkeeping would take about 2 minutes. For trim-only grinds, FSIS assumed that recordkeeping would vary depending on the number of sources and take approximately 6 to 10 minutes per grind.[25] If an entity is keeping complete records, FSIS assumed that it would not incur any additional costs; if an entity is keeping no records, it would incur costs associated with the full labor time estimate, and if an establishment is keeping incomplete records, FSIS assumed it would incur costs associated with half of the labor time estimate.

FSIS also relied on public comments to estimate the number of grinding activities completed per day. FSIS consequently estimated that the average entity grinds 4 to 5.5 times per day,[26] with the exception of those that do trim-only grinding. For those entities, FSIS estimated that they would complete no trim grinds 4 to 5.5 times per day and then perform an additional trim-only grind (for a total of 5 to 6.5 per day). Further, FSIS estimated that approximately 90 percent of retailers perform customer-requested grinds, and that those grinds make up 1 percent of the total grinds.[27] FSIS estimated that the recordkeeping for customer-requested grinds would take about 1 minute. Customer-requested grinds were not applied to official establishments. Finally, FSIS estimated that the average retailer grinds 6 days per week.[28]

To illustrate the time estimate, FSIS has provided the following example of a retail store that does trim-only grinds, performs customer-requested grinds, and has incomplete records:

- Low Estimate: [4 grinds per day × 1 min per grind (no trim) + 1 grind per day × 6 min per grind (trim-only) + {5 grinds (no trim + trim-only) * 1/99[29]} grinds per day × 1 min per grind (customer request)] × 6 days per week × 50 percent (incomplete records) = 30.2 minutes per week.
- High Estimate: [5.5 grinds per day × 1 min per grind (no trim) + 1 grind per day × 10 min per grind (trim-only) + {6.5 grinds (no trim + trim-only) * 1/99} × 1 min per grind (customer request)] × 6 days per week × 50 percent (incomplete records) = 46.7 minutes per week.

If the store in the example above started with no records, the 50-percent factor would be removed, increasing the time burden to 60.3 to 93.4 minutes per week. If instead the store were an official establishment, the customer grinds would be removed, resulting in a burden of 30 to 46.5 minutes per week.

Time estimates were calculated for each entity in Table 7 and then multiplied by 52 weeks for an annual estimate. To calculate the cost of this added labor, FSIS estimated that the recordkeeping would be performed by an employee paid at the Bureau of Labor Statistics ''Butchers and Meat Cutters'' (occupation code 51–3021) mean hourly wage rate of $14.40.[30] To account for benefits paid to these employees, such as paid leave and retirement contributions, FSIS applied a benefits factor of 1.412 [31] to the wage rate, resulting in a total compensation rate of $20.33 per hour. FSIS then multiplied the labor time estimates by the total compensation rate estimate to get the total annual cost of labor, displayed in Table 8.

[24] ''60 seconds to fill each grind log entry''—Docket ID# FSIS–2009–0011–0035, available at: *http://www.regulations.gov/#!documentDetail;D=FSIS-2009-0011-0035.*

[25] ''8 minutes per day to log beef trim,'' ± 2 minutes to account for varying number of components—Docket ID# FSIS–2009–0011–0035, available at: *http://www.regulations.gov/#!documentDetail;D=FSIS-2009-0011-0035.*

[26] Low estimate: ''Grinds raw beef 4x per day''—Docket ID# FSIS–2009–0011–0034, available at: *http://www.regulations.gov/#!documentDetail;D=FSIS-2009-0011-0034.* High estimate: Midpoint of ''3–8 batches a day''—Docket ID# FSIS–2009–0011–0040, available at: *http://www.regulations.gov/#!documentDetail;D=FSIS-2009-0011-0040.*

[27] ''90 percent of the retailers that grind beef in store perform grinds at a consumer's request . . . the figure is 1 percent or less''—Docket ID# FSIS–2009–0011–0047, available at: *http://www.regulations.gov/#!documentDetail;D=FSIS-2009-0011-0047.*

[28] ''6x per week''—Docket ID# FSIS–2009–0011–0034, available at: *http://www.regulations.gov/#!documentDetail;D=FSIS-2009-0011-0034.*

[29] (1/99) is the factor used to calculate the number of customer-requested grinds as 1 percent of the total grinds.

[30] Bureau of Labor Statistics, May 2013 National Occupational Employment and Wage Estimates, accessed February 2, 2015, available at: *http://www.bls.gov/oes/current/oes_nat.htm.*

[31] Bureau of Labor Statistics, Employer Costs for Employee Compensation, September 2014, accessed February 2, 2015, available at: *http://www.bls.gov/news.release/ecec.t06.htm.* Wages and salaries as a percentage of total compensation are estimated at 70.8% for all service-providing industries, with total benefits accounting for the other 29.2%. To estimate total compensation, FSIS applied a benefits factor of (29.2%/70.8% + 1) = 1.412 to the hourly wage rate.

TABLE 8—ANNUAL LABOR COSTS

| Entity size | Low estimate ($mil) | High estimate ($mil) | Midpoint estimate ($mil) |
|---|---|---|---|
| Large | 12.24 | 18.70 | 15.47 |
| Small | 33.54 | 48.74 | 41.14 |
| Total | 45.78 | 67.44 | 56.61 |

Values in table may not sum to Totals because of rounding.

To account for record storage costs, FSIS again used distributions of recordkeeping practices from the aforementioned CDC study.[32] According to the study, 36 percent of retailers that maintain records keep them for greater than 1 year, 39 percent keep records for 6 months to 1 year, and 25 percent keep records for less than 6 months. FSIS assumed that grinding records for a full year could be kept in 3 square feet of storage space, and that the cost of that storage would be approximately $15.50 annually.[33] FSIS then assumed that those retail stores that already kept records, but for less than 6 months, would incur $46.50 in costs for a full year of storage (3 sq. ft. × $15.50), and those entities that already kept records for 6 months to 1 year would pay half the annual cost, or $23.25. Those entities keeping records for greater than 1 year would have no additional costs because they are already maintaining records at the minimum level.

The distribution from the CDC study was applied to the number of retail stores keeping complete or incomplete records, and then multiplied by the assumed annual cost of storage. The retail stores that do not keep records will incur the $46.50 in costs for a full year of storage.

For official establishments, FSIS assumed that those already maintaining records would be keeping those records for at least 2 years, as required by 9 CFR 320.3(a). For these establishments there would be cost savings associated with one year of reduced storage time equivalent to $46.50. For official establishments not maintaining records, there would be an additional cost of $46.50. FSIS applied the cost savings to those official establishments keeping records and the additional costs to those official establishments keeping no records, and added those costs and savings to the recordkeeping costs estimated for retail stores. The results are displayed in Table 9.

TABLE 9—ANNUAL RECORD STORAGE COSTS

| Entity size | Affected entities | Storage costs ($mil) |
|---|---|---|
| Large | 16,613 | 0.62 |
| Small | 46,194 | 2.08 |
| Total | 62,807 | 2.70 |

Values in table may not sum to Totals because of rounding.

The total cost to industry was calculated as a sum of the previously estimated costs. The results of the annual industry cost estimate are displayed in Table 10.

TABLE 10—TOTAL ANNUAL INDUSTRY COSTS

| Entity size | Low estimate ($mil) | High estimate ($mil) | Midpoint estimate ($mil) | Unqualified costs |
|---|---|---|---|---|
| Large | 12.86 | 19.32 | 16.09 | Additional costs associated with the grinding of trim and customer requested grinds. |
| Small | 35.63 | 50.83 | 43.23 | |
| Total | 48.48 | 70.15 | 59.32 | |

Values in table may not sum to Totals because of rounding.

**Cost to Consumers**

This rule will not result in any direct costs to consumers. It is possible that retailers and official establishments that grind raw beef will pass on a portion of the increased cost of grinding to consumers. In most cases these costs should be small. In the case of customer-requested grinds, consumers may end up paying a small fee, as is presently customary at some retail stores. While this practice may discourage some consumers, the facts that customer-requested grinds are so infrequent, and fees are already applied at some locations, suggest that fees will not cause major disruptions to ground beef sales. Therefore FSIS expects that

[32] See footnote 3.

[33] Cassidy Turley, National Retail Review Winter 2014, accessed February 3, 2015, available at: *http://dtz.cassidyturley.com/DesktopModules/CassidyTurley/Download/Download.ashx?contentId=3926&fileName=Cassidy_Turley_National_Retail_Review_Winter_2014.pdf.* FSIS used the national average quoted rate for Community/Neighborhood/Strip Shopping Centers (see page 11) to approximate the cost of storing records at a retail store.

any indirect costs to consumers will be minimal.

**Cost to Agency**

FSIS does not anticipate that the Agency or other regulators will incur additional costs as a result of this rule. FSIS has provided guidance to retailers that grind raw beef and will continue outreach efforts to ensure that retailers are aware of the rule and are able to comply. FSIS will also hold webinars and provide guidance on the new recordkeeping requirements.

FSIS will conduct a retrospective analysis to quantify what effects, if any, the final rule has on Agency resources. To do so, FSIS will examine the following:

- Number, length, and outcome of recall effectiveness checks.
- Regulatory noncompliance citations at official establishments for the proposed revisions to 9 CFR 320.1(b)(4).

We determined to not examine the overtime hours for enforcement, district office, and recall staff on a per-outbreak basis, as suggested in the proposed rule. The overtime hours cannot directly link to outbreaks.

**Expected Benefits of the Final Rule**

*Public Health Benefits*

Mandatory grinding logs with a minimum level of necessary information will improve FSIS investigators' ability to trace implicated product to its source, recommend timely and accurate recalls, remove adulterated product from commerce, and prevent illnesses at later stages of outbreaks.[34]

Mandatory grinding logs will increase the likelihood that adulterated product is able to be traced back to its source. When FSIS identifies official establishments producing adulterated product, it takes steps to assess their production processes through comprehensive food safety assessments and follow-up evaluations. In doing so, FSIS is able to identify poor practices and deficiencies in process control and to require changes to resolve these issues. In some cases these assessments lead to findings that are valuable to industry as a whole, and the lessons learned can be documented and disseminated in the form of guidance. Improvements to production practices and process control, whether at implicated official establishments or other establishments that have benefited from lessons learned, will result in reductions in foodborne illness outbreaks.

Firms that supply ground beef components will have incentives to apply the guidance developed as a result of previous outbreak investigations and to improve the safety of their product in general. As traceability systems improve as a result of better recordkeeping, liability for food safety events will be shifted from retailers to suppliers. This shift will reduce the prevalence of moral hazard—explained previously in the Need for the Rule section—thereby incentivizing supplier firms to produce safer product through the potential for adverse consequences of supplying unsafe product, such as reputation loss and litigation.[35] Therefore, by improving traceability through better recordkeeping, this rule has the potential to promote a safer supply of ground beef for consumers.

**Benefits to Retailers and Official Establishments That Grind Raw Beef**

Retailers and official establishments that grind raw beef products purchased from a supplier will benefit from mandatory recordkeeping because investigators have a better chance of tracing the adulterated product back to the supplier. Investigations that end at the retail level often result in recalls that are very costly for retailers because they bear the burden of product loss and compensating customers for returned product. These recalls can also negatively affect the brand of the store or chain, resulting in a loss in consumer confidence and a loss in sales. In some cases outbreak investigations that end at the retail level could result in exposure to legal liability.[36] Accurate records increase the likelihood that contaminated product is traced to its source, lessening the impact of recalls on retailers and official establishments that purchase ground beef components from suppliers.

For retailers that are already maintaining accurate records, there will be benefits from the reduction in free rider firms, as explained previously in the Need for the Rule section. Fewer free rider firms will decrease the chances that outbreak investigations go unresolved, which can greatly reduce the cost to retailers. When a source is not identified, an outbreak may indiscriminately affect firms selling and producing ground beef. The fresh spinach outbreak in 2006 is a prime example of the consequences of an outbreak where the source of contamination is in doubt. Bagged spinach was associated with infections of *E. coli* O157:H7, but because no individual processor could be identified as having been the source of the outbreak, FDA and CDC issued a public alert advising consumers not to eat bagged spinach and eventually advised consumers not to eat all fresh spinach. Six companies issued voluntary recalls in September 2006. Sales of spinach plummeted from $14.3 million in September to $3.7 million in October and did not recover fully until January 2008.[37] An outbreak caused by a single firm, which was identified weeks after public warnings and recalls took place, ended up causing serious losses to the entire industry. Mandatory recordkeeping increases the chances that an investigator identifies the source of contamination, thereby increasing the chances that an outbreak will have minimal impact on uninvolved firms.

**Benefits to Official Establishments That Supply Ground Beef Components**

Official establishments supplying retail stores and processing establishments with ground beef components will also benefit from the increased ability of FSIS investigators to identify sources of contamination. When individual establishments are found to be suppliers of adulterated product, other uninvolved establishments are insulated from large spillover effects such as those illustrated in the spinach recall described above. Identifying the source establishment will likely be even more significant for official establishments because ground beef components make up a greater portion of their sales than ground beef would at a retail store. Mandatory recordkeeping could help to preserve consumer confidence and ground beef sales in the event of a foodborne illness outbreak, benefiting all firms that are uninvolved in the outbreak, while penalizing the establishment that supplied the adulterated product.

Another potential benefit for official establishments is a reduction in the scope of ground beef recalls. All else being equal, more accurate grinding records should result in the

[34] For a visual representation of the potential for averted illnesses due to quicker investigations and an earlier recall, please refer to Figure 1 of the FDA *Establishment and Maintenance of Records Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002* final rule, available at: *https://federalregister.gov/a/04-26929/#p-674.*

[35] See footnote 9.

[36] See *Financial Exposures* section of: Grocery Manufacturers Association (GMA), Covington & Burling, and Ernst & Young ''Capturing Recall Costs,'' 2011, accessed January 15, 2015, available at: *http://www.gmaonline.org/file-manager/images/gmapublications/Capturing_Recall_Costs_GMA_Whitepaper_FINAL.pdf.*

[37] University of Minnesota Food Industry Center, (2009) ''Natural Selection: 2006 *E. coli* Recall of Fresh Spinach,'' accessed January 20, 2015, available at: *http://ageconsearch.umn.edu/bitstream/54784/2/Natural%20Selection.pdf.*

identification of specific lots of implicated product and therefore a narrower recall.[38] Smaller recalls will result in lower costs from product loss and reimbursement and recall execution costs such as advertising and public relations management. In some cases, smaller recalls as a result of better recordkeeping could even minimize sales losses, because a recall could be limited to a smaller geographical region thereby reducing losses in consumer confidence.

Finally, official establishments will benefit from lessons learned during recalls and follow-up assessments at entities linked to foodborne illness outbreaks. As recordkeeping practices at retail and official processing establishments improve, more outbreaks will be able to be traced to their source. This traceback will initiate further examination of current practices and could lead to the identification of significant issues that, if corrected, would benefit official establishments generally.

**Net Benefits of the Final Rule**

The total costs and benefits achieved as a result of the final rule are displayed in Table 11.

TABLE 11—NET BENEFITS OF THE FINAL RULE

| | |
|---|---|
| Costs: | |
| Labor | $56.6 million annually ($45.8 million to $67.4 million). |
| Storage | $2.7 million annually. |
| Unquantified Costs | Non-labor costs associated with recordkeeping for the grinding of trim and customer requested grinds. |
| | Potential slight costs to consumers in the form of ground beef price increases. |
| Benefits: | |
| Unquantified Benefits | Benefits to consumers in the form of averted foodborne illnesses as a result of contaminated ground beef. |
| | Benefits to retailers and official establishments grinding raw beef in the form of less costly food safety events, such as outbreaks and recalls. |
| | Benefits to official establishments supplying ground beef components in the form of less costly recalls and insulation from costly spillover effects during food safety events. |

**Regulatory Flexibility Analysis**

The FSIS Administrator certifies that, for the purpose of the Regulatory Flexibility Act (5. U.S.C. 601–602), the final rule will not have a significant economic impact on a substantial number of small entities in the United States. While the rule does affect a large number of small businesses, the average per entity annual cost is relatively low, at approximately $905 (746 to 1,064). This estimate does not include unquantified costs associated with customer-requested grinds. These costs will vary by retail store, but the total cost of compliance across the industry will be low because of the relatively small number of customer requested grinds. Table 12 provides a summary of the small entities affected by the final rule and the average annual cost.

TABLE 12—TOTAL COSTS AND AVERAGE COST PER ENTITY FOR SMALL BUSINESSES

| Entity type | Entities | Total annual cost ($mil) | Average annual cost ($) |
|---|---|---|---|
| Retailer | 46,649 | 42.22 | 905.16 |
| Official | 1,132 | 1.00 | 885.63 |
| Total | 47,781 | 43.23 | 904.70 |

Values in table may not sum to Totals because of rounding.

There is a multitude of guidance already available that small businesses can use, and FSIS has provided a sample grinding log in this final rule that can be used. These resources will help to keep the cost of implementing a new recordkeeping program low. In general, as the size of the business and the amount of ground product sold gets smaller, so too will the number of suppliers and components used, and the number of grinds performed. The smaller scale of production should contribute to lower average costs for smaller businesses. Moreover, the fact that some small firms are already maintaining adequate records shows that the cost of the practice is not prohibitive to doing business.

**Paperwork Reduction Act**

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the new information collection requirements included in this final rule have been submitted for approval to the Office of Management and Budget (OMB).

*Title:* Records to be Kept by Official Establishments and Retail Stores that Grind Raw Beef Products.

*Type of Collection:* New.

*Abstract:* Under this final rule, all official establishments and retail stores that grind raw beef products for sale in commerce, including products ground at a customer's request, will have to maintain certain records.

The required records will have to include the following information:

(A) The establishment numbers of the establishments supplying the materials used to prepare each lot of raw ground beef product,

(B) All supplier lot numbers and production dates,

(C) The names of the supplied materials, including beef components

[38] Resende-Filho, Moises A. and Buhr, Brian L. ''Economics of Traceability for Mitigation of Food Recall Costs,'' prepared for presentation at the *International Association of Agricultural Economists (IAAE) Triennial Conference,* Foz do Iguaçu, Brazil, 18–24 August, 2012, available at: *http://ageconsearch.umn.edu/bitstream/126193/2/IAAE_2012_Paper.pdf.* This paper presents simulation results of a model that indicated that that presence of a traceability system decreased volumes of recalls by over 90 percent (see Table 3).

and any materials carried over from one production lot to the next,

(D) The date and time each lot of raw ground beef product is produced, and

(E) The date and time when grinding equipment and other related food-contact surfaces are cleaned and sanitized.

In response to comments, FSIS removed requirements for entities covered by this rule to provide names, points of contact, and phone numbers for official establishments. Also in response to comments, the Agency eliminated the requirement that the weight of each source component used in a lot of ground beef be kept. However, in response to other public comments, FSIS increased the time estimates for recordkeeping activities, the frequency of recordkeeping tasks, and the number of active grinding days per week. FSIS also increased the number of retail stores that will be affected by the rule. These changes resulted in a significant increase in the number of burden hours initially estimated in the proposed rule.

*Estimate of Burden:* FSIS estimates that it would take a maximum of 50.33 hours per respondent annually.

*Respondents:* Official establishments and retail stores that grind raw beef products.

*Estimated Number of Respondents:* 65,911.

*Estimated Maximum Annual Number of Responses per Respondent:* 1,878.

*Estimated Maximum Total Annual Recordkeeping Burden:* 3,317,493 hours.

Copies of this information collection assessment can be obtained from Gina Kouba, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 1400 Independence Ave. SW., Room 6065 South Building, Washington, DC 20250–3700; (202) 720–5627.

**Executive Order 12988**

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under this rule: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) no administrative proceedings will be required before parties may file suit in court challenging this rule.

**Executive Order 13175**

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' E.O. 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that 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.

FSIS has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under E.O. 13175. If a Tribe requests consultation, the Food Safety and Inspection Service will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions, and modifications identified herein are not expressly mandated by Congress.

**E-Government Act**

FSIS and USDA are committed to achieving the purposes of the E-Government Act (44 U.S.C. 3601, *et seq.*) by, among other things, promoting the use of the Internet and other information technologies and providing increased opportunities for citizen access to Government information and services, and for other purposes.

**Additional Public Notification**

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS Web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS also will make copies of this publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is available on the FSIS Web page. Through the Web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

**USDA Nondiscrimination Statement**

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To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

*Mail:* U.S. Department of Agriculture, Director, Office of Adjudication 1400 Independence Avenue SW., Washington, DC 20250–9410

*Fax:* (202) 690–7442

*Email: program.intake@usda.gov.*

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

**List of Subjects in 9 CFR Part 320**

Meat inspection, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, FSIS is amending 9 CFR part 320, as follows:

## PART 320—RECORDS, REGISTRATION, AND REPORTS

■ 1. The authority citation for part 320 continues to read as follows:

**Authority:** 21 U.S.C. 601–695; 7 CFR 2.7, 2.18, 2.53

■ 2. Amend § 320.1 by adding paragraph (b)(4) to read as follows:

**§ 320.1 Records required to be kept.**

* * * * *

(b) * * *

(4)(i) In the case of raw ground beef products, official establishments and retail stores are required to keep records that fully disclose:

(A) The establishment numbers of the establishments supplying the materials used to prepare each lot of raw ground beef product;

(B) All supplier lot numbers and production dates;

(C) The names of the supplied materials, including beef components and any materials carried over from one production lot to the next;

(D) The date and time each lot of raw ground beef product is produced; and

(E) The date and time when grinding equipment and other related food-contact surfaces are cleaned and sanitized.

(ii) Official establishments and retail stores covered by this part that prepare ground beef products that are ground at an individual customer's request must keep records that comply with paragraph (b)(4)(i) of this section.

(iii) For the purposes of this section of the regulations, a lot is the amount of ground raw beef produced during particular dates and times, following clean up and until the next clean up, during which the same source materials are used.

* * * * *

■ 3. Revise § 320.2 to read as follows:

**§ 320.2 Place of maintenance of records.**

(a) Except as provided in paragraph (b) of this section, any person engaged in any business described in § 320.1 and required by this part to keep records must maintain such records at the place where such business is conducted, except that if such person conducts such business at multiple locations, he may maintain such records at his headquarters' office. When not in actual use, all such records must be kept in a safe place at the prescribed location in accordance with good commercial practices.

(b) Records required to kept under § 320.1(b)(4) must be kept at the location where the raw beef was ground.

■ 4. Revise § 320.3 to read as follows:

**§ 320.3 Record retention period.**

(a) Except as provided in paragraphs (b) and (c) of this section, every record required to be maintained under this part must be retained for a period of 2 years after December 31 of the year in which the transaction to which the record relates has occurred and for such further period as the Administrator may require for purposes of any investigation or litigation under the Act, by written notice to the person required to keep such records under this part.

(b) Records of canning as required in subpart G of part 318 of this chapter, must be retained as required in § 318.307(e); except that records required by § 318.302(b) and (c) must be retained as required by those sections.

(c) Records required to be maintained under § 320.1(b)(4) must be retained for one year.

Done in Washington, DC, on: December 14, 2015.

**Alfred V. Almanza,**

*Acting Administrator.*

[FR Doc. 2015–31795 Filed 12–18–15; 8:45 am]

**BILLING CODE 3410–DM–P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Parts 348 and 390

**RIN 3064–AE20**

## Removal of Transferred OTS Regulations Regarding Management Official Interlocks and Amendments to FDIC's Rules and Regulations

**AGENCY:** Federal Deposit Insurance Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Federal Deposit Insurance Corporation (''FDIC'') is adopting a final rule to rescind and remove from the Code of Federal Regulations the transferred OTS regulation entitled ''Management Official Interlocks.'' This subpart was included in the regulations that were transferred to the FDIC from the Office of Thrift Supervision (''OTS'') on July 21, 2011, in connection with the implementation of applicable provisions of title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act''). The requirements for State savings associations in the transferred OTS regulation are substantively similar to those in the FDIC's regulation, which is also entitled ''Management Official Interlocks'' and is applicable for all insured depository institutions (''IDIs'') for which the FDIC has been designated the appropriate Federal banking agency.

**DATES:** The final rule is effective on January 20, 2016.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Maree, Counsel, Legal Division, (202) 898–6543; Mark Mellon, Counsel, Legal Division, (202) 898–3884; Karen Currie, Senior Examination Specialist, (202) 898–3981.

**SUPPLEMENTARY INFORMATION:**

### I. Background

*A. The Dodd-Frank Act*

The Dodd-Frank Act [1] provided for a substantial reorganization of the regulation of State and Federal savings associations and their holding companies. Beginning July 21, 2011, the transfer date established by section 311 of the Dodd-Frank Act, codified at 12 U.S.C. 5411, the powers, duties, and functions formerly performed by the OTS were divided among the FDIC, as to State savings associations, the Office of the Comptroller of the Currency (''OCC''), as to Federal savings associations, and the Board of Governors of the Federal Reserve System (''FRB''), as to savings and loan holding companies. Section 316(b) of the Dodd-Frank Act, codified at 12 U.S.C. 5414(b), provides the manner of treatment for all orders, resolutions, determinations, regulations, and advisory materials that had been issued, made, prescribed, or allowed to become effective by the OTS. The section provides that if such materials were in effect on the day before the transfer date, they continue to be in effect and are enforceable by or against the appropriate successor agency until they are modified, terminated, set aside, or superseded in accordance with applicable law by such successor agency, by any court of competent jurisdiction, or by operation of law.

Section 316(c) of the Dodd-Frank Act, codified at 12 U.S.C. 5414(c), further directed the FDIC and the OCC to consult with one another and to publish a list of the continued OTS regulations that would be enforced by the FDIC and the OCC, respectively. On June 14, 2011, the FDIC's Board of Directors approved a ''List of OTS Regulations to be Enforced by the OCC and the FDIC Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act.'' This list was published by the FDIC and the OCC as a Joint Notice in the **Federal Register** on July 6, 2011.[2]

Although section 312(b)(2)(B)(i)(II) of the Dodd-Frank Act, codified at 12 U.S.C. 5412(b)(2)(B)(i)(II), granted the OCC rulemaking authority relating to both State and Federal savings associations, nothing in the Dodd-Frank Act affected the FDIC's existing authority to issue regulations under the Federal Deposit Insurance Act (''FDI Act'') and other laws as the ''appropriate Federal banking agency'' or under similar statutory terminology. Section 312(c) of the Dodd-Frank Act amended the definition of ''appropriate Federal banking agency'' contained in section 3(q) of the FDI Act, 12 U.S.C. 1813(q), to add State savings associations to the list of entities for which the FDIC is designated as the ''appropriate Federal banking agency.'' As a result, when the FDIC acts as the designated ''appropriate Federal banking agency'' (or under similar terminology) for State

[1] Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, 124 Stat. 1376 (2010).

[2] 76 FR 39247 (July 6, 2011).

savings associations, as it does here, the FDIC is authorized to issue, modify and rescind regulations involving such associations, as well as for State nonmember banks and insured branches of foreign banks.

As noted, on June 14, 2011, pursuant to this authority, the FDIC's Board of Directors reissued and redesignated certain transferring regulations of the former OTS. These transferred OTS regulations were published as new FDIC regulations in the **Federal Register** on August 5, 2011.[3] When it republished the transferred OTS regulations as new FDIC regulations, the FDIC specifically noted that its staff would evaluate the transferred OTS rules and might later recommend incorporating the transferred OTS regulations into other FDIC rules, amending them, or rescinding them, as appropriate.

One of the OTS rules transferred to the FDIC governs OTS oversight of management official interlocks in the context of State savings associations. The OTS rule, formerly found at 12 CFR part 563f, was transferred to the FDIC with only minor nonsubstantive changes and is now found in the FDIC's rules at 12 CFR part 390, subpart V (''part 390, subpart V''), entitled ''Management Official Interlocks.'' Before the transfer of the OTS rules and continuing today, the FDIC's rules contained 12 CFR part 348 (''part 348''), also entitled ''Management Official Interlocks,'' a rule governing FDIC oversight of management official interlocks with respect to IDIs for which the FDIC has been designated the appropriate Federal banking agency. After careful review and comparison of part 390, subpart V and part 348, the FDIC has decided to (1) rescind part 390, subpart V, because, as discussed below, it is substantively redundant to existing part 348; and (2) simultaneously make technical conforming edits to part 348.

## II. Proposed Rule

### *A. Removal of Part 390, Subpart V (Former OTS 12 CFR Part 563f)*

On July 21, 2014, the FDIC published a Notice of Proposed Rulemaking (''NPR'' or ''Proposed Rule'') regarding the removal of part 390, subpart V, which governs management official interlocks for State savings associations and their affiliates.[4] The former OTS rule was transferred to the FDIC with only nominal changes. The NPR proposed removing part 390, subpart V from the CFR in an effort to streamline FDIC regulations for all FDIC-supervised institutions. As discussed in the Proposed Rule, the FDIC carefully reviewed the transferred rule, part 390, subpart V, and compared it with part 348, an FDIC regulation that existed before the transfer of part 390, subpart V and that continues to remain in effect today. Like the transferred rule, part 348 governs management official interlocks for State nonmember insured banks and their affiliates. Although the two rules were substantively the same, minor technical and conforming amendments were proposed.

### *B. Amendments to Part 348*

The FDIC proposed to modify the scope of part 348, section 348.1(c), to apply to ''management officials of FDIC-supervised institutions and their affiliates'' to conform to and reflect the scope of the FDIC's current supervisory responsibilities as the appropriate Federal banking agency. The FDIC also proposed to add two new definitions into section 348.2. A newly created subsection (i) would have defined an ''FDIC-supervised institution'' as ''either an insured nonmember bank or a State savings association.'' A newly created subsection (p) would have defined ''State savings association'' as having ''the same meaning as in section 3(b)(3) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(b)(3).'' The proposal would also have inserted an exemption from part 390, subpart V, section 390.403(i), into a newly created subsection (j) of section 348.4. The exemption would have allowed certain interlocking relationships for any State savings association that has issued stock in connection with a qualified stock issuance pursuant to section 10(q) of the Home Owners' Loan Act (''HOLA'').

If these proposals are finalized, oversight of management official interlocks in part 348 will apply to all FDIC-supervised institutions, including State savings associations, and part 390, subpart V would be removed because it is largely redundant of those rules found in part 348. Rescinding part 390, subpart V will serve to streamline the FDIC's rules and eliminate unnecessary regulations.

## III. Comments

The FDIC issued the NPR with a 60-day comment period, which closed on September 19, 2014. The FDIC received no comments on its Proposed Rule, and consequently the final rule (''Final Rule'') is adopted as proposed without any changes.

## IV. Explanation of the Final Rule

As discussed in the NPR, part 390, subpart V is substantively similar to part 348, and the designation of part 348 as a single authority of management official interlocks for all FDIC-supervised institutions will serve to streamline the FDIC's rules and eliminate unnecessary regulations. To that effect, the Final Rule removes and rescinds 12 CFR part 390, subpart V in its entirety.

Consistent with the Proposed Rule, the Final Rule also amends section 348.1(c) to modify the scope of part 348. The modified scope, reflecting the FDIC's current supervisory responsibilities as the appropriate Federal banking agency includes State savings associations and their subsidiaries. The Final Rule also adds two new definitions into section 348.2. A newly created subsection (i) would define an ''FDIC-supervised institution'' as ''either an insured nonmember bank or a State savings association.'' A newly created subsection (p) would define ''State savings association'' as having ''the same meaning as in section 3(b)(3) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(b)(3).'' The Final Rule also inserts an exemption from part 390, subpart V, section 390.403(i), into a newly created subsection (j) of section 348.4. The exemption allows certain interlocking relationships for any State savings association that has issued stock in connection with a qualified stock issuance pursuant to section 10(q) of HOLA.

## V. Administrative Law Matters

### *A. The Paperwork Reduction Act*

In accordance with the requirements of the Paperwork Reduction Act (''PRA'') of 1995, 44 U.S.C. 3501–3521, the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (''OMB'') control number. The information collections contained in part 348 are cleared by OMB under the FDIC's ''Management Official Interlocks'' information collection (OMB No. 3064–0118). The FDIC's burden estimates were updated in connection with the collection's 2012 renewal to include State savings associations transferred from the OTS to the FDIC. The FDIC reviewed its burden estimates for the collection at the time it assumed responsibility for supervision of State savings associations transferred from the OTS and determined that no changes to the burden estimates were necessary. This Final Rule does not modify the

[3] 76 FR 47652 (Aug. 5, 2011).

[4] 79 FR 42225 (July 21, 2014).

FDIC's existing collection and does not create any new collections of information pursuant to the PRA. Therefore, no information collection request has been submitted to the OMB for review.

*B. The Regulatory Flexibility Act*

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601 *et seq.,* generally requires an agency to consider whether a final rule will have a significant economic impact on a substantial number of small entities (defined in regulations promulgated by the Small Business Administration to include banking organizations with total assets of less than or equal to $550 million).[5] Pursuant to section 605(b) of the RFA, a final regulatory flexibility analysis is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities, and publishes its certification and a short explanatory statement in the **Federal Register** together with the rule. For the reasons provided below, the FDIC certifies that the Final Rule will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

As discussed in the notice of proposed rulemaking, part 390, subpart V was transferred from OTS part 563f, which governed management official interlocks. OTS part 563f had been in effect since 1979, and all State savings associations were required to comply with it. Because it is redundant of existing part 348 of the FDIC's rules, the FDIC proposes rescinding and removing part 390, subpart V. As a result, all FDIC-supervised institutions—including State savings associations and their affiliates—would be required to comply with part 348 for management official interlocks. Because all State savings associations and their affiliates have been required to comply with substantially similar management official interlocks rules since 1979, the FDIC certifies that the Final Rule will have no significant economic impact on small entities or State savings associations.

*C. Small Business Regulatory Enforcement Fairness Act*

The Office of Management and Budget has determined that the Final Rule is not a ''major rule'' within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA''), 5 U.S.C. 801 *et seq.*

[5] 5 U.S.C. 601 *et seq.*

*D. Plain Language*

Section 722 of the Gramm-Leach-Bliley Act, 12 U.S.C. 4809, requires each Federal banking agency to use plain language in all of its proposed and final rules published after January 1, 2000. In the NPR, the FDIC invited comments on whether the Proposed Rule was clearly stated and effectively organized, and how the FDIC might make it easier to understand. Although the FDIC did not receive any comments, the FDIC sought to present the Final Rule in a simple and straightforward manner.

*E. The Economic Growth and Regulatory Paperwork Reduction Act*

Under section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (''EGRPRA''), the FDIC is required to review all of its regulations, at least once every 10 years, in order to identify any outdated or otherwise unnecessary regulations imposed on insured depository institutions.[6] The FDIC completed the last comprehensive review of its regulations under EGRPRA in 2006 and is commencing the next decennial review, which is expected to be completed by 2016. The NPR solicited comments on whether the proposed rescission of part 390, subpart V and amendments to part 348 would impose any outdated or unnecessary regulatory requirements on insured depository institutions. No comments on this issue were received. Upon review, the FDIC does not believe that part 348, as amended by the Final Rule, imposes any outdated or unnecessary regulatory requirements on any insured depository institutions.

**List of Subjects**

*12 CFR Part 348*

Banks, banking; Management official interlocks; Savings associations

*12 CFR Part 390*

Management official interlocks

**Authority and Issuance**

For the reasons stated in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation amends parts 348 and 390 of title 12 of the Code of Federal Regulations as follows:

■ 1. Revise part 348 to read as follows:

## PART 348—MANAGEMENT OFFICIAL INTERLOCKS

Sec.

348.1 Purpose and scope.
348.2 Other definitions and rules of construction.
348.3 Prohibitions.
348.4 Interlocking relationships permitted by statute.
348.5 Small market share exemption.
348.6 General exemption.
348.7 Change in circumstances.
348.8 Enforcement.

**Authority:** 12 U.S.C. 3207, 12 U.S.C. 1823(k).

### § 348.1 Purpose and scope.

(a) *Authority.* This part is issued under the provisions of the Depository Institution Management Interlocks Act (Interlocks Act) (12 U.S.C. 3201 *et seq.*), as amended.

(b) *Purpose.* The purpose of the Interlocks Act and this part is to foster competition by generally prohibiting a management official from serving two nonaffiliated depository organizations in situations where the management interlock likely would have an anticompetitive effect.

(c) *Scope.* This part applies to management officials of FDIC-supervised institutions and their affiliates.

### § 348.2 Other definitions and rules of construction.

For purposes of this part, the following definitions apply:

(a) *Affiliate.* (1) The term affiliate has the meaning given in section 202 of the Interlocks Act (12 U.S.C. 3201). For purposes of section 202, shares held by an individual include shares held by members of his or her immediate family. ''Immediate family'' means spouse, mother, father, child, grandchild, sister, brother or any of their spouses, whether or not any of their shares are held in trust.

(2) For purposes of section 202(3)(B) of the Interlocks Act (12 U.S.C. 3201(3)(B)), an affiliate relationship involving an FDIC-supervised institution based on common ownership does not exist if the FDIC determines, after giving the affected persons the opportunity to respond, that the asserted affiliation was established in order to avoid the prohibitions of the Interlocks Act and does not represent a true commonality of interest between the depository organizations. In making this determination, the FDIC considers, among other things, whether a person, including members of his or her immediate family whose shares are necessary to constitute the group, owns a nominal percentage of the shares of one of the organizations and the percentage is substantially disproportionate to that person's ownership of shares in the other organization.

[6] Public Law 104–208, 110 Stat. 3009 (Sept. 30, 1996).

(b) *Area median income* means:

(1) The median family income for the metropolitan statistical area (MSA), if a depository organization is located in an MSA; or

(2) The statewide nonmetropolitan median family income, if a depository organization is located outside an MSA.

(c) *Community* means a city, town, or village, and contiguous or adjacent cities, towns, or villages.

(d) *Contiguous or adjacent cities, towns, or villages* means cities, towns, or villages whose borders touch each other or whose borders are within 10 road miles of each other at their closest points. The property line of an office located in an unincorporated city, town, or village is the boundary line of that city, town, or village for the purpose of this definition.

(e) *Depository holding company* means a bank holding company or a savings and loan holding company (as more fully defined in section 202 of the Interlocks Act (12 U.S.C. 3201)) having its principal office located in the United States.

(f) *Depository institution* means a commercial bank (including a private bank), a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union, chartered under the laws of the United States and having a principal office located in the United States. Additionally, a United States office, including a branch or agency, of a foreign commercial bank is a depository institution.

(g) *Depository institution affiliate* means a depository institution that is an affiliate of a depository organization.

(h) *Depository organization* means a depository institution or a depository holding company.

(i) *FDIC-supervised institution* means either an insured state nonmember bank or a State savings association.

(j) *Low- and moderate-income areas* means census tracts (or, if an area is not in a census tract, block numbering areas delineated by the United States Bureau of the Census) where the median family income is less than 100 percent of the area median income.

(k) *Management official.* (1) The term *management official* means:

(i) A director;

(ii) An advisory or honorary director of a depository institution with total assets of $100 million or more;

(iii) A senior executive officer as that term is defined in 12 CFR 303.101(b).

(iv) A branch manager;

(v) A trustee of a depository organization under the control of trustees; and

(vi) Any person who has a representative or nominee serving in any of the capacities in this paragraph (j)(1).

(2) The term *management official* does not include:

(i) A person whose management functions relate exclusively to the business of retail merchandising or manufacturing;

(ii) A person whose management functions relate principally to the business outside the United States of a foreign commercial bank; or

(iii) A person described in the provisos of section 202(4) of the Interlocks Act (12 U.S.C. 3201(4)) (referring to an officer of a State-chartered savings bank, cooperative bank, or trust company that neither makes real estate mortgage loans nor accepts savings).

(l) *Office* means a principal or branch office of a depository institution located in the United States. Office does not include a representative office of a foreign commercial bank, an electronic terminal, or a loan production office.

(m) *Person* means a natural person, corporation, or other business entity.

(n) *Relevant metropolitan statistical area (RMSA)* means an MSA, a primary MSA, or a consolidated MSA that is not comprised of designated Primary MSAs to the extent that these terms are defined and applied by the Office of Management and Budget.

(o) *Representative or nominee* means a natural person who serves as a management official and has an obligation to act on behalf of another person with respect to management responsibilities. The FDIC will find that a person has an obligation to act on behalf of another person only if the first person has an agreement, express or implied, to act on behalf of the second person with respect to management responsibilities. The FDIC will determine, after giving the affected persons an opportunity to respond, whether a person is a *representative or nominee.*

(p) *State savings association* has the same meaning as in section (3)(b)(3) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(b)(3).

(q) *Total assets.* (1) The term *total assets* includes assets measured on a consolidated basis and reported in the most recent fiscal year-end Consolidated Report of Condition and Income.

(2) The term *total assets* does not include:

(i) Assets of a diversified savings and loan holding company as defined by section 10(a)(1)(F) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(1)(F)) other than the assets of its depository institution affiliate;

(ii) Assets of a bank holding company that are exempt from the prohibitions of section 4 of the Bank Holding Company Act of 1956 pursuant to an order issued under section 4(d) of that Act (12 U.S.C. 1843(d)) other than the assets of its depository institution affiliate; or

(iii) Assets of offices of a foreign commercial bank other than the assets of its United States branch or agency.

(r) *United States* means the United States of America, any State or territory of the United States of America, the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands.

### § 348.3 Prohibitions.

(a) *Community.* A management official of a depository organization may not serve at the same time as a management official of an unaffiliated depository organization if the depository organizations in question (or a depository institution affiliate thereof) have offices in the same community.

(b) *RMSA.* A management official of a depository organization may not serve at the same time as a management official of an unaffiliated depository organization if the depository organizations in question (or a depository institution affiliate thereof) have offices in the same RMSA and each depository organization has total assets of $50 million or more.

(c) *Major assets.* A management official of a depository organization with total assets exceeding $2.5 billion (or any affiliate of such an organization) may not serve at the same time as a management official of an unaffiliated depository organization with total assets exceeding $1.5 billion (or any affiliate of such an organization), regardless of the location of the two depository organizations. The FDIC will adjust these thresholds, as necessary, based on the year-to-year change in the average of the Consumer Price Index for the Urban Wage Earners and Clerical Workers, not seasonally adjusted, with rounding to the nearest $100 million. The FDIC will announce the revised thresholds by publishing a final rule without notice and comment in the **Federal Register**.

### § 348.4 Interlocking relationships permitted by statute.

The prohibitions of § 348.3 do not apply in the case of any one or more of the following organizations or to a subsidiary thereof:

(a) A depository organization that has been placed formally in liquidation, or which is in the hands of a receiver,

conservator, or other official exercising a similar function;

(b) A corporation operating under section 25 or section 25A of the Federal Reserve Act (12 U.S.C. 601 *et seq.* and 12 U.S.C. 611 *et seq.,* respectively) (Edge Corporations and Agreement Corporations);

(c) A credit union being served by a management official of another credit union;

(d) A depository organization that does not do business within the United States except as an incident to its activities outside the United States;

(e) A State-chartered savings and loan guaranty corporation;

(f) A Federal Home Loan bank or any other bank organized solely to serve depository institutions (a bankers' bank) or solely for the purpose of providing securities clearing services and services related thereto for depository institutions and securities companies;

(g) A depository organization that is closed or is in danger of closing as determined by the appropriate Federal depository institutions regulatory agency and is acquired by another depository organization. This exemption lasts for five years, beginning on the date the depository organization is acquired;

(h) A savings association whose acquisition has been authorized on an emergency basis in accordance with section 13(k) of the Federal Deposit Insurance Act (12 U.S.C. 1823(k)) with resulting dual service by a management official that would otherwise be prohibited under the Interlocks Act which may continue for up to 10 years from the date of the acquisition provided that the FDIC has given its approval for the continuation of such service;

(i)(1) A diversified savings and loan holding company (as defined in section 10(a)(1)(F) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(1)(F))) with respect to the service of a director of such company who is also a director of an unaffiliated depository organization if:

(i) Both the diversified savings and loan holding company and the unaffiliated depository organization notify their appropriate Federal depository institutions regulatory agency at least 60 days before the dual service is proposed to begin; and

(ii) The appropriate regulatory agency does not disapprove the dual service before the end of the 60-day period.

(2) The FDIC may disapprove a notice of proposed service if it finds that:

(i) The service cannot be structured or limited so as to preclude an anticompetitive effect in financial services in any part of the United States;

(ii) The service would lead to substantial conflicts of interest or unsafe or unsound practices; or

(iii) The notificant failed to furnish all the information required by the FDIC.

(3) The FDIC may require that any interlock permitted under this paragraph (h) be terminated if a change in circumstances occurs with respect to one of the interlocked depository organizations that would have provided a basis for disapproval of the interlock during the notice period; and

(j) Any FDIC-supervised institution which is a State savings association that has issued stock in connection with a qualified stock issuance pursuant to section 10(q) of the Home Owners' Loan Act, except that this paragraph (j) shall apply only with regard to service as a single management official of such State savings association or any subsidiary of such State savings association by a single management official of a savings and loan holding company which purchased the stock issued in connection with such qualified stock issuance, and shall apply only when the FDIC has determined that such service is consistent with the purposes of the Interlocks Act and the Home Owners' Loan Act.

### § 348.5 Small market share exemption.

(a) Exemption. A management interlock that is prohibited by § 348.3 is permissible, if:

(1) The interlock is not prohibited by § 348.3(c); and

(2) The depository organizations (and their depository institution affiliates) hold, in the aggregate, no more than 20 percent of the deposits in each RMSA or community in which both depository organizations (or their depository institution affiliates) have offices. The amount of deposits shall be determined by reference to the most recent annual Summary of Deposits published by the FDIC for the RMSA or community.

(b) Confirmation and records. Each depository organization must maintain records sufficient to support its determination of eligibility for the exemption under paragraph (a) of this section, and must reconfirm that determination on an annual basis.

### § 348.6 General exemption.

(a) *Exemption.* The FDIC may by agency order exempt an interlock from the prohibitions in § 348.3 if the FDIC finds that the interlock would not result in a monopoly or substantial lessening of competition and would not present safety and soundness concerns.

(b) *Presumptions.* In reviewing an application for an exemption under this section, the FDIC will apply a rebuttable presumption that an interlock will not result in a monopoly or substantial lessening of competition if the depository organization seeking to add a management official:

(1) Primarily serves low- and moderate-income areas;

(2) Is controlled or managed by persons who are members of a minority group, or women;

(3) Is a depository institution that has been chartered for less than two years; or

(4) Is deemed to be in ''troubled condition'' as defined in § 303.101(c).

(c) *Duration.* Unless a shorter expiration period is provided in the FDIC approval, an exemption permitted by paragraph (a) of this section may continue so long as it does not result in a monopoly or substantial lessening of competition, or is unsafe or unsound. If the FDIC grants an interlock exemption in reliance upon a presumption under paragraph (b) of this section, the interlock may continue for three years, unless otherwise provided by the FDIC in writing.

(d) *Procedures.* Procedures for applying for an exemption under this section are set forth in 12 CFR 303.249.

### § 348.7 Change in circumstances.

(a) *Termination.* A management official shall terminate his or her service or apply for an exemption if a change in circumstances causes the service to become prohibited. A change in circumstances may include an increase in asset size of an organization, a change in the delineation of the RMSA or community, the establishment of an office, an increase in the aggregate deposits of the depository organization, or an acquisition, merger, consolidation, or reorganization of the ownership structure of a depository organization that causes a previously permissible interlock to become prohibited.

(b) *Transition period.* A management official described in paragraph (a) of this section may continue to serve the FDIC-supervised institution involved in the interlock for 15 months following the date of the change in circumstances. The FDIC may shorten this period under appropriate circumstances.

### § 348.8 Enforcement.

Except as provided in this section, the FDIC administers and enforces the Interlocks Act with respect to FDIC-supervised institutions and their affiliates and may refer any case of a prohibited interlocking relationship involving these entities to the Attorney

General of the United States to enforce compliance with the Interlocks Act and this part. If an affiliate of an FDIC-supervised institution is subject to the primary regulation of another federal depository organization supervisory agency, then the FDIC does not administer and enforce the Interlocks Act with respect to that affiliate.

## PART 390—REGULATIONS TRANSFERRED FROM THE OFFICE OF THRIFT SUPERVISION

### Subpart V—Management Official Interlocks

■ 2. The authority citation for part 390 is revised to read as follows:

**Authority:** 12 U.S.C. 1819.

Subpart F also issued under 5 U.S.C. 552; 559; 12 U.S.C. 2901 *et seq.*

Subpart G also issued under 12 U.S.C. 2810 *et seq.,* 2901 *et seq.;* 15 U.S.C. 1691; 42 U.S.C. 1981, 1982, 3601–3619.

Subpart I also issued under 12 U.S.C. 1831x.

Subpart J also issued under 12 U.S.C. 1831p–1.

Subpart L also issued under 12 U.S.C. 1831p–1.

Subpart M also issued under 12 U.S.C. 1818.

Subpart O also issued under 12 U.S.C. 1828.

Subpart P also issued under 12 U.S.C. 1470; 1831e; 1831n; 1831p–1; 3339.

Subpart Q also issued under 12 U.S.C. 1462; 1462a; 1463; 1464.

Subpart R also issued under 12 U.S.C. 1463; 1464; 1831m; 1831n; 1831p–1.

Subpart S also issued under 12 U.S.C. 1462; 1462a; 1463; 1464; 1468a; 1817; 1820; 1828; 1831e; 1831o; 1831p–1; 1881–1884; 3207; 3339; 15 U.S.C. 78b; 78 *l;* 78m; 78n; 78p; 78q; 78w; 31 U.S.C. 5318; 42 U.S.C. 4106.

Subpart T also issued under 12 U.S.C. 1462a; 1463; 1464; 15 U.S.C. 78c; 78*l;* 78m; 78n; 78w.

Subpart U also issued under 12 U.S.C. 1462a; 1463; 1464; 15 U.S.C. 78c; 78*l;* 78m; 78n; 78p; 78w; 78d–1; 7241; 7242; 7243; 7244; 7261; 7264; 7265.

Subpart W also issued under 12 U.S.C. 1462a; 1463; 1464; 15 U.S.C. 78c; 78*l;* 78m; 78n; 78p; 78w.

Subpart X also issued under 12 U.S.C. 1462; 1462a; 1463; 1464; 1828; 3331 *et seq.*

Subpart Y also issued under 12 U.S.C. 1831o.

Subpart Z also issued under 12 U.S.C. 1462; 1462a; 1463; 1464; 1828 (note).

### Subpart V—[Removed and reserved]

■ 3. Remove and reserve subpart V consisting of §§ 390.400 through 390.408.

Dated at Washington, DC, this 15th day of December 2015.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2015–31940 Filed 12–18–15; 8:45 am]

**BILLING CODE 6714–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 11

**[Docket No.: FAA–2015–7396; Amdt. No. 11–58]**

**RIN 2120–AK82**

## Registration and Marking Requirements for Small Unmanned Aircraft

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; OMB approval of information collection.

**SUMMARY:** This document notifies the public of the Office of Management and Budget's (OMB's) approval of the information collection requirement contained in the FAA's interim final rule, Registration and Marking Requirements for Small Unmanned Aircraft, which was published on December 16, 2015.

**DATES:** Effective December 21, 2015.

**FOR FURTHER INFORMATION CONTACT:** Earl Lawrence, Director, FAA UAS Integration Office, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–6556; email *UASRegistration@faa.gov*.

**SUPPLEMENTARY INFORMATION:** On December 16, 2015, the Department of Transportation and the Federal Aviation Administration published the interim final rule Registration and Marking Requirements for Small Unmanned Aircraft (80 FR 78593). That rule provided an alternative, streamlined and simple, web-based aircraft registration process for the registration of small unmanned aircraft, including small unmanned aircraft operated as model aircraft, to facilitate compliance with the statutory requirement that all aircraft register prior to operation.

That rule contained an information collection, Registration of Small Unmanned Aircraft. That information collection requirement had not been approved by OMB at the time of publication of the interim final rule.

In accordance with the Paperwork Reduction Act, the FAA submitted a copy of the new information collection requirements to OMB for its review. OMB approved the collection on December 16, 2015, and assigned the information collection OMB Control Number 2120–0765. This final rule provides the control number of that information collection and adds the information collection to the list of FAA's approved information collections in 14 CFR part 11.

**List of Subjects in 14 CFR Part 11**

Administrative practice and procedure, Reporting and recordkeeping requirements.

**The Amendment**

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

## PART 11—GENERAL RULEMAKING PROCEDURES

■ 1. The authority citation for part 11 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40101, 40103, 40105, 40109, 40113, 44110, 44502, 44701–44702, 44711, and 46102.

■ 2. In § 11.201, amend paragraph (b) by adding an entry for part 48 to read as follows:

**§ 11.201 Office of Management and Budget (OMB) control numbers assigned under the Paperwork Reduction Act.**

* * * * *

(b) * * *

| 14 CFR part or section identified and described | Current OMB control No. |
|---|---|
| * * * * * | |
| Part 48 ..... | 2120–0765 |
| * * * * * | |

Issued in Washington, DC, under the authority of 49 U.S.C. 106(f), on December 16, 2015.

**Lirio Liu,**

*Director, Office of Rulemaking.*

[FR Doc. 2015–31993 Filed 12–18–15; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. FAA–2015–3956; Directorate Identifier 2015–CE–032–AD; Amendment 39–18345; AD 2015–25–07]**

**RIN 2120–AA64**

## Airworthiness Directives; Alpha Aviation Concept Limited Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are superseding Airworthiness Directive (AD) 2008–09–01 for certain Alpha Aviation Concept Limited Model R2160 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a need to revise the maintenance program to include the revised airworthiness limitations for the internal wing structure and wing attachment inspections. We are issuing this AD to require actions to address the unsafe condition on these products.

**DATES:** This AD is effective January 25, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of January 25, 2016.

**ADDRESSES:** You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3956; or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this final rule, contact Alpha Aviation Holdings Limited, Steele Road, RD 2 Hamilton Airport, Hamilton 3282, New Zealand, telephone: +64 7 843 9877; fax: +64 7 929 2878; Internet: *http://www.alphaaviation.co.nz/.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the Internet at *http://www.regulations.gov* by searching for Docket No. FAA–2015–3956.

**FOR FURTHER INFORMATION CONTACT:** Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4123; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Alpha Aviation Concept Limited Model R2160 airplanes. That NPRM was published in the **Federal Register** on September 25, 2015 (80 FR 57753), and proposed to supersede AD 2008–09–01, Amendment 39–15481 (73 FR 21519, April 22, 2008).

Since we issued AD 2008–09–01, Amendment 39–15481 (73 FR 21519, April 22, 2008), Alpha Aviation Concept Limited developed a longer life limit for the wing structure and wing attachments and transferred the life limit information from the related service information to the airplane maintenance manual. Subsequently, Alpha Aviation Concept Limited discovered that the analysis that allowed the life limit increase was incorrect and the previous life limit and inspection provisions of the related service bulletin should be retained.

The NPRM proposed to correct an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. The Civil Aviation Authority (CAA), which is the aviation authority for New Zealand, has issued AD DCA/R2000/43, dated August 7, 2015 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states that:

> This AD introduces a change to the airworthiness limitations for the internal wing structure and wing attachment inspections. These inspection intervals were increased and added to Section 3.2—Airworthiness Limitations of the applicable Service Manual in January 2015. Section 3.2 of the respective Service Manuals has now been revised to revert to the original inspection intervals.

You may examine the MCAI on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2015-3956-0002.*

### Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (80 FR 57753, September 25, 2015) or on the determination of the cost to the public.

### Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (80 FR 57753, September 25, 2015) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (80 FR 57753, September 25, 2015).

### Related Service Information Under 1 CFR Part 51

Alpha Aviation Concept Limited has revised its Alpha Aviation APEX R2000 Service Manual, S/N 001 to 378, and Alpha Aviation R2000 Service Manual. The updated service manuals include a revision to Section 3: Airworthiness Limitations, Time Limits, & Maintenance Inspections, Issued August 2015, that adds periodic internal wing structure and wing attachment inspections. These revisions to the Airworthiness Limitations section of the applicable service manuals are reasonably available because the interested parties have access to them through their normal course of business or by the means identified in the **ADDRESSES** section.

### Costs of Compliance

We estimate that this AD will affect 9 products of U.S. registry. We also estimate that it will take about 3 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $2,295, or $255 per product.

In addition, we estimate that any necessary follow-on actions will take about 12 work-hours and require parts costing $1,326, for a cost of $2,346 per product. We have no way of determining the number of products that may need these actions.

### Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, section 44701: General requirements.'' Under that section, Congress charges the FAA with

promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

**Regulatory Findings**

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

For the reasons discussed above, I certify this AD:

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

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

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

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

**Examining the AD Docket**

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3956 or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

■ 2. The FAA amends § 39.13 by removing Amendment 39–15481 (73 FR 21519, April 22, 2008) and adding the following new AD:

**2015–25–07 Alpha Aviation Concept Limited:** Amendment 39–18345; Docket No. FAA–2015–3956; Directorate Identifier 2015–CE–032–AD.

**(a) Effective Date**

This airworthiness directive (AD) becomes effective January 25, 2016.

**(b) Affected ADs**

This AD supersedes AD 2008–09–01, Amendment 39–15481 (73 FR 21519, April 22, 2008) (''AD 2008–09–01'').

**(c) Applicability**

This AD applies to Alpha Aviation Concept Limited Model R2160 airplanes, serial numbers (S/Ns) 001 through 378, and 160A–06001 and subsequent, certificated in any category.

**(d) Subject**

Air Transport Association of America (ATA) Code 5: Time Limits.

**(e) Reason**

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a need to revise the maintenance program to include the revised airworthiness limitations for the internal wing structure and wing attachment inspections. We are issuing this AD to prevent failure of the wing structure and fuselage attachment due to undetected fatigue and corrosion.

**(f) Actions and Compliance**

Unless already done, before further flight after January 25, 2016 (the effective date of this AD), insert the following into the Airworthiness Limitations section of the FAA-approved maintenance program (*e.g.,* maintenance manual). These revisions to the Limitations sections incorporate the wing spar inspection upon the accumulation of 3,500 hours time-in-service (TIS) and require a repetitive inspection thereafter every 750 hours TIS (the requirements of AD 2008–09–01):

(1) For S/Ns 001 through 378: Insert paragraph 3.4.9, Wing 3500 hr Inspection, on pages 3–3 and 3–4, dated August 2015, of Section 3: Airworthiness Limitations, Time Limits, & Maintenance Inspections, dated August 2015, of the APEX R2000 Service Manual S/N 001 to 378, Alpha Aviation Ltd.

(2) For S/Ns 160A–06001 and subsequent: Insert paragraph 3.4.9, Wing 3500 hr Inspection, on pages 3–3 and 3–4, dated August 2015, of Section 3: Airworthiness Limitations, Time Limits, & Maintenance Inspections, all dated August 2015, of the R2000 Service Manual, Alpha Aviation Ltd.

**(g) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

**(h) Related Information**

Refer to MCAI Civil Aviation Authority (CAA) AD DCA/R2000/43, dated August 7, 2015, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3956–0002.

**(i) Material Incorporated by Reference**

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

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

(i) Paragraph 3.4.9, Wing 3500 hr Inspection, on pages 3–3 and 3–4, dated August 2015, of Section 3: Airworthiness Limitations, Time Limits, & Maintenance Inspections, dated August 2015, of the APEX R2000 Service Manual S/N 001 to 378, Alpha Aviation Ltd.

(ii) Paragraph 3.4.9, Wing 3500 hr Inspection, on pages 3–3 and 3–4, dated August 2015, of Section 3: Airworthiness Limitations, Time Limits, & Maintenance Inspections, all dated August 2015, of the R2000 Service Manual, Alpha Aviation Ltd.

(3) For Alpha Aviation Concept Limited service information identified in this AD, contact Alpha Aviation Holdings Limited, Steele Road, RD 2 Hamilton Airport, Hamilton 3282, New Zealand, telephone: +64 7 843 9877; fax: +64 7 929 2878; Internet: *http://www.alphaaviation.co.nz/.*

(4) You may view this service information at FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call 816–329–4148. In addition, you can access this service information on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3956.

(5) You may view this service information that is incorporated by reference at the

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

Issued in Kansas City, Missouri, on December 11, 2015.

**Pat Mullen,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2015–31716 Filed 12–18–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### 25 CFR Part 169

**[156A2100DD/AAKC001030/A0A501010.999900 253G]**

**RIN 1076–AF20**

### Rights-of-Way on Indian Land

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Final rule; extension of effective date and compliance date.

**SUMMARY:** The Bureau of Indian Affairs (BIA) is announcing the extension of the effective date of the final rule published November 19, 2015 governing rights-of-way on Indian land, which was scheduled to take effect on December 21, 2015. Tribes and industry have requested additional time to prepare for implementation of the rule. The final rule will now take effect on March 21, 2016. The BIA is also announcing an extension of the compliance date by which documentation of past assignments must be submitted from the originally stated date of April 18, 2016 to July 17, 2016. The final rule comprehensively updates and streamlines the process for obtaining Bureau of Indian Affairs (BIA) grants of rights-of-way on Indian land and BIA land, while supporting tribal self-determination and self-governance.

**DATES:** The effective date of the final rule published on November 19, 2015 (80 FR 72492) is extended until March 21, 2016. The compliance date for submission of documentation of past assignments is extended until July 17, 2016.

**FOR FURTHER INFORMATION CONTACT:** Ms. Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action, (202) 273–4680; *elizabeth.appel@bia.gov.*

**SUPPLEMENTARY INFORMATION:** On November 19, 2015, BIA published a final rule addressing rights-of-way on Indian land and BIA land. *See* 80 FR 72492. Since publication, BIA has received comments from tribes and industry requesting an extension of the effective date of the rule in order to provide additional time to prepare for implementation to ensure compliance. This document extends the effective date of the final rule to March 21, 2016, and likewise extends the deadline for providing BIA with documentation of past assignments to July 17, 2016. The substance of the rule remains unchanged.

The BIA has determined that the extension of the effective date and compliance date without prior public notice and comment is in the public interest because it would allow more time for the public to comply with the rule and for BIA to implement the rule. This is a rule of agency procedure or practice that is exempt from notice and comment rulemaking under 5 U.S.C. 553(b)(A).

### Correction

In FR Rule Doc. No. 2015–28548, published November 19, 2015, at 80 FR 72492, make the following corrections:

1. On page 72357, in the center and right columns, in revised § 169.7, remove the date ''December 21, 2015'' wherever it appears and add in its place ''March 21, 2016''.

2. On page 72357, in the right column, in paragraph (d) of revised § 169.7, remove the date ''April 18, 2016'' and add in its place ''July 17, 2016''.

Dated: December 14, 2015.

**Kevin K. Washburn,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 2015–31892 Filed 12–18–15; 8:45 am]

**BILLING CODE 4337–15–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Docket ID: DoD–2014–OS–0024]**

### 32 CFR Part 311

### Privacy Act; Implementation

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Final rule.

**SUMMARY:** The Office of the Secretary of Defense (OSD) is amending its regulations to exempt portions of a system of records from certain provisions of the Privacy Act. Specifically, the Department proposes to exempt portions of DMDC 16 DoD, entitled ''Identity Management Engine for Security and Analysis (IMESA)'' from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements. In 2008, the U.S. Congress passed legislation that obligated the Secretary of Defense to develop access standards for visitors applicable to all military installations in the U.S. The Department of Defense (DoD) developed a visitor system to manage multiple databases that are capable of identifying individuals seeking access to DoD installations who may be criminal and/or security threats. The purpose of the vetting system is to screen individuals wishing to enter a DoD facility, to include those who have been previously given authority to access DoD installations, against the FBI National Crime Information Center (NCIC) Wanted Person File. The NCIC has a properly documented exemption rule and to the extent that portions of these exempt records may become part of IMESA, OSD hereby claims the same exemptions for the records as claimed at their source (JUSTICE/FBI–001, National Crime Information Center (NCIC)).

**DATES:** *Effective Date:* This rule is effective January 20, 2016.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cindy Allard, (571) 372–0461.

**SUPPLEMENTARY INFORMATION:** The proposed rule was published in the **Federal Register** on February 27, 2014 (79 FR 11048–11050, Docket ID: DoD–2014–OS–0024). One comment was received. The writer raised a number of personal concerns (issues with neighbor, banking, and family). The issues identified have no relevance to the proposed exemption of the Identity Management Engine for Security and Analysis (IMESA) from portions of the Privacy Act.

Additionally, the title of the system has been changed from Interoperability Layer Service (IoLS) to Identity Management Engine for Security and Analysis (IMESA). This title change is reflected in the final rule.

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

It has been determined that this rule is not a significant rule. This rule 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 sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere

with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in these Executive orders.

**Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. Chapter 6)**

It has been determined that this rule does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense. A Regulatory Flexibility Analysis is not required.

**Public Law 95–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)**

This rule does not contain any information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act''**

It has been determined that this rule does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more and will not significantly or uniquely affect small governments.

**Executive Order 13132, ''Federalism''**

Executive Order 13132 requires regulations be reviewed for Federalism effects on the institutional interest of states and local governments, and if the effects are sufficiently substantial, preparation of the Federal assessment is required to assist senior policy makers. The amendments will not have any substantial direct effects on state and local governments within the meaning of the EO. Therefore, no Federalism assessment is required.

**List of Subjects in 32 CFR Part 311**

Privacy.

Accordingly, 32 CFR part 311 is amended to read as follows:

## PART 311—[AMENDED]

■ 1. The authority citation for 32 CFR part 311 continues to read as follows:

**Authority:** 5 U.S.C. 552a.

■ 2. Section 311.8 is amended by adding paragraph (c)(26) as follows:

**§ 311.8 Procedures for exemptions.**

* * * * *

(c) * * *

(26) *System identifier and name:* DMDC 16 DoD, Identity Management Engine for Security and Analysis (IMESA).

(i) *Exemption:* To the extent that copies of exempt records from JUSTICE/FBI–001, National Crime Information Center (NCIC) are entered into the Interoperability Layer Service records, the OSD hereby claims the same exemptions, (j)(2) and (k)(3), for the records as claimed in JUSTICE/FBI–001, National Crime Information Center (NCIC). Pursuant to 5 U.S.C. 552a portions of this system that fall within (j)(2) and (k)(3) are exempt from the following provisions of 5 U.S.C. 552a, section (c)(3) and (4); (d); (e)(1) through (3); (e)(4)(G) through (I); (e)(5) and (8); (f); and (g) (as applicable) of the Act.

(ii) *Authority:* 5 U.S.C. 552a(j)(2) and (k)(3).

(iii) *Reasons:* (A) from subsection (c)(3) because making available to a record subject the accounting of disclosure from records concerning him or her would specifically reveal any investigative interest in the individual. Revealing this information could reasonably be expected to compromise ongoing efforts to investigate a known or suspected terrorist by notifying the record subject that he or she is under investigation. This information could also permit the record subject to take measures to impede the investigation, *e.g.,* destroy evidence, intimidate potential witnesses, or flee the area to avoid or impede the investigation.

(B) From subsection (c)(4) because portions of this system are exempt from the access and amendment provisions of subsection (d).

(C) From subsection (d) because these provisions concern individual access to and amendment of certain records contained in this system, including law enforcement, counterterrorism, investigatory, and intelligence records. Compliance with these provisions could alert the subject of an investigation of the fact and nature of the investigation, and/or the investigative interest of intelligence or law enforcement agencies; compromise sensitive information related to national security; interfere with the overall law enforcement process by leading to the destruction of evidence, improper influencing of witnesses, fabrication of testimony, and/or flight of the subject; could identify a confidential source or disclose information which would constitute an unwarranted invasion of another's personal privacy; reveal a sensitive investigative or intelligence technique; or constitute a potential danger to the health or safety of law enforcement personnel, confidential informants, and witnesses. Amendment of these records would interfere with ongoing counterterrorism, law enforcement, or intelligence investigations and analysis activities and impose an impossible administrative burden by requiring investigations, analyses, and reports to be continuously reinvestigated and revised.

(D) From subsection (e)(1) because it is not always possible to determine what information is relevant and necessary to complete an identity comparison between the individual seeking access and a known or suspected terrorist. Also, because DoD and other agencies may not always know what information about an encounter with a known or suspected terrorist will be relevant to law enforcement for the purpose of conducting an operational response.

(E) From subsection (e)(2) because application of this provision could present a serious impediment to counterterrorism, law enforcement, or intelligence efforts in that it would put the subject of an investigation, study, or analysis on notice of that fact, thereby permitting the subject to engage in conduct designed to frustrate or impede that activity. The nature of counterterrorism, law enforcement, or intelligence investigations is such that vital information about an individual frequently can be obtained only from other persons who are familiar with such individual and his/her activities. In such investigations, it is not feasible to rely upon information furnished by the individual concerning his own activities.

(F) From subsection (e)(3) to the extent that this subsection is interpreted to require DoD to provide notice to an individual if DoD or another agency receives or collects information about that individual during an investigation or from a third party. Should this subsection be so interpreted, exemption from this provision is necessary to avoid impeding counterterrorism, law enforcement, or intelligence efforts by putting the subject of an investigation, study, or analysis on notice of that fact, thereby permitting the subject to engage in conduct intended to frustrate or impede the activity.

(G) From subsection (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements) because portions of this system are exempt from the access and amendment provisions of subsection (d).

(H) From subsection (e)(5) because the requirement that records be maintained with attention to accuracy, relevance, timeliness, and completeness could

unfairly hamper law enforcement processes. It is the nature of law enforcement to uncover the commission of illegal acts at diverse stages. It is often impossible to determine initially what information is accurate, relevant, timely, and least of all complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further details are brought to light.

(I) From subsection (e)(8) because the requirement to serve notice on an individual when a record is disclosed under compulsory legal process could unfairly hamper law enforcement processes. It is the nature of law enforcement that there are instances where compliance with these provisions could alert the subject of an investigation of the fact and nature of the investigation, and/or the investigative interest of intelligence or law enforcement agencies; compromise sensitive information related to national security; interfere with the overall law enforcement process by leading to the destruction of evidence, improper influencing of witnesses, fabrication of testimony, and/or flight of the subject; reveal a sensitive investigative or intelligence technique; or constitute a potential danger to the health or safety of law enforcement personnel, confidential informants, and witnesses.

(J) From subsection (f) because requiring the Agency to grant access to records and establishing agency rules for amendment of records would unfairly impede the agency's law enforcement mission. To require the confirmation or denial of the existence of a record pertaining to a requesting individual may in itself provide an answer to that individual relating to the existence of an on-going investigation. The investigation of possible unlawful activities would be jeopardized by agency rules requiring verification of the record, disclosure of the record to the subject, and record amendment procedures.

(K) From subsection (g) to the extent that the system is exempt from other specific subsections of the Privacy Act.

Dated: December 2, 2015.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2015–31868 Filed 12–18–15; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 117

**[Docket No. USCG–2015–1099]**

## Drawbridge Operation Regulation; Upper Mississippi River, Sabula, Iowa

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Sabula Railroad Drawbridge across the Upper Mississippi River, mile 535.0, at Sabula, Iowa. The deviation is necessary to allow the bridge owner time to perform preventive maintenance that is essential to the safe operation of the drawbridge, and is scheduled in the winter when there is less impact on navigation. This deviation allows the bridge to open on signal if at least 24-hours advance notice is given.

**DATES:** This deviation is effective without actual notice from December 21, 2015 through 7 a.m., March 4, 2016. For the purposes of enforcement, actual notice will be used from 7 a.m., December 16, 2015 until December 21, 2015.

**ADDRESSES:** The docket for this deviation, [USCG–2015–1099] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this deviation.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard; telephone 314–269–2378, email *Eric.Washburn@uscg.mil.*

**SUPPLEMENTARY INFORMATION:** The Canadian Pacific Railroad requested a temporary deviation for the Sabula Railroad Drawbridge, across the Upper Mississippi River, mile 535.0, at Sabula, Iowa to open on signal if at least 24-hours advance notice is given for 78 days from 7 a.m., December 16, 2015 until 7 a.m., March 4, 2016 for scheduled maintenance on the bridge.

The Sabula Railroad Drawbridge currently operates in accordance with 33 CFR 117.5, which states the general requirement that the drawbridge shall open on signal.

There are no alternate routes for vessels transiting this section of the Upper Mississippi River. The bridge cannot open in case of emergency.

Winter conditions on the Upper Mississippi River coupled with the closure of Army Corps of Engineer's Lock No. 13 (Mile 522.5 UMR) and Lock No. 21 (Mile 324.9 UMR) from 7 a.m. January 4, 2016 until 12 p.m., March 4, 2016 will preclude any significant navigation demands for the drawspan opening. In addition, Army Corps Lock No. 14 (Mile 493.3 UMR) and Lock No. 17 (Mile 437.1 UMR) will be closed from 7 a.m. December 14, 2015 until 12 p.m. March 2, 2016.

The Sabula Railroad Drawbridge provides a vertical clearance of 18.1 feet above normal pool in the closed-to-navigation position. Navigation on the waterway consists primarily of commercial tows and recreational watercraft and will not be significantly impacted. The drawbridge will open if at least 24-hours advance notice is given. This temporary deviation has been coordinated with waterway users. No objections were received.

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

Dated: December 15, 2015.

**Eric A. Washburn,**

*Bridge Administrator, Western Rivers.*

[FR Doc. 2015–31917 Filed 12–18–15; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 117

**[Docket No. USCG–2015–1064]**

## Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, Wrightsville Beach, NC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the SR 74 Bascule Bridge, across the Atlantic Intracoastal Waterway (AIWW), mile 283.1, at Wrightsville Beach, NC. The deviation is necessary to accommodate the 7th annual Quintiles Wrightsville Beach Marathon. This deviation allows the bridge to remain in the closed position during the race to facilitate the safe travels of the runners and bystanders.

**DATES:** This deviation is effective from 5 a.m. to 10:30 a.m. on Sunday, March 20, 2016.

**ADDRESSES:** The docket for this deviation, [USCG–2015–1064] is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this deviation.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Kashanda Booker, Bridge Administration Branch, Fifth Coast Guard; telephone 757–398–6227, email *Kashanda.l.booker@uscg.mil*.

**SUPPLEMENTARY INFORMATION:** The 7th Annual Quintiles Wrightsville Beach Marathon committee on behalf of the North Carolina Department of Transportation (NCDOT) has requested a temporary deviation from the current operating schedule for the SR 74 Bascule Drawbridge across the AIWW, mile 283.1, at Wrightsville Beach, NC. The requested deviation will accommodate the 7th Annual Quintiles Wrightsville Beach Marathon scheduled for Sunday, March 20, 2016. To facilitate this event, the draw of the bridge will be maintained in the closed-to-navigation position from 5 a.m. to 10:30 a.m. to allow race participants to cross during the scheduled event.

The current operation schedule is set out in 33 CFR 117.821(a)(4). The regulation requires the bridge to open on signal for vessels at all times except that from 7 a.m. until 7 p.m. the bridge shall open on the hour; every third and fourth Saturday in September the bridge shall remain closed from 7 a.m. until 11 a.m.; and the last Saturday of October or the first or second Saturday of November the bridge shall remain closed from 7 a.m. until 10:30 a.m. The bascule drawbridge has a vertical clearance of 20 feet above mean high water (MHW) in the closed position.

Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will be able to open for emergencies and there is no immediate alternate route for vessels. Most waterway traffic consists of recreational boats with a few barges and tugs during the daytime. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: December 15, 2015.

**Hal R. Pitts,**

*Bridge Program Manager, Fifth Coast Guard District.*

[FR Doc. 2015–31938 Filed 12–18–15; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 117

**[Docket No. USCG–2015–1063]**

### Drawbridge Operation Regulation; Connecticut River, Old Lyme, CT

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Amtrak Old Saybrook-Old Lyme Bridge across the Connecticut River, mile 3.4, at Old Lyme, Connecticut. This deviation is necessary to perform gear box replacement. This deviation allows the bridge to remain in the closed position for approximately 5 days.

**DATES:** This deviation is effective from 7:00 a.m. on January 25, 2016 to 7:00 a.m. on February 6, 2016.

**ADDRESSES:** The docket for this deviation, [USCG–2015–1063] is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this deviation.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Ms. Judy K. Leung-Yee, Project Officer, First Coast Guard District, telephone (212) 514–4330, email *judy.k.leung-yee@uscg.mil*.

**SUPPLEMENTARY INFORMATION:** National Passenger Railroad Corporation (Amtrak) requested this temporary deviation from the normal operating schedule to perform gear box replacement.

The Amtrak Old Saybrook-Old Lyme Bridge, mile 3.4, across the Connecticut River has a vertical clearance in the closed position of 19 feet at mean high water and 22 feet at mean low water. The existing bridge operating regulations are found at 33 CFR 117.205(b).

The waterway is transited by one commercial user and recreation vessel traffic.

Under this temporary deviation, the Amtrak Old Saybrook-Old Lyme Bridge may remain in the closed position from 7:00 a.m. on January 25, 2016 to 7:00 a.m. on January 30, 2016 with rain date from 7:00 a.m. on February 1, 2016 to 7:00 a.m. on February 6, 2016.

Vessels able to pass through the bridge in the closed positions may do so at anytime. The bridge will not be able to open for emergencies and there is no immediate alternate route for vessels to pass.

The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: December 15, 2015.

**C.J. Bisignano,**

*Supervisory Bridge Management Specialist, First Coast Guard District.*

[FR Doc. 2015–31939 Filed 12–18–15; 8:45 am]

**BILLING CODE 9110–04–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R05–OAR–2014–0705; FRL–9939–75–Region 5]**

### Air Quality Implementation Plan Approval; Illinois; Illinois Power Holdings and AmerenEnergy Medina Valley Cogen Variance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving into the Illinois Regional Haze State Implementation Plan (SIP) a variance for the electrical generating units (EGUs) included in the Ameren Multi-Pollutant Standard Group (Ameren MPS Group). The Ameren MPS Group consists of five facilities owned by Illinois Power Holdings, LLC (IPH) and two facilities owned by AmerenEnergy Medina Valley Cogen, LLC (Medina Valley). The Illinois Environmental Protection Agency (IEPA) submitted the variance to EPA for approval on September 3, 2014.

**DATES:** This final rule is effective on January 20, 2016.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2014–0705. 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, *i.e.,* 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 *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Kathleen D'Agostino, Environmental Engineer, at (312) 886–1767 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Kathleen D'Agostino, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1767, *dagostino.kathleen@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background
II. Response to Comments
III. Final Action
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

## I. Background

On June 24, 2011, Illinois submitted a plan to address the requirements of the Regional Haze Rule, as codified at 40 CFR 51.308. EPA approved Illinois' Regional Haze SIP on July 6, 2012 (77 FR 39943). In its approval, EPA determined that the emission reductions from sources included in the Illinois plan are significantly greater than even conservative definitions of best available retrofit technology (BART) applied to BART subject units. *Id.* at 39946. EPA also addressed whether the Illinois plan can also be expected to achieve greater visibility protection than application of BART on BART-subject units. Given that, in general, the Illinois power plants are substantial distances from any Class I area, and given that the averaging in Illinois' plan is only authorized within the somewhat limited region within which each utility's plants are located, EPA determined that a reallocation of emission reductions from one plant to another is unlikely to change the visibility impact of those emission reductions significantly. Consequently, EPA concluded that the significantly greater emission reductions that Illinois required in its Regional Haze SIP will yield greater progress toward visibility protection as compared to the benefits of a conservative estimate of BART.

One of the rules approved in that action to meet BART requirements is 35 Illinois Administrative Code (Ill. Adm. Code) rule 225.233, Multi-Pollutant Standard (MPS), specifically subsections (a), (b), (e), and (g). Section 225.233(e)(3)(C) contains the sulfur dioxide ($SO_2$) emission standards applicable to the Ameren MPS Group. Section 225.233(e)(3)(C)(i) establishes an overall $SO_2$ annual emission rate for EGUs in the Ameren MPS group of 0.50 pounds per million Btu (lb/mmBtu) for calendar years 2010 through 2013. Section 225.233(e)(3)(C)(ii) establishes an overall $SO_2$ annual emission rate for EGUs in the Ameren MPS group of 0.43 lb/mmBtu for calendar year 2014. Section 225.233(e)(3)(C)(iii) establishes an overall $SO_2$ annual emission rate for EGUs in the Ameren MPS group of 0.25 lb/mmBtu for calendar years 2015 and 2016. Section 225.233(e)(3)(C)(iv) establishes an overall $SO_2$ annual emission rate for EGUs in the Ameren MPS group of 0.23 lb/mmBtu beginning in calendar year 2017 and continuing each calendar year thereafter.

On November 21, 2013, the Illinois Pollution Control Board (IPCB) granted IPH and Medina Valley a variance from the applicable requirements of Section 225.233(e)(3)(C)(iii) for a period beginning January 1, 2015, through December 31, 2019, and Section 225.233(e)(3)(C)(iv) for a period beginning January 1, 2017, through December 31, 2019, subject to certain conditions. The IPH facilities included in the Ameren MPS Group and subject to the variance are Coffeen Energy Center (Montgomery County), Duck Creek Energy Center (Fulton County), E.D. Edwards Energy Center (Peoria County), Joppa Energy Center (Massac County), and Newton Energy Center (Jasper County). The Medina Valley facilities included in the Ameren MPS Group and subject to the variance are the Meredosia Energy Center (Morgan County) and the Hutsonville Energy Center (Crawford County). IEPA submitted the variance as a revision to the Illinois Regional Haze SIP on September 3, 2014.

EPA proposed to approve the variance on April 20, 2015 (80 FR 21681). As discussed in the proposal, the variance results in less $SO_2$ emissions than the currently approved Regional Haze SIP. *Id.* at 21683. In addition, EPA determined that the significantly lower $SO_2$ emissions under the variance versus application of Best Available Control Technology (BACT) to BART-subject sources, will yield greater progress toward visibility protection. *Id.* at 21684. Finally, with respect to the requirements of section 110(l) of the Clean Air Act (CAA) (42 U.S.C. 7410(l)), because the variance will result in less $SO_2$ emissions than the currently approved Regional Haze SIP and will continue to provide better visibility protection than the application of BART to BART-subject units, EPA has determined that the variance will not interfere with attainment, reasonable further progress, or any other applicable requirement of the CAA. *Id.* at 21684.

## II. Response to Comments

EPA received joint adverse comments from Earthjustice and Sierra Club, as summarized in the comments/responses below.

*Comment 1:* The proposed SIP revision unlawfully substitutes fleet-wide emission limits for the unit-specific five factor BART analysis required by the CAA.

*Response 1:* Section 169A(b)(2)(A) of the CAA, 42 U.S.C. 7491(b)(2)(A), requires states to revise their SIPs to contain such measures as may be necessary to make reasonable progress towards the natural visibility goal, including a requirement that certain existing major stationary sources procure, install, and operate BART, as determined by the state. In some cases, this requirement is met with an analysis of potential controls for each source subject to BART considering five factors set out in EPA's regional haze rule. 40 CFR 51.308(e)(1)(ii)(A). However, as described in several previous rules, EPA has concluded that CAA section 169A may reasonably be interpreted to provide that the requirement for BART may be satisfied by an alternate program that provides greater reasonable progress toward visibility improvement than direct application of BART to individual sources determined to be subject to the BART requirement. See 40 CFR 51.308(e), 64 FR 35714, 35741–35743 (July 1, 1999), 70 FR 39104, 39136 (July 6, 2005), 71 FR 60612 (October 13, 2006), and 77 FR 33642 (June 7, 2012).

In 1999, EPA promulgated the Regional Haze Rule, which established a comprehensive visibility protection program for mandatory Class I Federal areas (including many national parks and wilderness areas). In the preamble to the Regional Haze Rule, EPA stated that, to demonstrate that emission reductions of an alternative program would result in greater emission reductions, ''the State must estimate the emission reductions that would result from the use of BART-level controls. To do this, the State could undertake a source-specific review of the sources in the State subject to BART, or it could use a modified approach that simplifies the analysis.'' 64 FR 35742 (July 1, 1999).

In a final rule revising certain provisions of the Regional Haze Rule published on October 13, 2006, EPA offered further clarification for states for assessing alternative strategies, in particular regarding the benchmark definition of BART to use in judging whether the alternative is better. 71 FR 60612. In this rulemaking, EPA stated in the preamble that the presumptive BART levels given in the BART guidelines [1] would be a suitable baseline against which to compare alternative strategies, where the alternatives have been designed to meet a requirement other than BART. *Id.* at 60619; see also 40 CFR 51.308(e)(2)(i)(C). As described in the EPA's proposed approval of the Illinois variance, EPA took a more conservative approach and compared emissions under the variance to the application of typical BACT control levels to the BART subject units in the Ameren MPS Group.[2] 80 FR 21681, 21683 (April 20, 2015). In brief, EPA found that the alternative restrictions imposed by Illinois under the variance can be demonstrated to provide greater emission reductions and greater visibility improvement than conservative definitions of BART, even without a full analysis of the emission levels that constitute BART. The demonstration is discussed below, in the context of response to comments addressing the magnitude of emission reductions under the variance.

[1] The BART guidelines are contained in Appendix Y to 40 CFR part 51 and identify the presumptive $SO_2$ limits for utility boilers as 0.15 lbs/MMBtu or 95 percent control.

[2] BACT limits are imposed on new units or units undergoing major modifications. Therefore, BART limits, which by definition apply to relatively old existing units, are unlikely to be lower than the limits that would apply to a new unit and would in many cases be significantly higher. For this analysis, a $SO_2$ limit of 0.06 lbs/MMBtu was determined to be representative of typical BACT for utility boilers.

*Comment 2:* The plain language of the CAA ''provides that EPA's regulations 'shall require' each SIP to contain various elements, and those elements must include BART as a minimum requirement of every haze SIP.'' The CAA does not permit a state to exempt units from BART without going through the exemption process outlined in the statute. The statute specifies the only circumstances in which a source may be exempted from BART, none of which apply here. 42 U.S.C. 7491(c). The CAA provision that allows some limited exemptions from BART makes plain that any such exemption must be assessed and determined on a source-specific, not a state-wide basis. *Id.* at 7491(c)(1). Furthermore, EPA may exempt a unit from the source-specific BART requirements of the CAA only where the Federal Land Managers concur with the EPA determination of an exemption. *Id.* at 7491(c)(3).

*Response 2:* We do not agree that the provisions governing exemptions to BART apply. Neither the Illinois Regional Haze SIP previously approved by EPA nor the revisions to that SIP contained in the variance being approved in this action exempt BART-eligible sources from BART requirements, but rather satisfy the BART requirements through the adoption of an alternative program that provides greater reasonable progress towards improving visibility.

Section 169A(b)(2) of the CAA, 42 U.S.C. 9491(b)(2), requires each visibility SIP to contain ''such emission limits, schedules of compliance and other measures as may be necessary to make reasonable progress toward meeting the national goal * * * including * * * a requirement that [certain major stationary sources] * * * procure, install, and operate * * * [BART].'' Based on this language, EPA concluded in the Regional Haze Rule that if an alternative program can be shown to make greater reasonable progress toward eliminating or reducing visibility impairment, then installing BART for the purpose of making reasonable progress toward the national goal is no longer necessary. 64 FR 35714, 35739 (July 1, 1999).

This interpretation of the visibility provisions of the CAA has been previously challenged and upheld by the D.C. Circuit. In the first case challenging the provisions in the Regional Haze Rule allowing for states to adopt alternative programs in lieu of BART, the court affirmed EPA's interpretation of CAA section 169A(b)(2) as allowing for alternatives to BART where those alternatives will result in greater reasonable progress than BART. *Center for Energy and Economic Development* v. *EPA,* 398 F.3d 653, 660 (D.C. Cir. 2005) (''CEED'') (finding reasonable EPA's interpretation of CAA section 169(a)(2) as requiring BART only as necessary to make reasonable progress). In the second case, *Utility Air Regulatory Group* v. *EPA,* 471 F.3d 1333 (D.C. Cir. 2006) (''UARG''), the court specifically upheld EPA's determination that states could rely on the Clean Air Interstate Rule (''CAIR'') as an alternative program to BART for EGUs in the CAIR-affected states. The court concluded that the EPA's two-pronged test for determining whether an alternative program achieves greater reasonable progress was a reasonable one and also agreed with EPA that nothing in the CAA required the EPA to ''impose a separate technology mandate for sources whose emissions affect Class I areas, rather than piggy-backing on solutions devised under other statutory categories, where such solutions meet the statutory requirements.'' *Id.* at 1340. *See also Central Arizona Water Conservation District* v. *EPA,* 990 F.2d 1531, 1543 (9th Cir. 1993) (upholding EPA's interpretation of CAA section 169A(b)(2)).

*Comment 3:* An interpretation of the statute which allows a state to substitute an alternative for BART on a state-wide or fleet-wide basis cannot be reconciled with Congress specifying very narrow standards for exempting a source from BART. If EPA relies on the D.C. Circuit Court of Appeals decisions upholding its interpretation of the statute, ''the cases are incorrect in that the D.C. Circuit Court of Appeals has rewritten the statute by failing to give effect to the plain language requiring each SIP to include BART and by disregarding the very specific parameters in the statute for exemptions from BART.'' In addition, ''these decisions are not binding precedent in the 7th Circuit, which has jurisdiction over EPA's approval of the Illinois Regional Haze SIP.''

*Response 3:* EPA disagrees with the commenter that BART alternatives are impermissible under the CAA. As the commenter notes, EPA's interpretation that the CAA allows States to devise alternative programs in lieu of source-specific BART was upheld in both the CEED and UARG decisions. The conclusions in these cases have not been upset or overturned by any subsequent decision of the D.C. Circuit, and we disagree with the commenter's contention that CEED and UARG were decided erroneously. The D.C. Circuit has exclusive jurisdiction over the review of nationally applicable rules. The Illinois' SIP has been evaluated

against nationally applicable rules (upheld by the D.C. Circuit) that allow States to adopt alternative measures in lieu of BART.

*Comment 4:* The IEPA has not met its burden to show that the Multi-Pollutant Standard is approvable as a BART alternative because it has not performed modeling of the visibility impacts for the MPS compared to BART. ''By design, the MPS allows the flexibility to implement emissions reductions other than by imposing uniform reductions at specific units subject to BART.'' There is, therefore, no basis for claiming that the distribution of emissions under the MPS is not substantially different than under BART. Instead, the MPS limits can be met in such a way that the distribution of emissions is significantly different than it would be if its subject-to-BART units had to meet unit specific BART limits. ''If the distribution of emissions is significantly different under an alternate program, a state must conduct visibility modeling in order to meet its burden of securing approval for the alternative program.''

*Response 4:* EPA disagrees with the commenter that visibility modeling is required. EPA found in its original approval of Illinois' BART plan that the distances from the relevant power plants to the affected Class I areas are substantial and that the averaging in Illinois' plan is only allowed within somewhat limited regions. Given this, EPA concluded that ''a reallocation of emission reductions from one plant to another is unlikely to change the impact of those emission reductions significantly'' and that the much greater emission reductions from Illinois' plan will result in greater reasonable progress than would source-specific BART controls. 77 FR 39946. The commenter has provided no evidence that EPA's conclusion that the greater reductions in emissions from these facilities under the terms of the variance should lead to a different conclusion.

The commenter points to a test set out in 40 CFR 51.308(e)(3) to support its argument that visibility modeling is necessary to determine whether an alternative to BART provides for greater reasonable progress. States are not required to use this test, however, as 40 CFR 51.308(e)(2)(i)(E) makes clear: A demonstration that an alternative measure will make greater reasonable progress may be based on the clear weight of evidence. Although there is no requirement that States use the test in 51.308(e)(3), EPA nevertheless reexamined whether modeling is necessary to conclude that the greater emission reductions of Illinois' revised plan provide for better visibility than imposition of source-specific BART. There are seven facilities in the Ameren MPS Group: Coffeen Energy Center (Montgomery County), Duck Creek Energy Center (Fulton County), E.D. Edwards Energy Center (Peoria County), Joppa Energy Center (Massac County), Newton Energy Center (Jasper County), Meredosia Energy Center (Morgan County) and Hutsonville Energy Center (Crawford County). Of these facilities, only Coffeen, Duck Creek, and E.D. Edwards were determined to be subject to BART. The least distance from any of these three BART-subject sources to any Class I area is from Coffeen to the Mingo Wilderness Area, a distance of about 240 kilometers (km). Duck Creek and E.D. Edwards are approximately 390 km and 410 km, respectively, from the Mingo Wilderness area. The distance from the Mingo Wilderness Area to remaining Ameren MPS Group facilities ranges from approximately 120 km to 330 km, with an average distance of 260 km. Further, an evaluation for the Class I areas within 500 km of any Ameren MPS Group source shows that in every case the average distance from the BART-subject facilities is greater than the average distance from the facilities that would not be subject to BART. That is, even if Illinois' plan achieved no more emission reductions than source-specific BART, the plan would likely yield better visibility because the reductions would likely be reallocated to closer plants. Given these distances and given the relative location of these facilities, a reallocation of emission reductions from one plant to another among this group is unlikely to change the visibility impact of these emission reductions meaningfully. As noted above, however, the Illinois plan (originally and as revised) achieves significantly greater reductions than source-specific BART. Consequently, in these circumstances, EPA is confident that visibility modeling is not necessary to conclude that the significantly greater emission reductions that are required under the variance will yield greater progress toward visibility protection as compared to the benefits of a conservative estimate of BART.

*Comment 5:* The variance from the MPS authorizes the IPH fleet to emit greater $SO_2$ emissions than would be emitted if BART were required, and thus EPA cannot find that the MPS will lead to greater reasonable progress than would BART.

Of the seven plants included in the original Ameren MPS Group, five plants still in operation are now owned and operated by IPH and two plants that retired in 2011, Hutsonville and Meredosia, are now owned by Medina Valley and are no longer part of the fleet. Because of the variance, the MPS will no longer require $SO_2$ reductions from the IPH coal fleet during the period of the first long-term strategy for regional haze (*i.e.,* before 2018) that are greater than the reductions that would result from requiring IPH to install and operate BART on its BART-subject plants.

The commenter supports this assertion by comparing emissions reductions from the variance to emissions reductions from BACT at BART-subject facilities, excluding emissions reductions from the retired Meredosia and Hutsonville units (now owned by Medina Valley) and emissions reductions from the Edwards Unit 1 (owned by IPH). The commenter states that these sources were not included in the analysis because Meredosia and Hutsonville ''have been retired for several years due to economic reasons,'' and Edwards Unit 1 is currently being operated only for grid reliability purposes subject to a short-term System Support Resource agreement with the Midcontinent Independent System Operator (MISO). The commenter argues that the MPS is not driving emissions reductions at those sources and they should not be included in any analysis of emissions reductions at the IPH fleet. The commenter's analysis shows that, in 2017, implementation of BART at BART-subject sources would reduce $SO_2$ emissions by 74,348 tons and the variance would reduce $SO_2$ by 69,555 tons.

*Response 5:* EPA disagrees with the commenter's assertion that EPA cannot find that the MPS will lead to greater reasonable progress than would BART. The premise of the commenter's analysis, that only currently operating units in the IPH fleet should be evaluated, is flawed. As discussed above, the requirement for BART may be satisfied by an alternate program that provides greater reasonable progress toward visibility improvement than direct application of BART to individual sources determined to be subject to the BART requirement. The alternate program being evaluated, as contained in the MPS and revised by the variance, applies to the seven sources in the Ameren MPS Group, not only to the five sources currently owned and operated by IPH.

The variance prohibits the Meredosia and Hutsonville power stations from operating until after December 31, 2020, at which point they would remain subject to the emission limits in the MPS. In addition, the variance requires IPH to permanently retire E.D. Edwards Unit 1 as soon as allowed by MISO. The

fact that there are reasons other than the MPS that influenced the decisions to cease operation of these plants does not change the fact that under the currently approved Regional Haze SIP these sources are permitted to operate. The variance makes these shutdowns enforceable and prohibits emissions that would otherwise have been allowed under the SIP. Further, these facilities ceased operating late in 2011, well after the 2000–2004 baseline established in the Regional Haze Rule (40 CFR 51.308(d)(2)) and before the 2017 deadline for implementing BART controls in Illinois, so the emission reductions from the shutdown of these facilities are fully creditable. Therefore, comparing emission reductions at all seven Ameren MPS Group sources under the variance to emission reductions from application of BACT limits to BART-subject units is the appropriate test for determining whether the alternate program would result in greater emission reductions.

The analysis included by EPA in the proposed rule shows $SO_2$ emission reductions of 74,348 tons in 2017 if typical BACT limits were applied to BART subject sources and $SO_2$ emission reductions of 119,833 tons in 2017 under the variance. 80 FR 21683–21684. The analysis is conservative in that it assumes that E.D. Edwards Unit 1 is still operating, since an absolute shutdown date was not included in the variance. Further, even assuming that the 22,360,000 MMBtu previously generated at Meredosia and Hutsonville were shifted to the five remaining facilities in the Ameren MPS Group, applying the 0.35 pound/MMBtu group average emission limit results in an additional 3,913 tons of $SO_2$ emissions under the variance in 2017, or a total of 54,188 tons of $SO_2$. Thus, $SO_2$ emissions reductions in 2017 under the variance would be 115,920 tons, which is still 41,572 fewer tons of $SO_2$ emissions than what the $SO_2$ emissions would be if BACT were applied at BART-subject sources.

## III. Final Action

EPA is finalizing approval of the IPH and Medina Valley variance submitted by IEPA on September 3, 2014, as a revision to the Illinois Regional Haze SIP.

## IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Illinois Regulations described in the amendments to 40 CFR part 52 set forth below. 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).

## V. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 19, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 24, 2015.

**Susan Hedman,**

*Regional Administrator, Region 5.*

40 CFR part 52 is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. Section 52.720 is amended by adding paragraph (c)(207) to read as follows:

**§ 52.720 Identification of plan.**

* * * * *

(c) * * *

(207) On September 3, 2014, Illinois submitted a variance to its regional haze state implementation plan affecting the electrical generating units (EGUs) included in the Ameren Multi-Pollutant Standard Group (Ameren MPS Group). The Ameren MPS Group consists of five facilities owned by Illinois Power Holdings, LLC (IPH) and two facilities owned by AmerenEnergy Medina Valley Cogen, LLC (Medina Valley). The IPH facilities included in the Ameren MPS Group and subject to the variance include: Coffeen Energy Center (Montgomery County), Duck Creek Energy Center (Fulton County), E.D. Edwards Energy Center (Peoria County), Joppa Energy Center (Massac County), and Newton Energy Center (Jasper County). The Medina Valley facilities included in the Ameren MPS Group and subject to the variance are the Meredosia Energy Center (Morgan County) and the Hutsonville Energy Center (Crawford County).

(i) *Incorporation by reference.*

(A) Illinois Pollution Control Board Order PCB 14–10, adopted on November 21, 2013; Certificate of Acceptance, filed with the Illinois Pollution Control Board Clerk's Office December 20, 2013.

[FR Doc. 2015–31882 Filed 12–21–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R10–OAR–2015–0259; FRL–9940–35–Region 10]**

### Approval and Promulgation of Implementation Plans; Oregon: Interstate Transport of Ozone

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Clean Air Act (CAA) requires each State Implementation Plan (SIP) to contain adequate provisions prohibiting air emissions that will have certain adverse air quality effects in other states. On June 28, 2010, the State of Oregon made a submittal to the Environmental Protection Agency (EPA) to address these requirements. The EPA is approving the submittal as meeting the requirement that each SIP contain adequate provisions to prohibit emissions that will contribute significantly to nonattainment or interfere with maintenance of the 2008 ozone National Ambient Air Quality Standard (NAAQS) in any other state.

**DATES:** This final rule is effective January 20, 2016.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2015–0259. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information the disclosure of which 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 Air Programs Unit, Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA, 98101. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Kristin Hall at (206) 553–6357, *hall.kristin@epa.gov,* or the above EPA, Region 10 address.

**SUPPLEMENTARY INFORMATION:**

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#### I. Background Information

On October 27, 2015, the EPA proposed to approve Oregon's June 28, 2010 submittal as meeting the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS (80 FR 65680). An explanation of the CAA requirements, a detailed analysis of the submittal, and the EPA's reasons for approval were provided in the notice of proposed rulemaking, and will not be restated here. The public comment period for this proposed rule ended on November 27, 2015. The EPA received no comments on the proposal.

#### II. Final Action

The EPA is approving Oregon's June 28, 2010 submittal as meeting the CAA section 110(a)(2)(D)(i)(I) interstate transport requirements for the 2008 ozone NAAQS.

#### III. Statutory and Executive Orders Review

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

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249,

November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 19, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: December 8, 2015.

**Dennis J. McLerran,**

*Regional Administrator, Region 10.*

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

### Subpart MM—Oregon

■ 2. Section 52.1991 is amended by adding paragraph (d) to read as follows:

**§ 52.1991 Section 110(a)(2) infrastructure requirements.**

* * * * *

(d) The EPA approves Oregon's June 28, 2010 submittal as meeting the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS.

[FR Doc. 2015–31915 Filed 12–18–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

**[EPA–HQ–OPP–2014–0397; FRL–9937–18]**

### Pendimethalin; Pesticide Tolerances

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of pendimethalin in or on multiple commodities which are identified and discussed later in this document. Interregional Research Project Number 4 (IR–4) requested the tolerances associated with pesticide petition number (PP) 4E8282, and BASF requested the tolerances associated with (PP) 4F8261, under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective December 21, 2015. Objections and requests for hearings must be received on or before February 19, 2016, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2014–0397, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:** Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

#### I. General Information

*A. Does this action apply to me?*

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2014–0397 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before February 19, 2016. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

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

by docket ID number EPA–HQ–OPP–2014–0397, by one of the following methods:

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

## II. Summary of Petitioned-For Tolerance

In the **Federal Register** of December 17, 2014 (79 FR 75107) (FRL–9918–90), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP) 4E8282 by Interregional Research Project Number 4 (IR–4), 500 College Road East, Princeton, NJ 08540. The petition requested that 40 CFR 180.361 be amended by establishing tolerances for residues of the herbicide pendimethalin, [*N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine], and its metabolite, 4-[(1-ethylpropyl)amino]-2-methyl-3,5-dinitrobenzyl alcohol, in or on caneberry subgroup 13–07A at 0.10 parts per million (ppm) and bushberry subgroup 13–07B at 0.10 ppm, and amending the existing crop group tolerance for nut, tree, group 14 to nut, tree, group 14–12. That document referenced a summary of the petition prepared on behalf of IR–4 by BASF, the registrant, which is available in the docket EPA–HQ–OPP–2014–0397 at *http://www.regulations.gov*.

In the **Federal Register** of August 26, 2015 (80 FR 51759) (FRL–9931–74), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP) 4F8261 by BASF Corp., 26 Davis Drive, Research Triangle Park, NC 27709. The petition requested that 40 CFR 180.361 be amended by establishing tolerances for residues of the herbicide pendimethalin, [*N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine], and its metabolite, 4-[(1-ethylpropyl)amino]-2-methyl-3,5-dinitrobenzyl alcohol, in or on milk at 0.04 parts per million (ppm); cattle, fat at 0.30 ppm; cattle, liver at 1.5 ppm; cattle, meat at 0.1 ppm; cattle, meat byproducts, except liver at 3.0 ppm; goat, fat at 0.30 ppm; goat, liver at 1.5 ppm; goat, meat at 0.10 ppm; goat, meat byproducts, except liver at 3.0 ppm; horse, fat at 0.30 ppm; horse, liver at 1.5 ppm; horse, meat at 0.10 ppm; horse, meat byproducts, except liver at 3.0 ppm; sheep, fat at 0.30 ppm; sheep, liver at 1.5 ppm; sheep, meat at 0.10 ppm; and sheep, meat byproducts, except liver at 3.0 ppm. This petition additionally requested that 40 CFR 180.361 be amended by revising the existing tolerance in or on grass forage, fodder, and hay crop group 17, forage at 1,000 ppm and grass forage, fodder, and hay crop group 17, hay at 2,000 ppm. That document referenced a summary of the petition prepared on behalf of IR–4 by BASF, the registrant, which is available in the docket EPA–HQ–OPP–2014–0397 at *http://www.regulations.gov*.

Two comments were received on these notices of filing. EPA's response to these comments is discussed in Unit IV.C.

Based upon review of the data supporting the petition, EPA has revised the petitioned-for tolerance in or on cattle, meat byproduct, meat byproduct except liver, and liver; goat, meat byproduct, meat byproduct except liver, and liver; horse, meat byproduct, meat byproduct except liver, and liver; and sheep, meat byproduct, meat byproduct except liver, and liver. The Agency has determined that the tolerance expression for the ruminant commodities is different than that for plant commodities. Additionally, the EPA is removing existing tolerances for Juneberry; nut, tree, group 14; and pistachio since they are superseded by this action. The reason for these changes are explained in Unit IV.D.

## III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for pendimethalin including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with pendimethalin follows.

### *A. Toxicological Profile*

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The target organ for pendimethalin is the thyroid. Thyroid toxicity in chronic and subchronic rat and mouse studies was manifested as alterations in thyroid hormones (decreased total T4, and T3, increased percent of free T4 and T3), increased thyroid weight, and microscopic thyroid lesions (including increased thyroid follicular cell height, follicular cell hyperplasia, as well as follicular cell adenomas). Due to these effects, the Agency required that a developmental thyroid assay be conducted to evaluate the impact of pendimethalin on thyroid hormones, structure, and/or thyroid hormone homeostasis during development. A developmental thyroid study was submitted and demonstrated that there is no potential thyroid toxicity following pre- and/or post-natal exposure to pendimethalin.

The points of departure (PODs) used for the chronic and short-term risk assessments were based on co-critical studies of a 92-day thyroid function study in rats, a 56-day thyroid study in rats, and a 14-day intra thyroid metabolism study in rats. An uncertainty factor (UF) of 30X (3X for interspecies extrapolation and 10X for intraspecies variation) is applied for the chronic and short-term risk assessments. The interspecies UF which used to account for animal to human differences in toxicokinetics and toxicodynamics

was reduced to 3X due to several important quantitative dynamic differences between rats and humans with respect to thyroid function. A UF of 100X (10X for interspecies extrapolation and 10X for intraspecies variation) was used in the acute risk assessment because the POD was based on an acute neurotoxicity study, not a thyroid study.

There is no evidence that pendimethalin is a developmental, reproductive, neurotoxic, or immunotoxic chemical. There is no evidence of increased qualitative or quantitative susceptibility in the young. EPA classified pendimethalin as a ''Group C'', possible human carcinogen based on a statistically significant increased trend and pair-wise comparison between the high-dose group and controls for thyroid follicular cell adenomas in male and female rats. A non-quantitative approach (*i.e.,* non-linear, reference dose (RfD) approach) was used to assess cancer risk since mode-of-action studies are available to demonstrate that the thyroid tumors are due to a thyroid-pituitary imbalance, and also since pendimethalin was shown to be non-mutagenic in mammalian somatic cells and germ cells. Specific information on the studies received and the nature of the adverse effects caused by pendimethalin as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document, ''Pendimethalin—Human Health Risk Assessment to Support the Proposed New Uses on the Caneberry Subgroup 13–07A, and the Bushberry Subgroup 13–07B, Amended Use on Grasses and Establishment of Tolerances for Pendimethalin in/on Grass Forage, Fodder, and Hay (Crop Group 17) with New Ruminant Tolerances; Crop Group Conversion for Tree Nut Crop Group 14.'' in pages 14–20 in docket ID number EPA–HQ–OPP–2014–0397.

*B. Toxicological Points of Departure/ Levels of Concern*

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/ safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticides*.

A summary of the toxicological endpoints for Pendimethalin used for human risk assessment is discussed in the final rule published in the **Federal Register** of August 29, 2012 (77 FR 52240) (FRL–9360–5).

*C. Exposure Assessment*

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to pendimethalin, EPA considered exposure under the petitioned-for tolerances as well as all existing pendimethalin tolerances in 40 CFR 180.361. EPA assessed dietary exposures from pendimethalin in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

Such effects were identified for pendimethalin. In estimating acute dietary exposure, EPA Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM–FCID) Version 3.16. This software uses 2003–2008 food consumption data from the U.S. Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). As to residue levels in food, EPA used tolerance-level residues, and 100 percent crop treated (PCT) for all commodities.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the DEEM–FCID, Version 3.16 software with 2003–2008 food consumption data from the USDA's NHANES/WWEIA. As to residue levels in food, EPA used tolerance-level residues, and 100 percent crop treated (PCT) for all commodities.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that a nonlinear RfD approach is appropriate for assessing cancer risk to pendimethalin. Cancer risk was assessed using the same exposure estimates as discussed in Unit III.C.1.ii., chronic exposure.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for pendimethalin. Tolerance-level residues and 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* In drinking water, the residue of concern is pendimethalin parent only. The Agency used screening-level water exposure models in the dietary exposure analysis and risk assessment for pendimethalin in drinking water. These simulation models take into account data on the physical, chemical, and fate/ transport characteristics of pendimethalin. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/about-water-exposure-models-used-pesticide*.

Based on the Pesticide Root Zone Model Ground Water (PRZM GW) and Surface Water Concentration Calculator (SWCC) models, the estimated drinking water concentrations (EDWCs) of pendimethalin for acute exposures are estimated to be 96.4 parts per billion (ppb) for surface water and $4.38 \times 10^{-9}$ ppb for ground water. For chronic exposures for non-cancer assessments, they are estimated to be 9.73 ppb for surface water.

For acute dietary risk assessment, the water concentration value of 96.4 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 9.73 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Pendimethalin is currently registered for the following uses that could result in residential exposures: Turf, home gardens, and ornamentals. EPA assessed residential exposure using the following assumptions:

- For handlers, it is assumed that residential use will result in short-term

(1 to 30 days) duration dermal and inhalation exposures.

- Residential post-application exposure is also assumed to be short-term (1–30 days) in duration, resulting from the following exposure scenarios:
  - Gardening: Adults (dermal) and children 6 < 11 years old (dermal);
  - Physical activities on turf: Adults (dermal) and children 1–2 years old (dermal and incidental oral);
  - Mowing turf: Adults (dermal) and children 11 < 16 years old (dermal); and
  - Exposure to golf courses during golfing: Adults (dermal), children 11 < 16 years old (dermal), and children 6 < 11 years old (dermal).

EPA did not combine exposure resulting from adult handler and post-application exposure resulting from treated gardens, lawns, and/or golfing because of the conservative assumptions and inputs within each estimated exposure scenario. The Agency believes that combining exposures resulting from handler and post-application activities would result in an overestimate of adult exposure. EPA selected the most conservative adult residential scenario (adult dermal post-application exposure from gardening) as the contributing source of residential exposure to be combined with the dietary exposure for the aggregate assessment. The children's oral exposure is based on post-application hand-to-mouth exposures. To include exposure from object-to-mouth and soil ingestion in addition to hand-to-mouth would overestimate the potential for oral exposure. However, there is the potential for co-occurrence of dermal and oral exposure, since the toxicological effects from the dermal and oral routes of exposure are the same. As a result, the children's aggregate assessment combines post-application dermal and oral exposure along with dietary exposure from food and water. Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/standard-operating-procedures-residential-pesticide*.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' EPA has not found pendimethalin to share a common mechanism of toxicity with any other substances, and pendimethalin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that pendimethalin does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides*.

*D. Safety Factor for Infants and Children*

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There was no indication of pre- and/or post-natal qualitative or quantitative increased susceptibility in the developmental studies in rats and rabbits or the 2-generation reproduction studies in rats. A developmental thyroid toxicity study demonstrated that there is no potential thyroid toxicity following pre- and/or post-natal exposure to pendimethalin.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for pendimethalin is complete. Although a subchronic inhalation study was not available in the database, EPA determined that one is not needed at this time based on a weight-of-evidence analysis, considering the following: (1) All relevant hazard and exposure information, which indicates its low acute inhalation toxicity; (2) its physical/chemical properties, which indicate its low volatility; and (3) the use of an oral POD that results in a residential inhalation margin of exposure (MOE) more than 10X the level of concern (in the case of pendimethalin MOE = 30 based on thyroid POD).

ii. There is no indication that pendimethalin is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is no evidence that pendimethalin results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study. In addition, a developmental thyroid toxicity study demonstrated that there is no potential thyroid toxicity following pre- and/or post-natal exposure to pendimethalin.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to pendimethalin in drinking water. EPA used similarly conservative assumptions to assess post-application exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by pendimethalin.

*E. Aggregate Risks and Determination of Safety*

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to pendimethalin will occupy 2% of the aPAD for all infants less than 1 year old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to pendimethalin from food and water will utilize 2.4% of the cPAD for children 1 to 2 years old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic

residential exposure to residues of pendimethalin is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Pendimethalin is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to pendimethalin.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 130 for adults and 92 for children 1 to 2 years old, the two population subgroups receiving the greatest combined dietary and non-dietary exposure. Because EPA's level of concern for pendimethalin is a MOE of 30 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

An intermediate-term adverse effect was identified; however, pendimethalin is not registered for any use patterns that would result in intermediate-term residential exposure. Intermediate-term risk is assessed based on intermediate-term residential exposure plus chronic dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for pendimethalin.

5. *Aggregate cancer risk for U.S. population.* As discussed in Unit III.A., EPA has determined that an RfD approach based on the chronic point of departure is appropriate for evaluating cancer risk. As there are not chronic aggregate risks of concern, there are no cancer aggregate risk concerns.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to pendimethalin residues.

## IV. Other Considerations

### *A. Analytical Enforcement Methodology*

Adequate enforcement methodology, gas chromatography with electron capture detection (GC/ECD), is available to enforce the tolerance expression.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

### *B. International Residue Limits*

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

There are currently no established Codex MRLs for the residues of pendimethalin.

### *C. Response to Comments*

Two comments were received to the Notices of Filing for PP 4E8282 and PP 4F8261. One commenter stated: ''Pesticide/Herbicide contents must be made available to the public due to allergies. Labeling foods that have been exposed to Pesticides/Herbicides protects the public from potentially ingesting a known allergen. This safe practice allows health care professionals to determine the cause of a life threatening severe reaction to avoid these products in the future. I am a nurse hence my concern.'' The second commenter stated that no residue should be allowed for pendimethalin and that they do not support manufacture or use of this product. The Agency understands the commenters' concerns and recognizes that some individuals believe that pesticides should be banned on agricultural crops. However, the existing legal framework provided by Section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA) states that tolerances may be set when persons seeking such tolerances or exemptions have demonstrated that the pesticide meets the safety standard imposed by that statute. These comments appear to be directed at the underlying statute and not EPA's implementation of it; the citizens have made no contention that EPA has acted in violation of the statutory framework. EPA has found that there is a reasonable certainty of no harm to humans after considering the toxicological studies and the exposure levels of humans to pendimethalin.

### *D. Revisions to Petitioned-for Tolerances*

Based on review of the data supporting the petitions, EPA has revised the petitioned-for tolerance in or on ''meat byproduct'' (at 3.0 ppm) based on anticipated residues in kidney which contained the highest residue amongst all ruminant tissues and will therefore cover anticipated residues in liver and fat. BASF, proposed setting a tolerance on ''meat byproduct except liver'', also at 3.0 ppm based on anticipated residues in kidney with a separate lower tolerance on liver at 1.5 ppm. However, the anticipated residues in liver versus kidney, on which the tolerance for meat byproduct is based on, are not significantly different given the limited number of data for those tissues and that both are greater than LOQ and within 1 ppm of each other. Therefore, a single tolerance on ''meat byproduct'' without a separate tolerance on liver is adequate.

Additionally, the current tolerance expression for pendimethalin for plant commodities includes the combined residues of pendimethalin and its 3,5-dinitrobenzyl alcohol metabolite (CL 202,347). EPA has determined, based on the review of the ruminant feeding study, that the residues of concern for setting tolerances and assessing risks in ruminants is the parent compound, pendimethalin, and its metabolite, 1-(1-ethylpropyl)-5, 6-dimethyl-7-nitro-1*H*-benzimidazole (also known as metabolite 6).

Finally, the Agency is removing Juneberry at 0.1 ppm as it is superseded by fruit, bushberry, subgroup 13–07B; as well as nut, tree, group 14 and pistachio at 0.1 ppm to account for an updated crop group conversion.

## V. Conclusion

Therefore, tolerances are established for plant residues by measuring only the sum of pendimethalin, [*N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine], and its metabolite, 4-[(1-ethylpropyl)amino]-2-methyl-3,5-dinitrobenzyl alcohol calculated as the

stoichiometric equivalent of pendimethalin, in or on bushberry subgroup 13–07B at 0.10 ppm; caneberry subgroup 13–07A at 0.10 ppm; grass forage, fodder, and hay crop group 17, forage at 1,000 ppm; grass forage, fodder, and hay crop group 17, hay at 2,000 ppm; and nut, tree group 14–12 at 0.1 ppm. Tolerances are established for livestock commodities is by measuring only the sum of pendimethalin, [*N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine], and its metabolite, 1-[(1-ethylpropyl)-5,6-dimethyl-7-nitro-1*H*-benzimidazole (metabolite 6), calculated as the stoichiometric equivalent of pendimethalin in or on cattle, fat at 0.30 ppm; cattle, meat at 0.10 ppm; cattle, meat byproduct 3.0 ppm; goat, fat at 0.30 ppm; goat, meat at 0.10 ppm; goat, meat byproduct at 3.0 ppm; horse, fat at 0.30 ppm; horse, meat at 0.10 ppm; horse, byproduct at 3.0 ppm; milk at 0.04 ppm; sheep, fat at 0.30 ppm; sheep, meat at 0.10 ppm; and sheep, meat byproduct at 3.0 ppm. Additionally, the existing tolerances for Juneberry; nut, tree, group 14; and pistachio are removed.

## VI. Statutory and Executive Order Reviews

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

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

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

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

## VII. Congressional Review Act

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

## List of Subjects in 40 CFR Part 180

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

Dated: December 7, 2015.

**Daniel J. Rosenblatt,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

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

■ 2. In § 180.361:
■ a. Redesignate paragraph (a) as (a)(1).
■ b. In the newly redesignated paragraph (a)(1):
■ i. Remove the entries in the table for ''Grass forage, fodder, and hay crop group 17, straw''; ''Juneberry''; ''Nut, tree group 14''; and ''Pistachio''.
■ ii. Revise the entries in the table for ''Grass, forage, fodder, and hay crop group 17, forage'' and ''Grass, forage, fodder, and hay crop group 17, hay''.
■ iii. Add alphabetically the entries ''Bushberry subgroup 13–07B'' and ''Caneberry subgroup 13–07A'' to the table.
■ c. Add paragraph (a)(2).

The additions and revisions read as follows:

**§ 180.361 Pendimethalin; tolerances for residues.**

(a) *General.* (1) * * *

| Commodity | Parts per million |
|---|---|
| * * * * * | |
| Bushberry subgroup 13–07B | 0.10 |
| Caneberry subgroup 13–07A | 0.10 |
| * * * * * | |
| Grass, forage, fodder, and hay crop group 17, forage | 1,000 |
| Grass, forage, fodder, and hay crop group 17, hay | 2,000 |
| * * * * * | |
| Nut, tree, group 14–12 | 0.10 |
| * * * * * | |

(2) Tolerances are established for residues of the herbicide pendimethalin, including its metabolites and degradates, in or on commodities listed in the following table. Compliance with the tolerance levels is to be determined by measuring only the sum of pendimethalin (*N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine)) and its metabolite, 1-(1-ethylpropyl)-5, 6-dimethyl-7-nitro-1*H*-benzimidazole (metabolite 6), calculated as the stoichiometric equivalent of pendimethalin, in or on the commodity.

| Commodity | Parts per million |
|---|---|
| Cattle, fat | 0.30 |
| Cattle, meat | 0.10 |
| Cattle, meat byproduct | 3.0 |
| Goats, fat | 0.30 |

| Commodity | Parts per million |
|---|---|
| Goats, meat | 0.10 |
| Goats, meat byproduct | 3.0 |
| Horse, fat | 0.30 |
| Horse, meat | 0.10 |
| Horse, byproduct | 3.0 |
| Milk | 0.04 |
| Sheep, fat | 0.30 |
| Sheep, meat | 0.10 |
| Sheep, meat byproduct | 3.0 |

* * * * *

[FR Doc. 2015–31655 Filed 12–18–15; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

### 49 CFR Part 391

**[Docket No. FMCSA–2012–0178]**

**RIN 2126–AB40**

## Guidance on Medical Examiner's Certification Integration Final Rule Regarding Use of Driver Examination Forms

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Guidance.

**SUMMARY:** The FMCSA announces a 120-day grace period during which Medical Examiners may use either the current or the newly revised versions of the Medical Examination Report (MER) Form and Medical Examiner's Certificate (MEC). This period is from December 22, 2015, until April 20, 2016. This action is being taken to ensure that Medical Examiners have sufficient time to become familiar with the new forms and to program electronic medical records systems.

**DATES:** This guidance is effective December 21, 2015.

**ADDRESSES:** You may search background documents or comments to the docket for this rule, identified by docket number FMCSA–2012–0178, by visiting the:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the online instructions for reviewing documents and comments. Regulations.gov is available electronically 24 hours each day, 365 days a year; or
- *DOT Docket Management Facility (M–30):* U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., West Building, Ground Floor, Room 12–140, Washington, DC 20590–0001.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine Hydock, Chief, Medical Programs Division, Office of Policy, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590 or by telephone (202) 366–4001. If you have questions on viewing material in the docket, contract Docket services, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

### I. Legal Basis

On April, 23, 2015, FMCSA published a final rule adopting regulations to facilitate the electronic transmission of MEC information from FMCSA's National Registry to the State driver's license agencies (SDLA) for holders of Commercial Driver's Licenses (CDL) and Commercial Learner's Permits (CLP). (80 FR 22790). On June 22, 2015, FMCSA published a document correcting the effective date for use of new forms prescribed in the final rule to December 22, 2015. (80 FR 35577). See 49 CFR 391.43(f)(1) and (2) and 391.43(h)(1) and (2).

The final rule, as corrected, requires certified MEs performing physical examinations of CMV drivers to use a newly developed MER Form, MCSA–5875, in place of the current MER form, and for use of the newly developed MEC Form MCSA–5876 for the current MEC form, beginning on December 22, 2015.

### II. Availability of New Forms

On December 14, FMCSA posted the fillable pdf versions of the new driver examination forms. The Agency had planned to make the forms available prior to this date but experienced technical difficulties. As a result, FMCSA has received numerous requests from the public asking to have the effective date for use of the MER Form, MCSA–5875, and the MEC, MCSA–5876, to be delayed. FMCSA acknowledges that enforcement of this December 22, 2015, compliance date would not provide sufficient time for Medical Examiners to become familiar with the new driver examination forms and/or program electronic medical records systems. For this reason, FMCSA will provide a 120-day grace period during which Medical Examiners may use either the current or the newly revised versions of the Medical Examination Report Form and Medical Examiner's Certificate, which will be from December 22, 2015, until April 20, 2016. Both sets of forms have been posted on the FMCSA Web site,[1] and Medical Examiners have the option to use either set of forms from December 22, 2015 until April 20, 2016.

Issued on: December 16, 2015.

**T.F. Scott Darling, III,**

*Acting Administrator.*

[FR Doc. 2015–32001 Filed 12–18–15; 8:45 am]

BILLING CODE 4910–EX–P

[1] *https://www.fmcsa.dot.gov/medical/driver-medical-requirements/medical-applications-and-forms.*

# Proposed Rules

Federal Register
Vol. 80, No. 244
Monday, December 21, 2015

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

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2015–3741; Directorate Identifier 2014–SW–040–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Helicopters (Type Certificate Previously Held by Eurocopter France)

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to supersede airworthiness directive (AD) 2013–08–17 for Airbus Helicopters Model SA–365N, SA–365–N1, AS–365N2, AS 365 N3, and SA–366G1 helicopters. AD 2013–08–17 currently requires an initial and recurring inspections of the 9-degree fuselage frame for a crack and a repair of the frame if a crack exists. Since we issued AD 2013–08–17, additional information has prompted us to propose modifying the compliance times and expanding the inspection area of the 9-inch frame. These proposed actions are intended to detect a crack in the 9-degree frame to prevent loss of structural integrity and subsequent loss of control of the helicopter.

**DATES:** We must receive comments on this proposed AD by February 19, 2016.

**ADDRESSES:** You may send comments by any of the following methods:

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

*Examining the AD Docket*

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3741; or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the European Aviation Safety Agency (EASA) AD, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this proposed rule, contact Airbus Helicopters, Inc., 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub*. You may review service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, Texas 76177.

**FOR FURTHER INFORMATION CONTACT:** Robert Grant, Aviation Safety Engineer, Safety Management Group, FAA, 10101 Hillwood Pkwy., Fort Worth, Texas 76177; telephone (817) 222–5110; email *robert.grant@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

### Discussion

On April 12, 2013, we issued AD 2013–08–17, Amendment 39–17434 (78 FR 25380, May 1, 2013), for Eurocopter France (now Airbus Helicopters) Model SA–365N, SA–365–N1, AS–365N2, AS 365 N3, and SA–366G1 helicopters. AD 2013–08–17 requires an initial and recurring inspection of the 9-degree fuselage frame for a crack and a repair of the frame if a crack exists. AD 2013–08–17 was prompted by the discovery of a crack in the 9-degree frame of a Model AS–365N2 helicopter. This type of crack could develop on the other specified model helicopters because they contain the same 9-degree frame. Those actions are intended to detect a crack in the 9-degree frame to prevent loss of structural integrity and subsequent loss of control of the helicopter.

AD 2013–08–17 was prompted by Emergency AD No. 2010–0064–E, dated April 6, 2010, issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Model SA–365N, SA–365–N1, AS–365N2, AS 365 N3, and SA–366G1 helicopters. EASA advises that a crack was found in the 9-degree frame of an AS–365N2 helicopter during an inspection. The helicopter had logged 10,786 flight hours. The crack was located 230 millimeters above the cabin floor and had grown over a large section of the 9-degree frame on the right-hand (RH) side. EASA states that the time required for initiation of a crack in the area varies according to the weight and balance data of the different aircraft versions.

### Actions Since AD 2013–08–17 Was Issued

Since we issued AD 2013–08–17, Amendment 39–17434 (78 FR 25380, May 1, 2013), EASA issued AD No. 2014–0159, dated July 7, 2014, which supersedes EASA Emergency AD No. 2010–0064–E. Further analysis on the strength of the 9-degree frame by Airbus

Helicopters indicated that compliance times should be modified and the inspection area expanded. Consequently, we propose issuing this AD, which would supersede AD 2013–08–17, and reflect the modified compliance times and inspection areas.

**FAA's Determination**

These helicopters have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, its technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other products of the same type design.

**Related Service Information Under 1 CFR Part 51**

Airbus Helicopters has issued an Emergency Alert Service Bulletin (EASB), Revision 2, dated April 7, 2014, containing the following three numbers: No. 05.00.57 for the Model SA–365N and N1, and AS–365N2 and N3 and for military Model AS365F, Fs, Fi, and K helicopters; No. 05.39 for Model SA 366–G1 and military Model SA 366–GA helicopters; and No. 05.00.25 for military Model AS565MA, MB, SA, SB, and UB helicopter.

The EASB specifies checking at regular intervals for a crack in the areas of the inner angles and flanges of the 9-degree frame on the RH and left hand (LH) sides, near the splice. Revision 2 of the EASB modifies the compliance times, adds a compliance time based on take-off/landing cycles, and expands the inspection areas up to the junction with the upper part of the frame. EASA classified this service information as mandatory and issued EASA AD No. 2014–0159 to ensure the continued airworthiness of these helicopters.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**Proposed AD Requirements**

This proposed AD would require inspecting the 9-degree fuselage frame on the RH and LH sides for a crack, using a 10x or higher magnifying glass and a light source, in the areas depicted in specified portions of the EASB applicable to your helicopter. If there is a crack, this proposed AD would require repairing the frame before further flight. For helicopters that have not reached a certain hours time-in-service (TIS) or landing threshold, the inspection would be required within 110 hours TIS after reaching whichever threshold occurs first, and thereafter at intervals not to exceed 110 hours TIS. For helicopters that have reached or exceeded the hours TIS or landing threshold, the inspection would be required within 110 hours TIS since the effective date of the AD and thereafter at intervals not to exceed 110 hours TIS.

**Differences Between This Proposed AD and the EASA AD**

We would not require contacting the manufacturer for approved repair instructions. We also would not allow flight with a known crack.

**Costs of Compliance**

We estimate that this proposed AD would affect 40 helicopters of U.S. Registry and that labor costs average $85 a work hour. Based on these estimates, we expect the following costs:

- Inspecting the 9-degree frame would require 3 work-hours per inspection for a cost of $255 per helicopter and $10,200 for the fleet per inspection cycle.
- Repairing the 9-degree frame would require 24 work-hours for a labor cost of $2,040. Parts would cost $3,350 for a total cost of $5,390 per helicopter.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

For the reasons discussed, I certify this proposed regulation:

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

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

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

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

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

**List of Subjects in 14 CFR Part 39**

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2013–08–17, Amendment 39–17434 (78 FR 25380, May 1, 2013) and adding the following new AD:

**Airbus Helicopters (Previously Eurocopter France):** Docket No. FAA–2015–3741; Directorate Identifier 2014–SW–040–AD.

**(a) Applicability**

This AD applies to Airbus Helicopters Model SA–365N, SA–365–N1, AS–365N2, AS 365 N3, and SA–366G1 helicopters, certificated in any category.

**(b) Unsafe Condition**

This AD defines the unsafe condition as a crack in the 9-degree frame, which could result in the loss of structural integrity and subsequent loss of control of the helicopter.

**(c) Affected ADs**

This AD supersedes AD 2013–08–17, Amendment 39–17434 (78 FR 25380, May 1, 2013).

**(d) Comments Due Date**

We must receive comments by February 19, 2016.

**(e) Compliance**

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

**(f) Required Actions**

(1) Within 110 hours time-in-service (TIS) after reaching the hours or landings threshold, whichever occurs first, listed in Table 1 to Paragraph (f)(1) of this AD or within 110 hours TIS from the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 110 hours TIS, using a 10X or higher magnifying glass and a light, inspect the 9-degree fuselage frame on the right-hand (RH) and left-hand (LH) sides for a crack in the areas depicted in Figures 1 and 2 of Airbus Helicopters Emergency Alert Service Bulletin (EASB) No. AS365 05.00.57, Revision 2, dated April 7, 2014, or EASB No. SA366 05.39, Revision 2, dated April 7, 2014, as applicable to your model helicopter. For purposes of this AD, a landing would be counted anytime the helicopter lifts off into the air and then lands again regardless of the duration of the landing and regardless of whether the engine is shut down.

TABLE 1 TO PARAGRAPH (f)(1)

| Helicopter model | Hours TIS | Landings |
|---|---|---|
| SA–365N ..... | 11,490 | 22,980 |
| SA–365N1 ..... | 10,490 | 20,980 |
| AS–365N2 ..... | 9,140 | 18,280 |
| AS 365 N3 ..... | 8,740 | 17,480 |
| SA–366G1 ..... | 8,390 | 16,780 |

(2) If there is a crack, before further flight, repair the frame. Repairing a frame does not constitute terminating actions for the repetitive inspection requirements of this AD.

**(g) Alternative Methods of Compliance (AMOCs)**

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

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

**(h) Additional Information**

The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2014–0159, dated July 7, 2014. You may view the EASA AD on the Internet at *http://www.regulations.gov* in Docket No. FAA–2015–3741.

**(i) Subject**

Joint Aircraft Service Component (JASC) Code: 5311, Fuselage Main, Frame.

Issued in Fort Worth, Texas, on December 11, 2015.

**Lance T. Gant,**

*Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 2015–31847 Filed 12–18–15; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF EDUCATION

### 34 CFR Chapter VI

**[Docket ID ED–2015–OPE–0103]**

### Negotiated Rulemaking Committee; Negotiator Nominations and Schedule of Committee Meetings—Borrower Defenses

**AGENCY:** Office of Postsecondary Education, Department of Education.

**ACTION:** Intent to establish negotiated rulemaking committee.

**SUMMARY:** On October 20, 2015, we announced our intention to establish a negotiated rulemaking committee to prepare proposed regulations for the Federal Student Aid programs authorized under title IV of the Higher Education Act of 1965, as amended (HEA), and solicited nominations for individual negotiators for the committee. We are requesting additional nominations for individual negotiators who represent specific stakeholder constituencies for the issues to be negotiated to serve on the committee.

**DATES:** We must receive your nominations for negotiators to serve on the committee on or before December 28, 2015. The dates, times, and locations of the committee meetings are set out in the *Schedule for Negotiations* section in the **SUPPLEMENTARY INFORMATION** section.

**ADDRESSES:** Please send your nominations for negotiators to Barbara Hoblitzell, U.S. Department of Education, 1990 K Street NW., Room 8019, Washington, DC 20006. Telephone: (202) 502–7649 or by email: *Barbara.Hoblitzell@ed.gov.*

**FOR FURTHER INFORMATION CONTACT:** For information about the content of this notice, including information about the negotiated rulemaking process or the nomination submission process, contact: Barbara Hoblitzell, U.S. Department of Education, 1990 K Street NW., Room 8019, Washington, DC 20006. Telephone: (202) 502–7649 or by email: *Barbara.Hoblitzell@ed.gov.*

For information about negotiated rulemaking in general, see *The Negotiated Rulemaking Process for Title IV Regulations, Frequently Asked Questions* at *www2.ed.gov/policy/highered/reg/hearulemaking/hea08/neg-reg-faq.html.*

If you use a telecommunications device for the deaf (TDD) or text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:** On October 20, 2015, we published a notice in the **Federal Register** (80 FR 63478) announcing our intention to establish a negotiated rulemaking committee to address for loans made under the William D. Ford Federal Direct Loan (Direct Loan) Program: (1) The procedures to be used for a borrower to establish a defense to repayment; (2) the criteria that the Department will use to identify acts or omissions of an institution that constitute defenses to repayment of Direct Loans, including the creation of a Federal standard; (3) the standards and procedures that the Department will use to determine the liability of the institution for amounts based on borrower defenses; (4) the effect of borrower defenses on institutional capability assessments; and (5) other loan discharges. We noted that, in addition, the committee may also consider if and how these issues will affect the Federal Family Education Loan (FFEL) Program.

In that notice, we set a schedule for the committee meetings and requested nominations for individual negotiators who represent stakeholder constituencies for the issues to be negotiated to serve on the committee. We are requesting additional nominations for individual negotiators who represent the following stakeholder constituencies for the issues to be negotiated to serve on the committee:

- State higher education executive officers.
- Institutions of higher education eligible to receive Federal assistance under title III, parts A, B, and F, and title V of the HEA, which include Historically Black Colleges and Universities, Hispanic-Serving Institutions, American Indian Tribally Controlled Colleges and Universities, Alaska Native and Native Hawaiian-Serving Institutions, Predominantly Black Institutions, and other institutions with a substantial enrollment of needy students as defined in title III of the HEA.
- Two-year public institutions of higher education.
- Private, for-profit institutions of higher education.
- National, regional, or specialized accrediting agencies.

We intend to select negotiators for the committee who represent the interests significantly affected by the topics proposed for negotiations. In so doing,

we will follow the requirement in section 492(b)(1) of the HEA that the individuals selected must have demonstrated expertise or experience in the relevant topics proposed for negotiations. We will also select individual negotiators who reflect the diversity among program participants, in accordance with section 492(b)(1) of the HEA. Our goal is to establish a committee that will allow significantly affected parties to be represented while keeping the committee size manageable.

We generally select a primary and alternate negotiator for each constituency represented on the committee. The primary negotiator participates for the purpose of determining consensus. The alternate participates for the purpose of determining consensus in the absence of the primary. Either the primary or the alternate may speak during the negotiations.

The committee may create subgroups on particular topics that may involve individuals who are not members of the committee. Individuals who are not selected as members of the committee will be able to observe the committee meetings, will have access to the individuals representing their constituencies, and may be able to participate in informal working groups on various issues between the meetings.

The goal of the committee is to develop proposed regulations that reflect a final consensus of the committee. Consensus means that there is no dissent by any member of the negotiating committee, including the committee member representing the Department. An individual selected as a negotiator will be expected to represent the interests of his or her organization or group and participate in the negotiations in a manner consistent with the goal of developing proposed regulations on which the committee will reach consensus. If consensus is reached, all members of the organization or group represented by a negotiator are bound by the consensus and are prohibited from commenting negatively on the resulting proposed regulations. The Department will not consider any such negative comments on the proposed regulations that are submitted by members of such an organization or group.

*Nominations:* Nominations should include:

- The name of the nominee, the organization or group the nominee represents, and a description of the interests that the nominee represents.
- Evidence of the nominee's expertise or experience in the topics proposed for negotiations.
- Evidence of support from individuals or groups within the constituency that the nominee will represent.
- The nominee's commitment that he or she will actively participate in good faith in the development of the proposed regulations.
- The nominee's contact information, including address, phone number, and email address.

For a better understanding of the negotiated rulemaking process, nominees should review *The Negotiated Rulemaking Process for Title IV Regulations, Frequently Asked Questions* at *www2.ed.gov/policy/highered/reg/hearulemaking/hea08/neg-reg-faq.html* prior to committing to serve as a negotiator.

Nominees will be notified whether or not they have been selected as negotiators as soon as the Department's review process is completed.

**Schedule for Negotiations**

The committee will meet for three sessions on the following dates:

Session 1: January 12–14, 2016
Session 2: February 17–19, 2016
Session 3: March 16–18, 2016

Sessions will run from 9 a.m. to 5 p.m.

The January and February committee meetings will be held at the U.S. Department of Education at: 1990 K Street NW., Eighth Floor Conference Center, Washington, DC 20006.

The March committee meetings will be held at: Union Center Plaza (UCP) Learning Center, 830 First Street NE., Lobby Level, Washington, DC 20002.

The meetings are open to the public.

*Accessible Format:* Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting Wendy Macias, U.S. Department of Education, 1990 K Street NW., Room 8013, Washington, DC 20006. Telephone: (202) 502–7526 or by email: *Wendy.Macias@ed.gov.*

*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. 1098a.

Dated: December 16, 2015.

**Jamienne S. Studley,**

*Deputy Under Secretary.*

[FR Doc. 2015–32007 Filed 12–18–15; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF COMMERCE

## Patent and Trademark Office

## 37 CFR Part 1

**[Docket No.: PTO–P–2015–0074]**

## Request for Submission of Topics for USPTO Quality Case Studies

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Initiation of Pilot Program and Request for Program Topics.

**SUMMARY:** The United States Patent and Trademark Office (USPTO) is initiating a new pilot program as part of its Enhanced Patent Quality Initiative. Currently, the USPTO performs reviews of applications on target issues for internal quality purposes, referred to as ''case studies.'' The USPTO now seeks to leverage the experience of its stakeholders to expand the use of case studies to additional quality-related topics. Beginning immediately, stakeholders are invited to submit patent quality-related topics that they believe should be the subject of a case study. After considering the submitted topics, the USPTO will identify which topics will be the subject of upcoming case studies. The USPTO anticipates that the results of these case studies will help it to understand better the quality of its work products and, where appropriate, to take action to remediate quality issues or to formulate best practices to further enhance quality. Such public engagement is sought not only to broaden the scope of quality issues currently studied by the USPTO, but also to continue stakeholder involvement in the quality review process and to maintain a transparent quality enhancement process.

**DATES:** *Submissions deadline date:* To be ensured of consideration, written topic submissions must be received on or before February 12, 2016.

**ADDRESSES:** Written submissions should be sent by electronic mail message over the Internet addressed to: *TopicSubmissionForCaseStudies@uspto.gov.* Submissions may also be submitted by postal mail addressed to: Mail Stop Comments Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313–1450, marked to the attention of Michael Cygan, Senior Legal Advisor, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy. Although submissions may be sent by postal mail, the USPTO prefers to receive submissions by electronic mail message over the Internet because sharing submissions with the public is more easily accomplished.

Electronic submissions are preferred to be formatted in plain text, but also may be submitted in ADOBE® portable document format or MICROSOFT WORD® format. Submissions not sent electronically should be on paper in a format that facilitates convenient digital scanning into ADOBE® portable document format.

Timely filed submissions will be available for public inspection at the Office of the Commissioner for Patents, currently located in Madison East, Tenth Floor, 600 Dulany Street, Alexandria, Virginia 22314. Submissions also will be available for viewing via the USPTO's Internet Web site (*http://www.uspto.gov/patents/init_events/Patent-Quality-Initiative.jsp*). Because submissions will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone number, should not be included. It would be helpful to the USPTO if written submissions included information about: (1) The name and affiliation of the individual responding; and (2) an indication of whether submissions offered represent views of the respondent's organization or are the respondent's personal views.

**FOR FURTHER INFORMATION CONTACT:** Michael T. Cygan, Senior Legal Advisor, at (571) 272–7700; Maria Nuzzolillo, Legal Advisor, at (571) 272–8150; or Jeffrey R. West, Legal Advisor, at (571) 272–2226.

**SUPPLEMENTARY INFORMATION:**

## I. The Enhanced Quality Initiative

On February 5, 2015, the United States Patent and Trademark Office (USPTO) launched an enhanced quality initiative to improve the quality of patents issued by the USPTO. This initiative began with a request for public comments on a set of six proposals outlined in a document in the **Federal Register**, *Request for Comments on Enhancing Patent Quality,* 80 FR 6475 (Feb. 5, 2015). The USPTO also held a two-day ''Quality Summit'' on March 25 and 26, 2015, at the USPTO headquarters in Alexandria, Virginia, to discuss the quality concerns of patent stakeholders and to receive feedback on the USPTO's proposals. Following the Quality Summit, the USPTO has continued its engagement with the public through numerous roadshows, events, and stakeholder meetings to further refine the steps that may be taken to improve quality.

The enhanced patent quality initiative targets three pillars of patent quality: (1) Excellence in work products; (2) excellence in measuring patent quality; and (3) excellence in customer service. As part of the first pillar, the USPTO is focusing on the quality of the work products provided at every stage of the patent process, including the actions taken by the USPTO during application processing, examination, and issuance processes, as well as the quality of issued patents. The USPTO originally proposed creating a mechanism by which the public could flag particular applications to the Office of Patent Quality Assurance (OPQA) for review. After considering the comments from both our internal and external stakeholders, the USPTO decided to revise its original proposal. The USPTO is, instead, implementing a pilot program in which stakeholders are invited to submit patent quality-related topics, not particular applications, they believe should be the subject of a case study.

## II. Case Studies at the USPTO

The USPTO performs case studies to investigate specific quality-related issues in addition to reviews of individual examiner work products, such as its review of a sampling of first Office actions on the merits. The USPTO designs, and performs, these case studies to investigate whether the quality-related issues that are the subject of these studies exist. If the result of a case study reveals that action is needed, the USPTO takes the necessary action. For example, if the result of the case study reveals that additional training is needed, the USPTO develops and implements the training. Unlike the USPTO's review of specific Office actions in an individual application, case studies allow the USPTO to investigate how a particular issue is being treated or addressed across hundreds or thousands of applications. The USPTO historically has performed case studies for internal quality purposes.

## III. Topic Submission for Case Studies Pilot Program

This new pilot program invites the public to submit topics for case studies. Submissions may concern any topic affecting the USPTO's ability to effectively issue high-quality patents. A submission should be more than a mere statement of an issue or problem encountered by the submitter. A submission should propose a specific correlation or trend for study, and where possible, suggest a methodology for its investigation. A helpful submission would also explain how the results of that case study could be used to improve patent quality. The submission may refer to concrete examples to support the proposed correlation or trend, but any such examples should not contain information sufficient to identify any particular application, any particular examiner, or any particular art unit. A submission may specify certain data subsets for analysis, *e.g.,* primary vs. junior examiners, or data broken out for each Technology Center. Finally, the submission should identify any relevant dates of concern that pertain to the issue presented, *e.g.,* dates of a particular court opinion or USPTO guidance document.

The following restrictions are placed on submissions. First, each separate topic must be presented in a separate submission to ensure consideration, although there is no limit placed upon the number of submissions from a person or entity. Second, each submission should be titled, such as in an email's ''subject'' line, to reflect the topic contained therein. Third, submissions should not contain information associated with any particular patent application or patent, any particular examiner, or any particular art unit; any such submission will not be part of the study. Fourth, topics should focus on patent quality issues; topics relating to other issues such as management concerns or statutory changes are outside the scope of these case studies. Fifth, the submission should concisely explain the nature and purpose of the proposed study to aid the USPTO in selecting the best topic(s) for this pilot program; the submission should not include lengthy supporting documentation or arguments.

The USPTO will consider these suggestions and identify potential areas

for quality case studies in addition to those already being conducted by OPQA. The USPTO will use the results of the studies to improve its understanding of the quality of its work products and, where appropriate, to take action to remediate quality issues or to formulate best practices to further enhance quality. For example, if a case study reveals a training issue, the USPTO will develop and deliver the appropriate training.

This pilot program will help the USPTO determine the usefulness of this manner of public submission for case study topics as compared to currently-existing methods, such as public fora and external quality surveys. In addition, this pilot program will allow the USPTO to communicate to the public the case studies determined to be useful and the results of those studies.

### IV. Example of a Topic Submission

The following example is provided to assist the public in providing high-quality submissions that best communicate a focused case study topic for consideration:

*Title:* ''Pre-first action interviews and quality of the resulting patent prosecution.''

*Proposal for study:* ''Pre-first action interviews result in a shorter time-to-issuance in such applications that are issued as patents.''

*Explanation:* In my experience as a patent practitioner, interviews with examiners lead to better understanding of the claimed invention by both parties. In particular, interviews can reveal that the parties are operating under differing understandings of the scope of the claims, the meaning of a claim term, or interpretation of a teaching of the prior art. When performed early in prosecution, these can provide the opportunity to resolve such differences before the mutual misunderstanding or miscommunication results in extended prosecution. This permits more efficient examination as reflected by a shorter prosecution time for those applications that eventually mature into patents. These efficiency gains are most noticeable after April 1, 2011, when the Full First Action Interview Pilot Program went into effect. The USPTO should study what effect an interview before the first action on the merits in a new application has on time-to-allowance in applications that are eventually issued as patents, and if there are any particular features of the interview that strongly correlate with the time-to-allowance. Discovery of such correlations could lead to USPTO process changes or changes in applicants' approach to prosecution that could improve the overall efficiency and effectiveness of patent prosecution.

Dated: December 15, 2015.

**Michelle K. Lee,**

*Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

[FR Doc. 2015–31897 Filed 12–18–15; 8:45 am]

**BILLING CODE 3510–16–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R06–OAR–2015–0497; FRL–9940–17–Region 6]**

## Approval and Promulgation of Implementation Plans; Texas; Control of Air Pollution From Nitrogen Compounds State Implementation Plan

**AGENCY:** The Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing approval of revisions to the State Implementation Plan (SIP) submitted by the State of Texas through the Texas Commission on Environmental Quality (TCEQ) on July 10, 2015. The Texas SIP submission revises 30 Texas Administrative Code (TAC) Chapter 117 rules for control of nitrogen compounds to assist the Dallas-Fort Worth (DFW) moderate nonattainment area (NAA) in attaining the 2008 eight-hour ozone ($O_3$) National Ambient Air Quality Standards (NAAQS).

**DATES:** Written comments must be received on or before January 20, 2016.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA–R06–OAR–2015–0497, by one of the following methods:

- *www.regulations.gov.* Follow the online instructions.
- *Email:* Mr. Guy Donaldson at *donaldson.guy@epa.gov.*
- *Mail or delivery:* Mr. Guy Donaldson, Chief, Air Branch (6MM–AA), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

*Instructions:* Direct comments to Docket No. EPA–R06–OAR–2015–0497. The EPA's policy is that all comments received will be included in the public docket without change and made available online at *www.regulations.gov.* The EPA includes any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit any information electronically that is considered CBI or any other information whose disclosure is restricted by statute. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know one's identity or contact information unless it is provided in the body of a comment. If a comment is emailed directly to the EPA without going through *www.regulations.gov,* then the sender's email address will automatically be captured and included as part of the public docket comment and made available on the Internet. If a comment is submitted electronically, then the EPA recommends that one's name and other contact information be included in the body of the comment, and with any disk or CD–ROM submitted. If the EPA cannot read a particular comment due to technical difficulties and is unable to contact for clarification, the EPA may not be able to consider the 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 will be considered the official comment with multimedia submissions and should include all discussion points desired. The EPA will generally not consider a comment or its contents submitted 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 the 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:** Mr. James E. Grady, (214) 665–6745; *grady.james@epa.gov.* To inspect the hard copy materials, please schedule an appointment with Mr. Grady or Mr. Bill Deese at (214) 665–7253.

**SUPPLEMENTARY INFORMATION:** Throughout this document ''we,'' ''us,'' or ''our'' means ''the EPA.''

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## I. Background on DFW 2008 Eight-Hour $O_3$ NAA Designation and Classification

On March 27, 2008, the EPA revised the primary and secondary $O_3$ standard to a level of 75 parts per billion (ppb). Promulgation of a NAAQS triggers a requirement for the EPA to designate areas as nonattainment, attainment, or unclassifiable, and to classify the NAAs at the time of designation.

On May 21, 2012, the EPA established initial area designations for most areas of the country with respect to the 2008 primary and secondary eight-hour $O_3$ NAAQS. The EPA published two rules addressing final implementation [1] and air quality designations.[2] The implementation rule established classifications, associated attainment deadlines, and revoked the 1997 $O_3$ standards for transportation conformity purposes. The designation rule finalized the NAA boundaries for areas that did not meet the 75 ppb standard. Furthermore, the finalized boundaries were classified according to the severity of their $O_3$ air quality problems as determined by each area's design value.[3] The $O_3$ classification categories were defined as Marginal, Moderate, Serious, Severe, or Extreme.

Effective July 20, 2012, the DFW 2008 eight-hour $O_3$ NAA was classified as moderate, consisting of ten counties: Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise County. With the exception of Wise County, all of these counties were designated as nonattainment with a serious classification under the 1997 $O_3$ standard. Although the NAA was most recently classified as moderate, the first nine counties are still required to meet their more stringent serious classification requirements previously designated under the 1997 $O_3$ standard. Wise County, however, is required to meet the moderate classification requirements since it is newly designated as nonattainment for the DFW area.[4] Previously, Wise County was classified as an attainment area and was exempt from the $O_3$ NAA requirements under the 1997 eight-hour $O_3$ standard.

States are required to adopt control measures that implement Reasonably Available Control Technology (RACT) on major sources of $NO_X$ emissions.[5] The major source emission threshold level for the first nine counties (Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant) remains at a potential to emit (PTE) of fifty tons per year (tpy) $NO_X$ based on its serious classification under the 1997 standard. Wise County major source threshold is 100 tpy $NO_X$ based on the moderate classification requirement.

## II. Background on Chapter 117 Proposed Rule Revisions

On July 10, 2015 the EPA received, the TCEQ submitted rule revisions to 30 TAC, Chapter 117 ''Control of Air Pollution from Nitrogen Compounds.'' The State revised Chapter 117 for all major sources of $NO_X$ in the 2008 DFW $O_3$ NAA for the implementation of RACT requirements in all counties as required by CAA, section 172(c)(1) and section 182(f). The state previously adopted Chapter 117 $NO_X$ rules for sources in the DFW area as part of the SIP submitted on May 30, 2007, for the 1997 eight-hour $O_3$ standard. The EPA approved those rules on December 8, 2008.[6] The scope of the Chapter 117 rule revisions implement the following: [7]

- Add $NO_X$ emission limits and control requirements to major sources in newly designated Wise County.
- Revoke an exemption for utility turbines and auxiliary steam boilers installed after November 15, 1992 in the DFW area;
- Provide compliance flexibility to affected units in all areas covered by Chapter 117 for owners or operators of boilers and process heaters used on a temporary basis (<60 calendar days);
- Repeal certain major source industrial rules and utility rules for the DFW area that are now obsolete due to the passing of compliance dates;
- Add compliance schedules for the new or revised RACT rules and add compliance dates for sources that become subject to these rules after the initial compliance date;
- Add definitions to reflect the change in attainment status of Wise County;
- Implement work practice standards or operating requirements
- Update associated monitoring, recordkeeping, and reporting requirements
- Establish exemptions

Table 2 contains a list of the sections of Chapter 117 with adopted subchapters, divisions, and key sections with modifications associated with the July 10, 2015 DFW 2008 eight-hour $O_3$ SIP submittal.

TABLE 2—DESCRIPTION AND SECTIONS OF 30 TAC, CHAPTER 117 PROPOSED FOR MODIFICATION

| Description | Section |
|---|---|
| Subchapter A: Definitions | 117.10. |
| Subchapter B, Division 4, DFW Eight-Hour $O_3$ NAA Major Sources | 117.400, 117.403, 117.410, 117.423, 117.425, 117.430, 117.435, 117.440, 117.445, 117.450, 117.454, and 117.456. |
| Subchapter C, Division 4, DFW Eight-Hour $O_3$ NAA Utility Electric Generation Sources. | 117.1303, 117.1310, 117.1325, 117.1335, 117.1340, 117.1345, 117.1350, and 117.1354. |
| Subchapter G, Division 1, General Monitoring and Testing Requirements. | 117.8000 |
| Subchapter H, Division 1, Compliance Schedules and Division 2, Compliance Flexibility. | 117.9030 and 117.9130, 117.9800 and 117.9810. |

[1] See 77 FR 30160 ''Implementation of the 2008 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications Approach, Attainment Deadlines and Revocation of the 1997 Ozone Standards for Transportation Conformity Purposes.''

[2] See 77 FR 30088, ''Air Quality Designations for the 2008 Ozone National Ambient Air Quality Standards.''

[3] The air quality design value for the 8-hour ozone NAAQS is the three-year average of the annual fourth highest daily maximum eight-hour average ozone concentration. *See* 40 CFR part 50, appendix I.

[4] In pursuant to the United States Court of Appeals for the District of Columbia Circuit ruling in favor of the EPA's inclusion of Wise County in the DFW 2008 eight-hour ozone nonattainment area as lawful (see USCA Case #12–1309).

[5] The EPA is not making a determination that the TCEQ rules included in these revisions will meet the RACT requirements of the CAA section 182(b) for the 2008 $O_3$ NAAQS. The EPA will make that review in a separate action. The EPA is only finding that these rule changes will strengthen the SIP by achieving $NO_X$ reductions in the DFW NAA.

[6] See 73 FR 73562.

[7] This is not an exhaustive list of changes to the 30 TAC Chapter 117 rules. For a complete summary of all Chapter 117 sections associated with this SIP revision, please refer to the Technical Support Document (TSD), ''30 Texas Administrative Code (TAC) Chapter 117 Control of Air Pollution from Nitrogen Compounds,'' a copy of which is posted in the docket of this proposal.

Table 3 contains a list of the sections of Chapter 117 with adopted subchapters, divisions, and key sections with new requirements associated with the July 10, 2015 DFW 2008 eight-hour $O_3$ SIP submittal.

TABLE 3—DESCRIPTION AND SECTIONS OF 30 TAC, CHAPTER 117 PROPOSED NEW

| Description | Section |
|---|---|
| Subchapter B, Division 4, DFW Eight-Hour $O_3$ NAA Major Sources ..... | 117.405, 117.452. |

Per TCEQ's request, the following sections listed in Table 4 below will not become a part of the EPA-approved Texas SIP. These rules pertain mainly to the control of carbon monoxide and ammonia emissions, which are not $O_3$ precursors and, therefore, not necessary components of the DFW SIP. The EPA concurs that these rules can remain outside of the SIP.

TABLE 4—DESCRIPTION AND SECTIONS OF 30 TAC, CHAPTER 117 NOT IN TEXAS SIP

| Description | Sections |
|---|---|
| Previously excluded and the TCEQ continues to ask that these remain outside the SIP. | 117.210(c), 117.225, 117.410(d), 117.425, 117.1110(b), 117.1125, 117.1310(b), and 117.1325. |
| Adopted new and will not be submitted as a SIP revision ..... | 117.405(d). |

Table 5 contains subchapters, divisions, and key sections proposed for repeal from the SIP by the TCEQ. The TCEQ adopts the repeal of existing Subchapters B and C in Division 2 as well as sections 117.9010 and 117.9110 of Subchapter H in Division 1 because compliance dates for sources of $NO_X$ subject to these have passed and are now considered obsolete. Furthermore, sources previously subject are now required to comply with more stringent rules in existing Subchapter B and C, Division 4 and in revised sections 117.9030, 117.9130.

TABLE 5—DESCRIPTION AND SECTIONS OF 30 TAC, CHAPTER 117 PROPOSED FOR REPEAL

| Description | Section |
|---|---|
| Subchapter B, Division 2, DFW $O_3$ NAA Major Sources ..... | 117.200, 117.203, 117.205, 117.210, 117.215, 117.223, 117.225, 117.230, 117.235, 117.240, 117.245, 117.252, 117.254, 117.256. |
| Subchapter C, Division 2, DFW $O_3$ NAA Utility Electric Generation Sources. | 117.1100, 117.1103, 117.1105, 117.1110, 117.1115, 117.1120, 117.1125, 117.1135, 117.1140, 117.1145, 117.1152, 117.1154, 117.1156. |
| Subchapter H, Division 1, Compliance Schedules ..... | 117.9010, 117.9110. |

A complete summary along with all non-substantive changes pertaining to reformatting, restructuring, reorganizing, and administrative revisions will be referenced in the Technical Support Document (TSD), ''30 Texas Administrative Code (TAC) Chapter 117 Control of Air Pollution from Nitrogen Compounds,'' a copy of which is posted in the docket of this proposal.

### III. Evaluation of Texas' Proposed Chapter 117 $NO_X$ Control SIP

Please refer to Table 6 for a list of $NO_X$ emissions specifications for major sources in newly designated Wise County. The new $NO_X$ emission limits will assure that each source listed will not exceed the 75 ppb $O_3$ NAAQS standard.

TABLE 6—$NO_X$ EMISSION LIMITS FOR 2008 DFW 8-HOUR $O_3$ NAA FOR MAJOR SOURCES IN WISE COUNTY

| Source | Type | Capacity | $NO_X$ Limit | Citation |
|---|---|---|---|---|
| Process Heaters ..... | ..... | Max Rated Capacity ≥40 MMBtu/hr ..... | 0.10 lb/MMBtu; ..... | 117.405(b)(1). |
| | | An option ..... | or 82 $ppm_v$ $NO_X$ at 3% $O_2$ dry basis. | 117.405(b)(1). |
| Stationary, Reciprocating Internal Combustion Engines. | Gas-Fired Rich-Burn | ..... | 0.50 g/hp-hr ..... | 117.405(b)(2)(A). |
| | Gas-Fired Lean-Burn | White Superior four-cycle units that have been placed into service, modified, reconstructed, or relocated before June 1, 2015. | 12.0 g/hp-hr ..... | 117.405(b)(2)(B)(i)(I). |
| | | White Superior four-cycle units that have been placed into service, modified, reconstructed, or relocated on or after June 1, 2015. | 2.0 g/hp-hr ..... | 117.405(b)(2)(B)(i)(II). |
| | | Clark two-cycle units that have been placed into service, modified, reconstructed, or relocated before June 1, 2015. | 12.0 g/hp-hr ..... | 117.405(b)(2)(B)(ii)(I). |

TABLE 6—$NO_X$ EMISSION LIMITS FOR 2008 DFW 8-HOUR $O_3$ NAA FOR MAJOR SOURCES IN WISE COUNTY—Continued

| Source | Type | Capacity | $NO_X$ Limit | Citation |
|---|---|---|---|---|
| | | Clark two-cycle units that have been placed into service, modified, reconstructed, or relocated on or after June 1, 2015. | 2.0 g/hp-hr | 117.405(b)(2)(B)(ii)(II). |
| | | Fairbanks Morse MEP two-cycle units that have been placed into service, modified, reconstructed, or relocated before June 1, 2015. | 4.0 g/hp-hr | 117.405(b)(2)(B)(iii)(I). |
| | | Fairbanks Morse MEP two-cycle units that have been placed into service, modified, reconstructed, or relocated on or after June 1, 2015. | 2.0 g/hp-hr | 117.405(b)(2)(B)(iii)(II). |
| | | All others | 2.0 g/hp-hr | 117.405(b)(2)(B)(iv). |
| Turbines | Stationary Gas | hp rating ≤10,000 hp | 0.55 lb/MMBtu | 117.405(b)(3)(A). |
| | | hp rating ≥10,000 hp | 0.15 lb/MMBtu | 117.405(b)(3)(B). |

Various controls for each major source in Wise County are needed to achieve the required $NO_X$ limits. Process heaters are expected to achieve compliance after installing dry low-$NO_X$ combustors with the proposed 0.10 lb/MMBtu emission specification. Gas-fired, rich-burn, combustion engines are anticipated to reach compliance using nonselective catalytic reduction (NSCR) as primary control technology with air-to-fuel ratio regulators. The addition of a secondary catalyst module may be required to meet the proposed emission specification of 0.50 g/hp-hr, for gas-fired, lean-burn, combustion engines. All other lean-burn engines are estimated to reach compliance after combustion modifications with the proposed 2.0 g/hp-hr emission specification. New gas-fired, lean-burn engines can meet the proposed2.0 g/hp-hr standard without modification or installation of additional controls.

It is estimated that the adopted rules will reduce the amount of $NO_X$ in the DFW area by 1.17 tons per day (tpd). The resulting emission reductions will assist Texas in demonstrating attainment of the eight-hour $O_3$ standard within the DFW NAA. As a result, the EPA is proposing to approve the $NO_X$ emission requirements for affected major sources in the DFW NAA.

## IV. The EPAs Proposed Action

The EPA is proposing to approve the submitted TAC Chapter 117 SIP revisions into the SIP because they will assist the DFW area into attainment under the 2008 8-Hour $O_3$ NAAQS by keeping each emissions source below 75 ppb. The EPA is proposing to approve all amended, repealed, and new sections of Chapter 117 that are being submitted as part of this SIP revision. The EPA is not making a determination that the TCEQ rules included in these revisions will meet the RACT requirements of the CAA § 182(b) for the 2008 $O_3$ NAAQS. The EPA will make that review in a separate action. The EPA is only finding that these rule changes will strengthen the SIP by achieving $NO_X$ reductions in the DFW NAA.

## V. Incorporation by Reference

In this action, the EPA is proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference revisions to the Texas regulations as described in the Proposed Action section above. 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 EPA Region 6 office.

## VI. Statutory and Executive Order Reviews

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

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

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reasonably available control technology, Reporting and

recordkeeping requirements, Volatile organic compounds.

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

Dated: December 8, 2015.

**Ron Curry,**

*Regional Administrator, Region 6.*

[FR Doc. 2015–31662 Filed 12–18–15; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 45 CFR Part 1330

**RIN 0985–AA12**

### National Institute on Disability, Independent Living, and Rehabilitation Research

**AGENCY:** National Institute on Disability, Independent Living, and Rehabilitation Research; Administration for Community Living; HHS.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would implement the Workforce Innovation and Opportunity Act of 2014 and reflect the transfer of the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR) from the Department of Education to the Department of Health and Human Services. The previous regulations were issued by the Department of Education. The rulemaking will consolidate the NIDILRR regulations into a single part, align the regulations with the current statute and HHS policies, and will provide guidance to NIDILRR grantees.

**DATES:** Comments are due on or before February 19, 2016.

**ADDRESSES:** You may submit comments in one of following ways (no duplicates, please): Written comments may be submitted through any of the methods specified below. Please do not submit duplicate comments.

- Federal eRulemaking Portal: You may (and we encourage you to) submit electronic comments on this regulation at *http://www.regulations.gov.* Follow the instructions under the ''submit a comment'' tab. Attachments should be in Microsoft Word, WordPerfect, or Excel; however, we prefer Microsoft Word.
- Regular, Express, or Overnight Mail: You may mail written comments to the following address only: Administration for Community Living, Attention: NIDILRR NPRM, U.S. Department of Health and Human Services, Washington, DC 20201. Please allow sufficient time for mailed comments to be received before the close of the comment period.
- Individuals with a Disability: We will provide an appropriate accommodation, including alternative formats, upon request. To make such a request, please contact Marlina Moses-Gaither, (202) 795–7409 (Voice) or at *marlina.moses-gaither@acl.hhs.gov.*

**FOR FURTHER INFORMATION CONTACT:** Greg Pugh, Administration for Community Living, telephone (202) 795–7422 (Voice). This is not a toll-free number. This document will be made available in alternative formats upon request.

**SUPPLEMENTARY INFORMATION:**

#### I. Workforce Innovation and Opportunity Act of 2014

The Workforce Innovation and Opportunity Act of 2014 (''WIOA,'' Pub. L. 113–128), signed into law on July 22, 2014, included significant changes to Title II of the Rehabilitation Act of 1973. The first of these is the insertion of a new name, the National Institute on Disability, Independent Living, and Rehabilitation Research (''NIDILRR,'' which was previously the National Institute on Disability and Rehabilitation Research). WIOA also relocates NIDILRR from the Department of Education (''ED'') to the Administration for Community Living (''ACL'') of the Department of Health and Human Services.

#### II. Programs Authorized by Title II of the Rehabilitation Act of 1973, as Amended by WIOA

*A. Disability, Independent Living, and Rehabilitation Research Projects and Centers*

The purpose of the Disability and Rehabilitation Research Projects and Centers program is to plan and conduct research, development, demonstrations, training, dissemination, and related activities, including international activities, to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and improve the effectiveness of services authorized under the Rehabilitation Act of 1973, 29 U.S.C. 701 *et seq.*

To this end, NIDILRR provides grants to establish and support:

- Disability, Independent Living, and Rehabilitation Research Projects;
- Field Initiated Projects;
- Advanced Rehabilitation Research Training Projects;
- Rehabilitation Research and Training Centers; and
- Rehabilitation Engineering Research Centers.

Eligible entities for awards under this program include States, public or private agencies and organizations, institutions of higher education, and Indian tribes and tribal organizations.

*B. Research Fellowships*

The purpose of the Research Fellowships program is to build research capacity by providing support to highly qualified individuals, including those who are individuals with disabilities, to perform research on rehabilitation and independent living of individuals with disabilities. Any individual is eligible for assistance under this program who has training and experience that indicate a potential for engaging in scientific research related to the solution of rehabilitation problems of individuals with disabilities. The program provides grants to support two categories of Fellowships: Distinguished Fellowships (for those with seven or more years of relevant research experience) and Merit Fellowships (for individuals in earlier stages of their careers in research).

*C. Special Projects and Demonstrations for Spinal Cord Injuries*

The Special Projects and Demonstrations for Spinal Cord Injuries program provides assistance to establish innovative projects for the delivery, demonstration, and evaluation of comprehensive medical, vocational, and other rehabilitation services to meet the wide range of needs, including independent living, of individuals with spinal cord injuries. The entities eligible for an award under these Projects and Demonstrations are the same as for Disability and Rehabilitation Research Projects and Centers.

#### III. Discussion of Proposed Rule

Department of Education regulations governing the National Institute on Disability and Rehabilitation Research are found at 34 CFR parts 350, 356, and 359. Part 350 sets forth regulations addressing the Disability and Rehabilitation Research Projects and Centers Program; part 356 sets forth regulations addressing Disability and Rehabilitation Research Fellowships; and part 359 sets forth regulations addressing Special Projects and Demonstrations for Spinal Cord Injuries. ACL proposes to streamline the NIDILRR regulations and to consolidate them into one part, 45 CFR part 1330. In our regulations, we propose to eliminate regulatory language included in the corresponding ED regulations that does not add further interpretation to the statutory language. We also propose to eliminate unnecessary regulatory

language that already exists in other documents and that need not be included in regulatory language, such as the application materials or terms and conditions of grant awards. The remainder of the proposed rule is derived largely from the previous ED language, with significant deviations noted below.

45 CFR Part 1330

We propose creating a new part to 45 CFR, part 1330, entitled National Institute for Disability, Independent Living, and Rehabilitation Research. We expect the Department of Education will be issuing regulations at a later date rescinding 34 CFR parts 350, 356, and 359.

Subpart A—Disability, Independent Living, and Rehabilitation Research Projects and Centers Program

Subpart A will contain general requirements for the main NIDILRR grant program.

*Proposed § 1330.1* explains what projects are funded under the program, and the purpose of the program. This section will provide a valuable framework to potential applicants for NIDILRR funding, as the statute does not specify specific funding opportunities. The provisions largely incorporate language from the corresponding regulations at 34 CFR 350.1 and 350.2.

*Proposed § 1330.2* contains information on what entities are eligible to receive assistance under the program, and is derived substantially from the authorizing statute. It also cites other regulations that apply to the awards under part 1330, including the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards, codified at part 75 of 45 CFR, rather than the EDGAR regulations which govern Department of Education financial assistance. In addition, all entities receiving assistance are subject to the HHS Grants Policy Statement, available at *http://www.hhs.gov/asfr/ogapa/aboutog/hhsgps107.pdf.* Other than citing to the HHS Grant and other applicable regulations, the proposed rule is generally the same as 34 CFR 350.3 and 350.4.

*Proposed § 1330.3* contains definitions of terms used throughout the proposed rules.

*Proposed § 1330.4* defines the stages of research funded by NIDILRR, and requires applicants to identify which stage(s) of research they propose to undertake. This is a significant addition as compared to existing ED regulations and represents a major safeguard to NIDILRR's scientific integrity. We believe that asking applicants to identify the stage of research they are proposing would help applicants clarify the expected outcomes of their proposed research and would help us better categorize our research investments and tailor our review process. The proposed change would also help us select reviewers who are knowledgeable about the topic and able to assess the relationship between the identified stage of research and the proposed research design. This would increase the likelihood that we fund research that contributes to the evolution of knowledge on a topic. The stages of research reflect a progression in the development of knowledge from describing the status, needs, and challenges of individuals with disabilities to developing and testing interventions to widespread adoption of effective practices, programs, and policies that improve their status, respond to their needs, and reduce their challenges with the aim of supporting independence, integration, productivity, and self-determination.

*Proposed § 1330.5* defines the stages of development funded by NIDILRR, and applicants are expected to identify which stage(s) of development they propose to undertake. We believe that asking applicants to identify the stage(s) of development will help them to better document and communicate proposed development projects and expected outcomes and help us better categorize development projects, select reviewers, and tailor our review process. This will increase the likelihood of funding development projects that contribute to products meeting significant needs of individuals with disabilities. ACL especially solicits comments on these stages of development, and the addition of a requirement to identify the stage(s) of development proposed for funding.

Subpart B—Requirements for Awardees

Subpart B contains general requirements for awardees under the NIDILRR research program.

*Proposed § 1330.10* identifies the activities which are eligible to receive funding.

*Proposed § 1330.11,* in accordance with 29 U.S.C. 718(c), when so indicated in application materials or elsewhere, requires applicants to demonstrate in their applications how they will address the needs of people with disabilities from minority backgrounds.

Subpart C—Selection of Awardees

Subpart C describes what processes NIDILRR will use in the selection of awardees.

*Proposed § 1330.20* explains the purpose and importance of peer review

*Proposed § 1330.21* states that peer review will be used in the selection of awardees. Peer review is viewed as integral to the continuing independence and scientific integrity of NIDILRR's work. In addition, 29 U.S.C. 762(f)(1) provides that the NIDILRR Director ''shall provide for scientific peer review of all applications for financial assistance for research, training, and demonstration projects over which the Director has authority.''

*Proposed § 1330.22* establishes the composition of peer review panels, and the factors used by the Director to select members for these panels. In accordance with 29 U.S.C. 762(f)(1), employees of the U.S. Department of Health and Human Services are excluded from peer review panels.

*Proposed § 1330.23* contains the evaluation process used in determining which applications to fund, including the selection of evaluation criteria, scoring, and notification requirements. This process is largely statutory, stating that the selection criteria are based on statutory provisions that apply to the Program.

*Proposed § 1330.24* is an extensive list of criteria from which the Director may select in evaluating applications, and for the most part is verbatim of § 350.54 of 34 CFR. An important proposed addition to § 1330.24 is language which allows for the assessment of either hypotheses or research questions, as appropriate to the proposed research. In addition, language is proposed which adds clarity as to the evaluation of the ''appropriateness'' of research samples, specifically two elements: The extent to which the sampling process yields research participants who are appropriate to the purpose of the study (*i.e.,* representative and inclusive of social, ethnic, socioeconomic, disability-related, and other differences that are important to the outcomes and implications of the research); and whether the sample size is sufficient to reasonably expect that differences resulting from the proposed intervention can be detected in the population being studied.

We also propose a factor for assessing the feasibility of implementing a proposed research design. This factor will assist peer reviewers to evaluate the quality of the research design, and whether it can be successfully completed, especially in light of the time and resources available. We propose to add this assessment factor to ensure that we sponsor high-quality research that can be carried out by the applicant. Without a factor related to

feasibility, we could fund technically well-designed research proposals that cannot realistically be completed, given limitations in time, resources, and current knowledge.

Additional proposed factors in this rule not included in ED regulations include the extent to which applicants obtain and use input from individuals with disabilities and other stakeholders to shape the proposed research activities. Another proposed factor requires that applicants identify and justify the stage of research to establish that the proposed research has a foundation in the current state of knowledge on the topic.

An important proposed addition to this section is a factor which allows for the assessment of development projects. Proposed factors and sub-factors are intended to improve the rigor and clarity of documentation and communication for proposed development projects; facilitate high quality peer-review; and subsequent management and oversight of funded projects. Conceptually, these factors span the research basis supporting a significant need and target population for a product; methodological elements common and appropriate to most development projects; and demonstration that the product is or is likely to be adopted by the target population and used for its intended purpose. ACL particularly solicits comments on this factor.

*Proposed § 1330.25* contains selection criteria specifically for field-initiated priorities New to proposed § 1330.25 is authority for NIDILRR to fund out of rank order for all competitions conducted under § 1330.25 provided that the application receives a peer review score of at least 80 percent or more of available points and represents a unique opportunity to advance the rehabilitation knowledge to improve the lives of individuals with disabilities, complements research investment already planned or funded, or addresses research in a new and promising way. This will allow NIDILRR to take advantage of a unique opportunity to advance the field, complement our investment in a particular research area, or build capacity in one of our research domains or broad priority areas, while maintaining quality standards.

Subpart D—Disability, Independent Living, and Rehabilitation Research Fellowships

Subpart D contains information on programs awarding funding to research fellows, along with the eligibility requirements and selection criteria for these programs. This is significantly streamlined as compared to part 356 in the ED rules, but is included to signify that the program discussed in that part continue under HHS' administration. In keeping with established ED practice, these fellowships will be funded by grants to eligible fellows, as HHS believes that this supports the development of new and existing researchers in the fields of disability, independent living, and rehabilitation research.

Subpart E—Special Projects and Demonstrations for Spinal Cord Injuries

Subpart E contains information on projects focusing on spinal cord injuries and eligibility requirements for these awards. This is significantly streamlined as compared to part 359 in the ED rules, but is included for the reasons stated in subpart D.

Existing ED regulations not carried over to this proposed rule are as follows:

| ED citation | Title | Reason for deletion |
|---|---|---|
| § 350.10 | What are the general requirements for Disability and Rehabilitation Research Projects? | Summarizes Rehabilitation Act, does not add new information. |
| § 350.11 | What are the general requirements for a Field-Initiated Project? | Summarizes Rehabilitation Act, does not add new information. |
| § 350.12 | What are the general requirements for an Advanced Rehabilitation Research Training Project? | Summarizes Rehabilitation Act, does not add new information. |
| Part 350, Subpart C | What Rehabilitation Research and Training Centers Does the Secretary Assist? | Summarizes Rehabilitation Act, does not add new information. |
| Part 350, Subpart D | What Rehabilitation Engineering Research Centers Does the Secretary Assist? | Summarizes Rehabilitation Act, does not add new information. Requirements for advisory committees from § 350.34 and § 350.35 will be included in application materials and grant terms & conditions, where appropriate. |
| § 350.41 | What State agency review must an applicant under the Disability and Rehabilitation Research Projects and Centers Program obtain? | No longer used by NIDILRR. |
| Part 350, Subpart G | What Conditions Must Be Met After an Award? | Requirements are either already stated in the statute or are subject to the HHS-specific award requirements. In addition, other post-award conditions may be included in application materials and grant terms & conditions, where appropriate. |
| § 356.3 | What regulations apply to this program? | Same regulations apply as in § 1330.4. |
| § 356.4 | What definitions apply to this program? | Not used by NIDILRR. |
| Part 356, Subpart B | What Kinds of Activities Does the Department Support Under This Program? | Not used by NIDILRR. |
| Part 356, Subpart C | How Does One Apply For Assistance Under This Program? | Subject to same requirements as established in § 1330.10. |
| Part 356, Subpart D | How Does the Secretary Select a Fellow? | Subject to same criteria as established in § 1330.23. |
| Part 356, Subpart E | What Conditions Have To Be Met By A Fellow? | When not already stated in statute, requirements will be included in application materials, terms & conditions, or contract requirements where appropriate. |
| Part 356, Subpart F | What Are the Administrative Responsibilities of a Fellow? | When not already stated in statute, requirements will be included in application materials, terms & conditions, or contract requirements where appropriate. |
| § 359.3 | What regulations apply to this program? | Same regulations apply as in § 1330.4. |
| § 359.4 | What definitions apply to this program? | Not used by NIDILRR. |

| ED citation | Title | Reason for deletion |
|---|---|---|
| Part 359, Subpart B | What Kinds of Activities Does the Secretary Assist Under This Program? | Summarizes Rehabilitation Act, does not add new information. |
| § 359.30 | How is peer review conducted under this program? | Same as in part 1330, subpart C. |
| § 359.31 | What selection criteria does the Secretary use in reviewing applications under this program? | Same as in part 1330, subpart C. |
| § 359.32 | What additional factors does the Secretary consider in making a grant under this program? | Summarizes Rehabilitation Act, does not add new information. |

## IV. Impact Analysis

*A. Executive Orders 12866 and 13563*

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives, and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). The Department has determined that this proposed rule is consistent with the priorities and principles set forth in Executive Order 12866. Executive Order 12866 encourages agencies, as appropriate, to provide the public with meaningful participation in the regulatory process. The rulemaking implements the Workforce Innovation and Opportunity Act of 2014. In developing the final rule, we will consider input we received from the public including stakeholders. This proposed rule is not being treated as a ''significant regulatory action'' under section 3(f)(1) of Executive Order 12866. Accordingly, the proposed rule has not been reviewed by the Office of Management and Budget.

*B. Regulatory Flexibility Analysis*

The Secretary certifies under 5 U.S.C. 605(b), the Regulatory Flexibility Act (Pub. L. 96–354), that this regulation will not have a significant economic impact on a substantial number of small entities. The primary impact of this proposed regulation is on entities applying for NIDILRR funding opportunities, specifically researchers, States, public or private agencies and organizations, institutions of higher education, and Indian tribes and tribal organizations. The proposed regulation does not have a significant economic impact on these entities. This proposed rule is in fact significantly shorter than, but with identical compliance requirements to, the regulations it replaces.

*C. Paperwork Reduction Act of 1995*

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before an information collection request is submitted to the Office of Management and Budget (OMB) for review and approval. We are not introducing any new information collections in this proposed rule however, nor revising reporting requirements.

*D. Unfunded Mandates Reform Act*

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act) requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in expenditures by State, local, or Tribal governments, in the aggregate, or by the private sector, of $100 million, adjusted for inflation, or more in any one year.

If a covered agency must prepare a budgetary impact statement, section 205 further requires that it select the most cost-effective and least burdensome alternatives that achieves the objectives of the rule and is consistent with the statutory requirements. In addition, section 203 requires a plan for informing and advising any small government that may be significantly or uniquely impacted by a rule.

ACL has determined that this proposed rule does not result in the expenditure by State, local, and Tribal governments in the aggregate, or by the private sector of more than $100 million in any one year.

*E. Congressional Review*

This proposed rule is not a major rule as defined in 5 U.S.C. Section 804(2).

*F. Assessment of Federal Regulations and Policies on Families*

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a policy or regulation may affect family well-being. If the agency's conclusion is affirmative, then the agency must prepare an impact assessment addressing seven criteria specified in the law. These proposed regulations do not have an impact on family well-being as defined in the legislation.

*G. Executive Order 13132*

Executive Order 13132 on ''federalism'' was signed August 4, 1999. The purposes of the Order are: ''. . . to guarantee the division of governmental responsibilities between the national government and the States that was intended by the Framers of the Constitution, to ensure that the principles of federalism established by the Framers guide the executive departments and agencies in the formulation and implementation of policies, and to further the policies of the Unfunded Mandates Reform Act . . .''

The Department certifies that this proposed rule does not have a substantial direct effect on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government.

ACL is not aware of any specific State laws that would be preempted by the adoption of the regulation.

Dated: December 15, 2015.

**Kathy Greenlee,**

*Administrator, Administration for Community Living.*

Approved: December 15, 2015.

**Sylvia M. Burwell,**

*Secretary, U.S. Department of Health and Human Services.*

### List of Subjects in 45 CFR Part 1330

Grant programs, Research, Scholarships and fellowships.

For reasons set forth in the preamble, under the authority at 29 U.S.C. 709 and 3343, the Department of Health and Human Services proposes to add part 1330 of subchapter C title 45 to read as set forth below:

## PART 1330—NATIONAL INSTITUTE FOR DISABILITY, INDEPENDENT LIVING, AND REHABILITATION RESEARCH

### Subpart A—Disability, Independent Living, and Rehabilitation Research Projects and Centers Program

Sec.

1330.1 General.
1330.2 Eligibility for assistance and other regulations and guidance.

1330.3 Definitions.
1330.4 Stages of research.
1330.5 Stages of development.

**Subpart B—Requirements for Awardees**

1330.10 General requirements for awardees.
1330.11 Individuals with disabilities from minority backgrounds.

**Subpart C—Selection of Awardees**

1330.20 Peer review purpose.
1330.21 Peer review process.
1330.22 Composition of peer review panel.
1330.23 Evaluation process.
1330.24 Selection criteria.
1330.25 Additional considerations for field-initiated priorities.

**Subpart D—Disability, Independent Living, and Rehabilitation Research Fellowships**

1330.30 Fellows program.

**Subpart E—Special Projects and Demonstrations for Spinal Cord Injuries**

1330.40 Spinal cord injuries program.

**Authority:** 29 U.S.C. 709, 3343.

## Subpart A—Disability, Independent Living, and Rehabilitation Research Projects and Centers Program

### § 1330.1 General.

(a) The Disability, Independent Living, and Rehabilitation Research Projects and Centers Program provides grants to establish and support—

(1) The following Disability, Independent Living, and Rehabilitation Research and Related Projects:

(i) Disability, Independent Living, and Rehabilitation Research Projects;

(ii) Field-Initiated Projects;

(iii) Advanced Rehabilitation Research Training Projects; and

(2) The following Disability, Independent Living, and Rehabilitation Research Centers:

(i) Rehabilitation Research and Training Centers;

(ii) Rehabilitation Engineering Research Centers.

(b) The purpose of the Disability, Independent Living, and Rehabilitation Research Projects and Centers Program is to plan and conduct research, development, demonstration projects, training, dissemination, and related activities, including international activities, to—

(1) Develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, education, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities; and

(2) Improve the effectiveness of services authorized under the Rehabilitation Act of 1973, 29 U.S.C. 701 *et seq.*

### § 1330.2 Eligibility for assistance and other regulations and guidance.

(a) Unless otherwise stated in this part or in a determination by the NIDILRR Director, the following entities are eligible for an award under this program:

(1) States.

(2) Public or private agencies, including for-profit agencies.

(3) Public or private organizations, including for-profit organizations.

(4) Institutions of higher education.

(5) Indian tribes and tribal organizations.

(b) Other sources of regulation which may apply to awards under this part include but are not limited to:

(1) 45 CFR part 16—Procedures of the Departmental Grant Appeals Board.

(2) 45 CFR part 46—Protection of Human Subjects.

(3) 45 CFR part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Award.

(4) 2 CFR parts 376 and 382—Nonprocurement Debarment and Suspension and Requirements for Drug-Free Workplace (Financial Assistance).

(5) 45 CFR part 80—Nondiscrimination under Programs Receiving Federal Assistance through the Department of Health and Human Services—Effectuation of title VI of the Civil Rights Act of 1964.

(6) 45 CFR part 81—Practice and Procedures—Practice and Procedure for Hearings Act under part 80 of this title.

(7) 45 CFR part 84—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.

(8) 45 CFR part 86—Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance.

(9) 45 CFR part 87—Equal Treatment of Faith-Based Organizations.

(10) 45 CFR part 91—Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from HHS.

(11) 45 CFR part 93—New Restrictions on Lobbying.

### § 1330.3 Definitions.

As used in this part:

(a) *Secretary* means the Secretary of the Department of Health and Human Services

(b) *Administrator* means the Administrator of the Administration for Community Living

(c) *Director* means the Director of the National Institute on Disability, Independent Living, and Rehabilitation Research.

(d) *Research* is classified on a continuum from basic to applied:

(1) *Basic research* is research in which the investigator is concerned primarily with gaining new knowledge or understanding of a subject without reference to any immediate application or utility.

(2) *Applied research* is research in which the investigator is primarily interested in developing new knowledge, information, or understanding which can be applied to a predetermined rehabilitation problem or need.

(e) *Development activities* use knowledge and understanding gained form research to create materials, devices, systems, or methods beneficial to the target population, including design and development of prototypes and processes.

### § 1330.4 Stages of research.

For any Disability, Independent Living, and Rehabilitation Research Projects and Centers Program competition, the Department may require in the application materials for the competition that the applicant identify the stage(s) of research in which it will focus the work of its proposed project or center. The four stages of research are—

(a) *Exploration and discovery* mean the stage of research that generates hypotheses or theories through new and refined analyses of data, producing observational findings and creating other sources of research-based information. This research stage may include identifying or describing the barriers to and facilitators of improved outcomes of individuals with disabilities, as well as identifying or describing existing practices, programs, or policies that are associated with important aspects of the lives of individuals with disabilities. Results achieved under this stage of research may inform the development of interventions or lead to evaluations of interventions or policies. The results of the exploration and discovery stage of research may also be used to inform decisions or priorities;

(b) *Intervention development* means the stage of research that focuses on generating and testing interventions that have the potential to improve outcomes for individuals with disabilities. Intervention development involves determining the active components of possible interventions, developing measures that would be required to illustrate outcomes, specifying target populations, conducting field tests, and assessing the feasibility of conducting a well-designed intervention study.

Results from this stage of research may be used to inform the design of a study to test the efficacy of an intervention;

(c) *Intervention efficacy* means the stage of research during which a project evaluates and tests whether an intervention is feasible, practical, and has the potential to yield positive outcomes for individuals with disabilities. Efficacy research may assess the strength of the relationships between an intervention and outcomes, and may identify factors or individual characteristics that affect the relationship between the intervention and outcomes. Efficacy research can inform decisions about whether there is sufficient evidence to support ''scaling-up'' an intervention to other sites and contexts. This stage of research may include assessing the training needed for wide-scale implementation of the intervention, and approaches to evaluation of the intervention in real-world applications; and

(d) *Scale-up evaluation* means the stage of research during which a project analyzes whether an intervention is effective in producing improved outcomes for individuals with disabilities when implemented in a real-world setting. During this stage of research, a project tests the outcomes of an evidence-based intervention in different settings. The project examines the challenges to successful replication of the intervention, and the circumstances and activities that contribute to successful adoption of the intervention in real-world settings. This stage of research may also include well-designed studies of an intervention that has been widely adopted in practice, but lacks a sufficient evidence base to demonstrate its effectiveness.

**§ 1330.5 Stages of development.**

For any Disability, Independent Living, and Rehabilitation Research Projects and Centers Program competition, the Department may require in the notice inviting applications for the competition that the applicant identify the stage(s) of development in which it will focus the work of its proposed project or center. The three stages of development are—

(a) *Proof of concept* means the stage of development where key technical challenges are resolved. Stage activities may include recruiting study participants, verifying product requirements; implementing and testing (typically in controlled contexts) key concepts, components, or systems, and resolving technical challenges. A technology transfer plan is typically developed and transfer partner(s) identified; and plan implementation may have started. Stage results establish that a product concept is feasible.

(b) *Proof of product* means the stage of development where a fully-integrated and working prototype, meeting critical technical requirements is created. Stage activities may include recruiting study participants, implementing and iteratively refining the prototype, testing the prototype in natural or less-controlled contexts, and verifying that all technical requirements are met. A technology transfer plan is typically ongoing in collaboration with the transfer partner(s). Stage results establish that a product embodiment is realizable.

(c) *Proof of adoption* means the stage of development where a product is substantially adopted by its target population and used for its intended purpose. Stage activities typically include completing product refinements; and continued implementation of the technology transfer plan in collaboration with the transfer partner(s). Other activities include measuring users' awareness of the product, opinion of the product, decisions to adopt, use, and retain products; and identifying barriers and facilitators impacting product adoption. Stage results establish that a product is beneficial.

## Subpart B—Requirements for Awardees

**§ 1330.10 General requirements for awardees.**

(a) In carrying out a research activity under this program, an awardee must—

(1) Identify one or more hypotheses or research questions;

(2) Based on the hypotheses or research question identified, perform an intensive systematic study in accordance with its approved application directed toward—

(i) New or full scientific knowledge; or

(ii) Understanding of the subject or problem being studied.

(b) In carrying out a development activity under this program, an awardee must create, using knowledge and understanding gained from research, models, methods, tools, systems, materials, devices, systems, applications, devices, or standards that are adopted by and beneficial to the target population. Development activities span one or more stages of development.

(c) In carrying out a training activity under this program, an awardee shall conduct a planned and systematic sequence of supervised instruction that is designed to impart predetermined skills and knowledge.

(d) In carrying out a demonstration activity under this program, an awardee shall apply results derived from previous research, testing, or practice to determine the effectiveness of a new strategy or approach.

(e) In carrying out a utilization activity under this program, a grantee must relate research findings to practical applications in planning, policy making, program administration, and delivery of services to individuals with disabilities.

(f) In carrying out a dissemination activity under this program, a grantee must systematically distribute information or knowledge through a variety of ways to potential users or beneficiaries.

(g) In carrying out a technical assistance activity under this program, a grantee must provide expertise or information for use in problem-solving.

**§ 1330.11 Individuals with disabilities from minority backgrounds.**

(a) If the director so indicates in the application materials or elsewhere, an applicant for assistance under this program must demonstrate in its application how it will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds.

(b) The approaches an applicant may take to meet this requirement may include one or more of the following:

(1) Proposing project objectives addressing the needs of individuals with disabilities from minority backgrounds.

(2) Demonstrating that the project will address a problem that is of particular significance to individuals with disabilities from minority backgrounds.

(3) Demonstrating that individuals from minority backgrounds will be included in study samples in sufficient numbers to generate information pertinent to individuals with disabilities from minority backgrounds.

(4) Drawing study samples and program participant rosters from populations or areas that include individuals from minority backgrounds.

(5) Providing outreach to individuals with disabilities from minority backgrounds to ensure that they are aware of rehabilitation services, clinical care, or training offered by the project.

(6) Disseminating materials to or otherwise increasing the access to disability information among minority populations.

## Subpart C—Selection of Awardees

**§ 1330.20 Peer review purpose.**

The purpose of peer review is to insure that—

(a) Those activities supported by the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR) are of the highest scientific, administrative, and technical quality; and

(b) Activity results may be widely applied to appropriate target populations and rehabilitation problems.

**§ 1330.21 Peer review process.**

(a) The Director refers each application for an award governed by those regulations in this part to a peer review panel established by the Director.

(b) Peer review panels review applications on the basis of the applicable selection criteria in § 1330.24.

**§ 1330.22 Composition of peer review panel.**

(a) The Director selects as members of a peer review panel scientists and other experts in disability, independent living, rehabilitation or related fields who are qualified, on the basis of training, knowledge, or experience, to give expert advice on the merit of the applications under review.

(b) The scientific peer review process shall be conducted by individuals who are not Department of Health and Human Services employees.

(c) In selecting members to serve on a peer review panel, the Director may take into account the following factors:

(1) The level of formal scientific or technical education completed by potential panel members.

(2) The extent to which potential panel members have engaged in scientific, technical, or administrative activities appropriate to the category of applications that the panel will consider; the roles of potential panel members in those activities; and the quality of those activities.

(3) The recognition received by potential panel members as reflected by awards and other honors from scientific and professional agencies and organizations outside the Department.

(4) Whether the panel includes knowledgeable individuals with disabilities, or parents, family members, guardians, advocates, or authorized representatives of individuals with disabilities.

(5) Whether the panel includes individuals from diverse populations.

**§ 1330.23 Evaluation process.**

(a) The Director selects one or more of the selection criteria in § 1330.24 to evaluate an application;

(1) The Director establishes selection criteria based on statutory provisions that apply to the Program which may include, but are not limited to—

(A) Specific statutory selection criteria;

(B) Allowable activities;

(C) Application content requirements; or

(D) Other pre-award and post-award conditions; or

(2) The Director may use a combination of selection criteria established under paragraph (a)(1) of this section and selection criteria from § 1330.24 to evaluate a competition.

(3) For Field-Initiated Projects, the Director does not consider § 1330.24(b) (Responsiveness to the Absolute or Competitive Priority) in evaluating an application.

(b) In considering selection criteria in § 1330.24, the Director selects one or more of the factors listed in the criteria, but always considers the factor in § 1330.24(n) regarding members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(c) The maximum possible score for an application is 100 points.

(d) In the application package or a notice published in the **Federal Register**, the Director informs applicants of—

(1) The selection criteria chosen and the maximum possible score for each of the selection criteria; and

(2) The factors selected for considering the selection criteria and if points are assigned to each factor, the maximum possible score for each factor under each criterion. If no points are assigned to each factor, the Director evaluates each factor equally.

(e) For all instances in which the Director chooses to allow field-initiated research and development, the selection criteria in § 1330.25 will apply, including the requirement that the applicant must achieve a score of 80 percent or more of maximum possible points.

**§ 1330.24 Selection criteria.**

In addition to criteria established under § 1330.23(a)(1), the Director may select one or more of the following criteria in evaluating an application:

(a) *Importance of the problem.* In determining the importance of the problem, the Director considers one or more of the following factors:

(1) The extent to which the applicant clearly describes the need and target population.

(2) The extent to which the proposed activities further the purposes of the Act.

(3) The extent to which the proposed activities address a significant need of individuals with disabilities.

(4) The extent to which the proposed activities address a significant need of rehabilitation service providers.

(5) The extent to which the proposed activities address a significant need of those who provide services to individuals with disabilities.

(6) The extent to which the applicant proposes to provide training in a rehabilitation discipline or area of study in which there is a shortage of qualified researchers, or to a trainee population in which there is a need for more qualified researchers.

(7) The extent to which the proposed project will have beneficial impact on the target population.

(b) *Responsiveness to an absolute or competitive priority.* In determining the application's responsiveness to the application package or the absolute or competitive priority published in the **Federal Register**, the Director considers one or more of the following factors:

(1) The extent to which the applicant addresses all requirements of the absolute or competitive priority.

(2) The extent to which the applicant's proposed activities are likely to achieve the purposes of the absolute or competitive priority.

(c) *Design of research activities.* In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Director considers one or more of the following factors:

(1) The extent to which the research activities constitute a coherent, sustained approach to research in the field, including a substantial addition to the state-of-the-art.

(2) The extent to which the methodology of each proposed research activity is meritorious, including consideration of the extent to which—

(i) The proposed design includes a comprehensive and informed review of the current literature, demonstrating knowledge of the state-of-the-art;

(ii) Each research hypothesis or research question, as appropriate, is theoretically sound and based on current knowledge;

(iii) Each sample is drawn from an appropriate, specified population and is of sufficient size to address the proposed hypotheses or research questions, as appropriate, and to support the proposed data analysis methods;

(iv) The source or sources of the data and the data collection methods are appropriate to address the proposed hypotheses or research questions and to

support the proposed data analysis methods;

(v) The data analysis methods are appropriate;

(vi) Implementation of the proposed research design is feasible, given the current state of the science and the time and resources available;

(vii) Input of individuals with disabilities and other key stakeholders is used to shape the proposed research activities; and

(viii) The applicant identifies and justifies the stage of research being proposed and the research methods associated with the stage.

(3) The extent to which anticipated research results are likely to satisfy the original hypotheses or answer the original research questions, as appropriate, and could be used for planning additional research, including generation of new hypotheses or research questions, where applicable.

(4) The extent to which the stage of research is identified and justified in the description of the research project(s) being proposed.

(d) *Design of development activities.* In determining the extent to which the project design is likely to be effective in accomplishing project objectives, the Secretary considers one or more of the following factors:

(1) The extent to which the proposed project identifies a significant need and a well-defined target population for the new or improved product;

(2) The extent to which the proposed project methodology is meritorious, including consideration of the extent to which—

(i) The proposed project shows awareness of the state-of-the-art for current, related products;

(ii) The proposed project employs appropriate concepts, components, or systems to develop the new or improved product;

(iii) The proposed project employs appropriate samples in tests, trials, and other development activities.

(iv) The proposed project conducts development activities in appropriate environment(s);

(v) Input from individuals with disabilities and other key stakeholders is obtained to establish and guide proposed development activities; and

(vi) The applicant identifies and justifies the stage(s) of development for the proposed project; and activities associated with each stage.

(3) The new device or technique will be developed and tested in an appropriate environment;

(e) *Design of demonstration activities.* In determining the extent to which the design of demonstration activities is likely to be effective in accomplishing the objectives of the project, the Director considers one or more of the following factors:

(1) The extent to which the proposed demonstration activities build on previous research, testing, or practices.

(2) The extent to which the proposed demonstration activities include the use of proper methodological tools and theoretically sound procedures to determine the effectiveness of the strategy or approach.

(3) The extent to which the proposed demonstration activities include innovative and effective strategies or approaches.

(4) The extent to which the proposed demonstration activities are likely to contribute to current knowledge and practice and be a substantial addition to the state-of-the-art.

(5) The extent to which the proposed demonstration activities can be applied and replicated in other settings.

(f) *Design of training activities.* In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Director considers one or more of the following factors:

(1) The extent to which the proposed training materials are likely to be effective, including consideration of their quality, clarity, and variety.

(2) The extent to which the proposed training methods are of sufficient quality, intensity, and duration.

(3) The extent to which the proposed training content—

(i) Covers all of the relevant aspects of the subject matter; and

(ii) If relevant, is based on new knowledge derived from research activities of the proposed project.

(4) The extent to which the proposed training materials, methods, and content are appropriate to the trainees, including consideration of the skill level of the trainees and the subject matter of the materials.

(5) The extent to which the proposed training materials and methods are accessible to individuals with disabilities.

(6) The extent to which the applicant's proposed recruitment program is likely to be effective in recruiting highly qualified trainees, including those who are individuals with disabilities.

(7) The extent to which the applicant is able to carry out the training activities, either directly or through another entity.

(8) The extent to which the proposed didactic and classroom training programs emphasize scientific methodology and are likely to develop highly qualified researchers.

(9) The extent to which the quality and extent of the academic mentorship, guidance, and supervision to be provided to each individual trainee are of a high level and are likely to develop highly qualified researchers.

(10) The extent to which the type, extent, and quality of the proposed research experience, including the opportunity to participate in advanced-level research, are likely to develop highly qualified researchers.

(11) The extent to which the opportunities for collegial and collaborative activities, exposure to outstanding scientists in the field, and opportunities to participate in the preparation of scholarly or scientific publications and presentations are extensive and appropriate.

(g) *Design of dissemination activities.* In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Director considers one or more of the following factors:

(1) The extent to which the content of the information to be disseminated—

(i) Covers all of the relevant aspects of the subject matter; and

(ii) If appropriate, is based on new knowledge derived from research activities of the project.

(2) The extent to which the materials to be disseminated are likely to be effective and usable, including consideration of their quality, clarity, variety, and format.

(3) The extent to which the methods for dissemination are of sufficient quality, intensity, and duration.

(4) The extent to which the materials and information to be disseminated and the methods for dissemination are appropriate to the target population, including consideration of the familiarity of the target population with the subject matter, format of the information, and subject matter.

(5) The extent to which the information to be disseminated will be accessible to individuals with disabilities.

(h) *Design of utilization activities.* In determining the extent to which the design of utilization activities is likely to be effective in accomplishing the objectives of the project, the Director considers one or more of the following factors:

(1) The extent to which the potential new users of the information or technology have a practical use for the information and are likely to adopt the practices or use the information or technology, including new devices.

(2) The extent to which the utilization strategies are likely to be effective.

(3) The extent to which the information or technology is likely to be of use in other settings.

(i) *Design of technical assistance activities.* In determining the extent to which the design of technical assistance activities is likely to be effective in accomplishing the objectives of the project, the Director considers one or more of the following factors:

(1) The extent to which the methods for providing technical assistance are of sufficient quality, intensity, and duration.

(2) The extent to which the information to be provided through technical assistance covers all of the relevant aspects of the subject matter.

(3) The extent to which the technical assistance is appropriate to the target population, including consideration of the knowledge level of the target population, needs of the target population, and format for providing information.

(4) The extent to which the technical assistance is accessible to individuals with disabilities.

(j) *Plan of operation.* In determining the quality of the plan of operation, the Director considers one or more of the following factors:

(1) The adequacy of the plan of operation to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, and timelines for accomplishing project tasks.

(2) The adequacy of the plan of operation to provide for using resources, equipment, and personnel to achieve each objective.

(k) *Collaboration.* In determining the quality of collaboration, the Director considers one or more of the following factors:

(1) The extent to which the applicant's proposed collaboration with one or more agencies, organizations, or institutions is likely to be effective in achieving the relevant proposed activities of the project.

(2) The extent to which agencies, organizations, or institutions demonstrate a commitment to collaborate with the applicant.

(3) The extent to which agencies, organizations, or institutions that commit to collaborate with the applicant have the capacity to carry out collaborative activities.

(l) *Adequacy and reasonableness of the budget.* In determining the adequacy and the reasonableness of the proposed budget, the Director considers one or more of the following factors:

(1) The extent to which the costs are reasonable in relation to the proposed project activities.

(2) The extent to which the budget for the project, including any subcontracts, is adequately justified to support the proposed project activities.

(3) The extent to which the applicant is of sufficient size, scope, and quality to effectively carry out the activities in an efficient manner.

(m) *Plan of evaluation.* In determining the quality of the plan of evaluation, the Director considers one or more of the following factors:

(1) The extent to which the plan of evaluation provides for periodic assessment of progress toward—

(i) Implementing the plan of operation; and

(ii) Achieving the project's intended outcomes and expected impacts.

(2) The extent to which the plan of evaluation will be used to improve the performance of the project through the feedback generated by its periodic assessments.

(3) The extent to which the plan of evaluation provides for periodic assessment of a project's progress that is based on identified performance measures that—

(i) Are clearly related to the intended outcomes of the project and expected impacts on the target population; and

(ii) Are objective, and quantifiable or qualitative, as appropriate.

(n) *Project staff.* In determining the quality of the project staff, the Director considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Director considers one or more of the following:

(1) The extent to which the key personnel and other key staff have appropriate training and experience in disciplines required to conduct all proposed activities.

(2) The extent to which the commitment of staff time is adequate to accomplish all the proposed activities of the project.

(3) The extent to which the key personnel are knowledgeable about the methodology and literature of pertinent subject areas.

(4) The extent to which the project staff includes outstanding scientists in the field.

(5) The extent to which key personnel have up-to-date knowledge from research or effective practice in the subject area covered in the priority.

(o) *Adequacy and* accessibility *of resources.* In determining the adequacy and accessibility of the applicant's resources to implement the proposed project, the Director considers one or more of the following factors:

(1) The extent to which the applicant is committed to provide adequate facilities, equipment, other resources, including administrative support, and laboratories, if appropriate.

(2) The quality of an applicant's past performance in carrying out a grant.

(3) The extent to which the applicant has appropriate access to populations and organizations representing individuals with disabilities to support advanced disability, independent living and clinical rehabilitation research.

(4) The extent to which the facilities, equipment, and other resources are appropriately accessible to individuals with disabilities who may use the facilities, equipment, and other resources of the project.

#### § 1330.25 Additional considerations for field-initiated priorities.

(a) The Director reserves funds to support field-initiated applications funded under this part when those applications have been awarded points totaling 80 percent or more of the maximum possible points under the procedures described in § 1330.23.

(b) In making a final selection from applications received when NIDILRR uses field-initiated priorities, the Director may consider whether one of the following conditions is met and, if so, use this information to fund an application out of rank order:

(1) The proposed project represents a unique opportunity to advance rehabilitation and other knowledge to improve the lives of individual with disabilities.

(2) The proposed project complements or balances research activity already planned or funded by NIDILRR through its annual priorities or addresses the research in a new and promising way.

### Subpart D—Disability, Independent Living, and Rehabilitation Research Fellowships

#### § 1330.30 Fellows program.

(a) The purpose of this program is to build research capacity by providing support to highly qualified individuals, including those who are individuals with disabilities, to perform research on rehabilitation, independent living, and other experiences and outcomes of individuals with disabilities.

(b) The eligibility requirements for the Fellows program are as follows:

(1) Only individuals are eligible to be recipients of Fellowships.

(2) Any individual is eligible for assistance under this program who has

training and experience that indicate a potential for engaging in scientific research related to rehabilitation and independent living for individuals with disabilities.

(3) This program provides two categories of Fellowships: Merit Fellowships and Distinguished Fellowships.

(i) To be eligible for a Distinguished Fellowship, an individual must have seven or more years of research experience in subject areas, methods, or techniques relevant to disability and rehabilitation research and must have a doctorate, other terminal degree, or comparable academic qualifications.

(ii) The Director awards Merit Fellowships to individuals in earlier stages of their careers in research. To be eligible for a Merit Fellowship, an individual must have either advanced professional training or experience in independent study in an area which is directly pertinent to disability and rehabilitation.

(c) Fellowships will be awarded in the form of a grant to eligible individuals.

(d) In making a final selection of applicants to support under this program, the Director considers the extent to which applicants present a unique opportunity to effect a major advance in knowledge, address critical problems in innovative ways, present proposals which are consistent with the Institute's Long-Range Plan, build research capacity within the field, or complement and significantly increases the potential value of already planned research and related activities.

## Subpart E—Special Projects and Demonstrations for Spinal Cord Injuries

### § 1330.40 Spinal cord injuries program.

(a) This program provides assistance to establish innovative projects for the delivery, demonstration, and evaluation of comprehensive medical, vocational, independent living, and rehabilitation services to meet the wide range of needs of individuals with spinal cord injuries.

(b) The agencies and organizations eligible to apply under this program are described in 45 CFR 1330.2.

[FR Doc. 2015–31907 Filed 12–18–15; 8:45 am]

**BILLING CODE P**

## DENALI COMMISSION

## 45 CFR Chapter IX

## National Environmental Policy Act Implementing Procedures and Categorical Exclusions

**AGENCY:** Denali Commission.

**ACTION:** Notice of proposed NEPA implementation rule; request for public comment.

**SUMMARY:** The Denali Commission proposes to establish 45 CFR Chapter IX and to add regulations for implementing the National Environmental Policy Act of 1969 (NEPA), as amended, and invites public comment on the proposed rule. All comments will be considered in preparing the final regulations, which will be made available to the public on the Commission's internet site at *http://www.denali.gov.*

**DATES:** Comments and related material must be received by January 20, 2016.

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

*Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

*Mail, Hand Delivery, or Courier:* Denali Commission, Attn: NEPA Comments; 510 L Street, Suite 410; Anchorage, AK 99501.

All written comments will be available for public inspection during regular work hours at the 510 L Street, Suite 410 address listed above.

**FOR FURTHER INFORMATION CONTACT:** Mr. John Whittington, 907–271–1414.

**SUPPLEMENTARY INFORMATION:**

### General

Introduced by Congress in 1998, the Denali Commission (Commission) is an innovative federal-state partnership designed to provide critical utilities, infrastructure, and economic support throughout Alaska. With the creation of the Commission, Congress acknowledged the need for increased inter-agency cooperation and focus on Alaska's remote communities. Since its first meeting in April 1999, the Commission is credited with providing numerous cost-shared infrastructure projects across the State that exemplify effective and efficient partnership between federal and state agencies, and the private sector.

The National Environmental Policy Act (NEPA) and implementing regulations promulgated by the Council on Environmental Quality (CEQ) (40 CFR parts 1500–1508) establish a broad national policy to protect the quality of the human environment and to ensure that environmental considerations and associated public concerns are given careful attention and appropriate weight in all decisions of the federal government. Sections 102(2) of NEPA and 40 CFR 1505.1 and 1507.3 require federal agencies to develop and, as needed, revise implementing procedures consistent with the CEQ regulations. The Denali Commission proposes the following NEPA implementing procedures for complying with NEPA and the CEQ regulations. The remaining sections of **SUPPLEMENTARY INFORMATION** will provide background. Following the **SUPPLEMENTARY INFORMATION** is the text of the proposed procedures.

### Background

In accordance with CEQ regulations (40 CFR 1507.3), the Commission consulted with the CEQ prior to publication of the proposed rule. On August 10, 2004, the Commission published a proposed rule in the **Federal Register** (69 FR 48435) and invited public comment. The Commission considered the comments received on the 2004 proposed rule. On March 6, 2006, however, the Commission published a notice in the **Federal Register** withdrawing the 2004 proposed rule (71 FR 13563). At the time, the Commission intended to adopt guidelines for implementing NEPA instead of promulgating a final rule. Since that time, however, the Commission has concluded that the approach outlined in the 2004 proposed rule was appropriate and is issuing this revised version of the proposed rule for review and comment before proceeding to promulgate a final rule. The rulemaking process maximizes public involvement during the development of the regulations, and once finalized, regulations provide a consistent NEPA approach internally and with cooperating agencies.

The proposed rule published today reflects the Commission's consideration of and responses to the public comments received on the 2004 proposed rule.

### Responses to 2004 Comments

The Commission received, reviewed and considered two letters of comment on the August 10, 2004 **Federal Register** notice. The comments and changes are discussed below by section and paragraph of the proposed rule. All sections addressed in the comment letters are discussed.

### Subpart A—General

*Section 900.103 Terms and Abbreviations*

A comment was made to clarify the term ''applicant'' in subsection (a)(2). We reviewed the subsection and have clarified that an applicant can be a federal, state and local government or non-governmental partner or organization and also added ''An

applicant may also be a partner organization in receipt of award funds.''

One comment noted ambiguity between the use of ''responsible official'' and ''approving official'' in §§ 900.106 and 900.302. To clarify, we added a definition of ''Approving Official'' in this section and made changes as noted in the section headers below. We no longer use the term ''responsible official.''

*Section 900.104 Applicability*

The title has been changed to Federal and Intergovernmental Relationships to better describe the contents of the section. The description of those relationships and the Commission's responsibilities are also more fully explained in keeping with the Commission responsibilities under NEPA as set out in § 900.106 and as described in the following section.

*Section 900.105 Applicant Responsibility*

One commenter said that environmental analysis responsibility was inappropriately delegated to applicants in this section, and noted that it remains the Commission's obligation to evaluate and take responsibility for the environmental analysis. We agree with the commenter that it is the Commission's obligation to evaluate the potential impacts of a proposed federal action (40 CFR 1506.5). We disagree with the commenter's conclusion that the proposed rule inappropriately delegates this responsibility to our applicants. The Commission's responsibilities outlined in § 900.106 clearly state that the Commission will evaluate, take responsibility for the scope and content of documents, and make the environmental finding. Clarifying language has been added to this section as well as sections 104, 108, 201, 303, 305, 402 and 403 to ensure that the Commission's responsibilities for meeting its NEPA obligations, such as those for conducting scoping (40 CFR 1501.7) and obtaining, assessing, and addressing comments (40 CFR 1503.1 and 1503.4), are clearly stated.

*Section 900.106 Denali Commission Responsibility*

To further clarify from the comment noted above regarding the ''approving official,'' we added language to indicate the Federal Co-Chair shall designate the Commission's Approving Official whose responsibilities include providing direction and guidance to applicants.

*Section 900.108 Public Involvement*

The Public involvement section was revised to include a ''variance'' provision, allowing the Commission, in the interests of national security or the public health, safety, or welfare, to reduce any public comment periods that are not required by the CEQ Regulations, in new paragraph (d) in this section. The 2004 proposed rule included the variance provision as § 900.202(c) in the Emergency actions and variance section, and this was interpreted as being limited to public comment periods that apply to emergency actions. On the contrary, this provision, which also requires the Commission to publish a **Federal Register** notice, notify interested parties, and provide the rationale for reducing public comment periods, applies more broadly and is central to public involvement. It therefore is appropriate to include it in § 900.108.

**Subpart B—Environmental Review Procedures**

*Section 900.202 Emergency Actions and Variance*

One commenter objected to proposed paragraph 900.202(c) allowing the Commission to reduce any time periods that are not required by the CEQ regulations in the interests of national security or the public health, safety, or welfare, and suggested that we limit its scope to emergency actions outlined in paragraphs (a) and (b). We disagree. Paragraphs (a) and (b) refer to emergency actions, whereas paragraph (c) applies only to time periods not required by the CEQ regulations. We propose moving paragraph (c) from the Emergency actions § 900.202 to the Public involvement § 900.108 to underscore that it is not limited to emergency actions and that it has wider application. This provision is not designed to sidestep NEPA requirements, but rather to allow some flexibility within the Commission's own time periods, and this is now explicitly stated. Further, the threshold of ''national security or the public health, safety and welfare'' is high, and any time reduction requires both justification and notification.

*Section 900.204 Categorical Exclusions*

A commenter suggested we include language from 40 CFR 1508.27(b)(10) as an extraordinary circumstance. We agree and have added paragraph (c)(10) to this section. We have also more fully explained the use of the checklist and the application of extraordinary circumstances.

Another suggestion under this section was to include Congressionally delegated LUD II's (USDA Forest Service Land Use Designation II) and areas important for customary and traditional uses of fish and wildlife resources, recreation, and critical wildlife habitat values, such as Old Growth Habitat as designated by the USDA Forest Service. We appreciate the suggestion but disagree that the additions are necessary. Critical wildlife habitats are covered under paragraph (c)(12)(ii) of this section, while paragraph (c)(12)(iii) covers natural resources and unique geographic characteristics. The listing of sensitive resources in paragraphs (c)(12)(i) through (iii) is not intended to be exhaustive, and the following list is more comprehensive than that listed in the CEQ regulations at 40 CFR 1508.27(b)(3). Further, in the event that a proposal does not have an adverse effect on an environmentally sensitive resource but is highly controversial, that will be considered an extraordinary circumstance and require environmental review.

*Section 900.205 Environmental Assessment*

In a different section a commenter asked for direction regarding FONSIs. After careful review, we found each reference to both FONSIs and NOIs and noted that each shall be prepared in accordance with this part. In this section, we clarified that FONSI's shall be prepared in accordance with subpart C of this part.

*Section 900.207 Programmatic Environmental Reviews*

We propose to include a new section on Programmatic environmental reviews in § 900.207. This section acknowledges the Commission's ability to prepare or adopt programmatic NEPA documents, include programmatic EAs or programmatic EISs, and to tier to those documents when conducting NEPA reviews for subsequent project-specific actions. Proposed § 900.207 is intended to facilitate the Commission's use of programmatic EAs and programmatic EISs consistent with the CEQ final guidance, ''Effective Use of Programmatic NEPA Reviews'' (December 18, 2014).[1]

[1] The CEQ guidance is available at: *http://energy.gov/nepa/downloads/final-guidance-effective-use-programmatic-nepa-review.*

**Subpart C—Environmental Assessments**

*Section 900.302 Adoption and Incorporation by Reference*

For clarity, we now refer to the ''Commission,'' rather than the ''responsible Commission official.'' We note that FONSI's and NOI's shall be prepared in accordance with this part. We also explain the Commission's role and responsibilities and reiterate the principles set out in § 900.106, when applicants are involved.

*Section 900.303 Public Involvement*

The Commission's responsibility for providing notice of the availability of environmental documents has been clearly stated in paragraph (b).

*Section 900.304 Actions Resulting From Assessment*

One commenter noted that FONSI's are referenced twice in this section, but there is no information as to the content or availability of the FONSI. We have reviewed the section and added clarification directing readers to § 900.305.

*Section 900.305 Findings of No Significant Impact*

The Commission's role and responsibilities have been clarified and the section states that the Commission is responsible for the governmental functions of compiling the public hearing summary or minutes, and written comments and responses record.

*Section 900.306 Proposals Normally Requiring an EA*

A suggestion was made to include language regarding sensitive resources in § 900.204 in paragraph (c) of this section to include consideration of other environmental processes. Sensitive resources are appropriately considered an extraordinary circumstance covered under § 900.204(c).

**Subpart D—Environmental Impact Statements**

*Section 900.402 Preparation and Filing of Draft and Final EISs*

The role of an applicant and the Commission's role and responsibilities have been clarified. Language has been added to reemphasize the responsibilities of the Commission set out in § 900.106.

*Section 900.405 Proposals Normally Requiring an EIS*

A commenter noted appreciation for our effort to provide examples of when to prepare an EIS, but thought our listing unreasonably narrow. We appreciate the comment, but disagree with the conclusion. The listing is not meant to be a comprehensive list, merely a guide. Our regulations, at § 900.206, do provide that an EIS is required when a project is determined to have a potentially significant impact on the human environment (40 CFR 1502.3) as the commenter requests.

**Appendix A to Part 900—Categorical Exclusions**

A commenter noted the language in A5 could be construed to remove NEPA review at an early stage. We reviewed the section and disagree. The intent of this CATEX is to exclude the actual planning and design process of a proposal from NEPA review, not to exclude the entire proposal. In fact, the NEPA review begins in the facility planning and design phase. This CATEX is necessary to get to the point where NEPA review can begin.

A commenter was concerned that the actions in category A6 could disturb fish and wildlife populations or allow for actions incompatible with an area's conservation system unit values. We have included sensitive resources and subsistence activities in the list of extraordinary circumstances in § 900.204(c), which will address this concern.

**List of Subjects in 45 CFR Part 900**

Administrative practice and procedure, Environmental impact statements, Environmental protection.

For the reasons stated in the preamble, the Denali Commission proposes to establish Title 45 of the CFR, Chapter IX, consisting of parts 900 through 999 to read as follows:

**CHAPTER IX—DENALI COMMISSION**

## PART 900—NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING PROCEDURES

**Subpart A—General**

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900.102 Environmental policy.
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900.301 Content.
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900.401 Notice of Intent and Scoping.
900.402 Preparation and filing of draft and final EISs.
900.403 Supplemental EIS.
900.404 Adoption.
900.405 Proposals normally requiring an EIS.
Appendix A to Part 900—Categorical Exclusions.
901–999 [RESERVED]

**Authority:** 42 U.S.C. 3121, 4321; 40 CFR parts 1500 through1508.

### Subpart A—General

**§ 900.101 Purpose.**

This regulation (45 CFR part 900) prescribes the policies and procedures of the Denali Commission (Commission) for implementing the National Environmental Policy Act of 1969 (NEPA) as amended (42 U.S.C. 4321–4347) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500 through 1508). This regulation also addresses other related federal environmental laws, statutes, regulations, and Executive Orders that apply to Commission administrative actions. This part supplements, and is to be used in conjunction with, 40 CFR parts 1500 through 1508, consistent with 40 CFR 1507.3.

**§ 900.102 Environmental policy.**

It is the policy of the Commission to:

(a) Comply with the procedures and policies of NEPA and other related environmental laws, regulations, and orders applicable to Commission actions;

(b) Provide guidance to applicants responsible for ensuring that proposals comply with all appropriate Commission requirements;

(c) Integrate NEPA requirements and other planning and environmental review procedures required by law or Commission practice so that all such procedures run concurrently rather than consecutively;

(d) Encourage and facilitate public involvement in Commission decisions that affect the quality of the human environment;

(e) Use the NEPA process to identify and assess reasonable alternatives to proposed Commission actions to avoid or minimize adverse effects upon the quality of the human environment;

(f) Use all practicable means consistent with NEPA and other essential considerations of national policy to restore or enhance the quality of the human environment and avoid or minimize any possible adverse effects of the Commission's actions upon the quality of the human environment; and

(g) Consider and give important weight to factors including customary and traditional uses of resources, recreation, and the objectives of Federal, regional, State, local and tribal land use plans, policies, and controls for the area concerned in developing proposals and making decisions in order to achieve a proper balance between the development and utilization of natural, cultural and human resources and the protection and enhancement of environmental quality (see NEPA section 101 and 40 CFR 1508.14). In particular the Commission will consider potential effects on subsistence activities, which are critically important to the daily existence of Alaska Native villages.

**§ 900.103 Terms and abbreviations.**

(a) For the purposes of this part, the definitions in the CEQ Regulations, 40 CFR parts 1500 through 1508, are adopted and supplemented as set out below. In the event of a conflict the CEQ Regulations apply.

(1) *Action.* Action and Federal action as defined in 40 CFR 1508.18, include projects, programs, plans, or policies, subject to the Commission's control and responsibility.

(2) *Applicant.* The federal, state, local government or non-governmental partner or organization applying to the Commission for financial assistance or other approval. An applicant may also be a partner organization in receipt of award funds.

(3) *Approving Official.* The Denali Commission staff member designated by the Federal Co-Chair or his/her designee to fulfill the responsibilities defined in § 900.106.

(4) *Commission proposal (or proposal).* A proposal, as defined at 40 CFR 1508.23, is a Commission proposal whether initiated by the Commission, another federal agency, or an applicant.

(5) *Federal Co-Chair.* One of the seven members of the Commission, appointed by the Secretary of Commerce, as defined in the Denali Commission Act of 1998, 42 U.S.C. 3121, Public Law 105–277.

(a) The following abbreviations are used throughout this part:

(1) CATEX—Categorical exclusions;

(2) CEQ—Council on Environmental Quality;

(3) EA—Environmental assessment;

(4) EIS—Environmental impact statement;

(5) FONSI—Finding of no significant impact;

(6) NEPA—National Environmental Policy Act of 1969, as amended;

(7) NOI—Notice of intent;

(8) ROD—Record of decision.

**§ 900.104 Federal and Intergovernmental Relationships.**

The Denali Commission was created to deliver the services of the federal government in the most cost-effective manner practicable. In order to reduce administrative and overhead costs, the Commission partners with federal, state and local agencies and Alaska Native villages and commonly depends on these governmental agencies for project management. Consequently, the Commission generally relies on the expertise and processes already in use by partnering agencies to help prepare Commission NEPA analyses and documents.

(a) With federal partners, the Commission will work as either a joint lead agency (40 CFR 1501.5 and 1508.16) or cooperating agency (40 CFR 1501.6 and 1508.5). The Commission may invite other Federal agencies to serve as lead agency or as a cooperating agency.

(b) Consistent with 40 CFR 1508.5, the Commission will typically invite Alaska Native villages and state and local government partners to serve as cooperating agencies.

(c) Requests for the Commission to serve as a lead agency (40 CFR 1501.5(d)), for CEQ to determine which Federal agency shall be the lead agency (40 CFR 1501.5(e)), or for the Commission to serve as a cooperating agency (40 CFR 1501.6(a)(1)) shall be mailed to the Federal Co-Chair, Denali Commission; 510 L Street, Suite 410; Anchorage, AK 99501.

**§ 900.105 Applicant responsibility.**

(b) Applicants shall work under Commission direction provided by the Approving Official, and assist the Commission in fulfilling its NEPA obligations by preparing NEPA analyses and documents that comply with the provisions of NEPA (42 U.S.C. 4321–4347), the CEQ regulations (40 CFR parts 1500 through 1508), and the requirements set forth in this part.

(c) Applicants shall follow Commission direction when they assist the Commission with the following responsibilities, among others:

(1) Prepare and disseminate applicable environmental documentation concurrent with a proposal's engineering, planning, and design;

(2) Create and distribute public notices;

(3) Coordinate public hearings and meetings as required;

(4) Submit all environmental documents created pursuant to this part to the Commission for review and approval before public distribution;

(5) Participate in all Commission-conducted hearings or meetings;

(6) Consult with the Commission prior to obtaining the services of an environmental consultant; in the case that an EIS is required, the consultant or contractor will be selected by the Commission; and

(7) Implement mitigation measures included as voluntary commitments by the applicant or as requirements of the applicant in environmental documents.

**§ 900.106 Denali Commission responsibility.**

(a) The Federal Co-Chair or his/her designee shall designate an Approving Official for each Commission proposal, and shall provide environmental guidance to the Approving Official;

(b) The Approving Official shall provide direction and guidance to the applicant as well as identification and development of required analyses and documentation;

(c) The Approving Official shall make an independent evaluation of the environmental issues, take responsibility for the scope and content of the environmental document (EA or EIS), and make the environmental finding; and

(d) The Approving Official shall ensure mitigation measures included in environmental documents are implemented.

**§ 900.107 Role of lead and cooperating agencies.**

In accordance with § 900.104, the Commission may defer the lead agency role to other federal agencies in accordance with 40 CFR 1501.5, and the Commission will then exercise its role as a cooperating agency in accordance with 40 CFR 1501.6.

**§ 900.108 Public involvement.**

(a) When public involvement is required pursuant to subparts C and D of this part, interested persons and the affected public shall be provided notice of the availability of environmental documents, NEPA-related hearings, and

public meetings. Such notice will be made on the Commission Web site and other means such that the community is notified (*e.g.,* community postings, newspaper, radio or television).

(b) Applicants shall assist the Commission in providing the opportunity for public participation and considering the public comments on the proposal as described in subparts C and D of this part.

(c) Interested persons can obtain information or status reports on EISs and other elements of the NEPA process from the Commission's office at 510 L Street, Suite 410; Anchorage, Alaska 99501; or on the Commission Web site at *http://www.denali.gov.* Telephone: (907) 271–1414.

(d) In the interests of national security or the public health, safety, or welfare, the Commission may reduce any time periods that the Commission has established and that are not required by the CEQ Regulations. The Commission shall publish a notice on the Web site at *http://www.denali.gov* and notify interested parties (see 40 CFR 1506.6) specifying the revised time periods for the proposed action and the rationale for the reduction.

## Subpart B—Environmental Review Procedures

### § 900.201 Environmental review process.

(a) *General.* The environmental review process is the investigation of potential environmental impacts to determine the environmental process to be followed and to assist in the preparation of the environmental document.

(b) *Early coordination.* Applicants will contact the Commission and work with the Approving Official to begin the environmental review process as soon as Denali Commission assistance is projected. Environmental issues shall be identified and considered early in the proposal planning process. A systematic, interdisciplinary approach that includes community involvement and intergovernmental coordination to expand the potential sources of information and identify areas of concern will be used. Environmental permits and other forms of approval, concurrence, or consultation may be required. The planning process shall include permitting and other review processes to ensure that necessary information will be collected and provided to permitting and reviewing agencies in a timely manner.

### § 900.202 Emergency actions.

(a) *General.* Emergency circumstances may require immediate actions that preclude following standard NEPA processes. These alternative arrangements are limited to those actions that are necessary to control the immediate impacts of the emergency. In the event of emergency circumstances, the Approving Official should coordinate with the Federal Co-Chair as soon as practicable. When time permits, environmental documentation should be prepared in accordance with these NEPA implementing procedures. Immediate emergency actions necessary to protect the lives and safety of the public or prevent adverse impacts to ecological resources and functions should never be delayed in order to comply with NEPA. These actions should be taken as soon as is necessary to ensure the protection and safety of the public and the protection of ecological resources and functions. Alternative arrangements for NEPA compliance are permitted for emergency actions pursuant to paragraphs (b) through (d) of this section.

(b) *Categorical Exclusion (CATEX).* When emergency circumstances make it necessary to determine whether an extraordinary circumstance would preclude the use of a CATEX, the Approving Official shall make the determination as soon as practicable. If an extraordinary circumstance exists, the Approving Official shall comply with paragraphs (c) and (d) of this section, as applicable.

(c) *Environmental assessment (EA).* When emergency circumstances make it necessary to take an action that requires an EA before the EA can be completed, the Approving Official will consult with the Federal Co-Chair to develop alternative arrangements to meet the requirements of these NEPA implementing procedures and CEQ regulations pertaining to EAs. Alternative arrangements should focus on minimizing adverse environmental impacts of the proposed action and the emergency. To the maximum extent practicable, these alternative arrangements should include the content, interagency coordination, and public notification and involvement that would normally be undertaken for an EA for the action at issue and cannot alter the requirements of the CEQ regulations at 40 CFR 1508.9(a)(1) and (b). The Federal Co-Chair may grant an alternative arrangement. Any alternative arrangement shall be documented. The Federal Co-Chair will inform CEQ of the alternative arrangements at the earliest opportunity.

(d) *Environmental Impact Statement (EIS).* CEQ may grant alternative arrangements for, but not eliminate, NEPA compliance where emergency circumstances make it necessary to take actions with significant environmental impacts without observing other provisions of these NEPA implementing procedures and the CEQ regulations (see 40 CFR 1506.11). In these situations, the processing times may be reduced or, if the emergency situation warrants, preparation and processing of EISs may be abbreviated. A request for alternative arrangements must be submitted to CEQ and notice of a potential request should be provided to CEQ at the earliest opportunity. Before making the request, the Approving Official shall consult with the Federal Co-Chair. For projects undertaken by an applicant, the Approving Official will inform the Federal Co-Chair about the emergency. The Federal Co-Chair will consult CEQ requesting the alternative arrangements for complying with NEPA.

### § 900.203 Determination of federal actions.

(a) The Commission shall determine, under the procedures detailed in the CEQ Regulations (40 CFR parts 1500 through 1508), and this part, whether any Commission proposal:

(1) Is categorically excluded from preparation of either an EA or an EIS;

(2) Requires preparation of an EA; or

(3) Requires preparation of an EIS.

(b) Notwithstanding any other provision of this part, the Commission may prepare a NEPA document for any Commission action at any time in order to further the purposes of NEPA. This NEPA document may be done to analyze the consequences of ongoing activities, to support Commission planning, to assess the need for mitigation, to disclose fully the potential environmental consequences of Commission actions, or for any other reason. Documents prepared under this paragraph shall be prepared in the same manner as Commission documents prepared under this part.

### § 900.204 Categorical exclusions.

(a) *General.* A categorical exclusion (CATEX) is defined in 40 CFR 1508.4 as a category of actions which do not individually or cumulatively have a significant effect on the human environment and, for which in the absence of extraordinary circumstances or sensitive resources, neither an EA nor an EIS is required. Actions that meet the conditions in paragraph (b) of this section and are listed in section A of Appendix A of this part can be categorically excluded from further analysis and documentation in an EA or EIS. Actions that meet the screening conditions in paragraph (b) of this section and are listed in section B of Appendix A require satisfactory

completion of a Denali Commission CATEX checklist in order to be categorically excluded from further analysis and documentation in an EA or EIS.

(b) *Conditions.* The following three conditions must be met for an action to be categorically excluded from further analysis in an EA or EIS.

(1) The action has not been segmented (too narrowly defined or broken down into small parts in order minimize its potential effects and avoid a higher level of NEPA review) and its scope includes the consideration of connected actions and, when evaluating extraordinary circumstances, cumulative impacts.

(2) No extraordinary circumstances described in paragraph (c) of this section exist, unless resolved through other regulatory means.

(3) One categorical exclusion described in either section of Appendix A encompasses the proposed action.

(c) *Extraordinary circumstances.* Any action that normally would be classified as a CATEX but could involve extraordinary circumstances will require appropriate environmental review documented in a Denali Commission CATEX checklist to determine if the CATEX classification is proper or if an EA or EIS should be prepared. Extraordinary circumstances to be considered include those likely to:

(1) Have a reasonable likelihood of significant impacts on public health, public safety, or the environment;

(2) Have effects on the environment that are likely to be highly controversial or involve unresolved conflicts concerning alternative uses of available resources;

(3) Have possible effects on the human environment that are highly uncertain, involve unique or unknown risks, or are scientifically controversial;

(4) Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects;

(5) Relate to other actions with individually insignificant but cumulatively significant environmental effects;

(6) Have a greater scope or size than is normal for the category of action;

(7) Have the potential to degrade already existing poor environmental conditions or to initiate a degrading influence, activity, or effect in areas not already significantly modified from their natural condition;

(8) Have a disproportionately high and adverse effect on low income or minority populations (see Executive Order 12898);

(9) Limit access to and ceremonial use of Indian sacred sites on federal lands by Indian religious practitioners or adversely affect the physical integrity of such sacred sites (see Executive Order 13007);

(10) Threaten a violation of a federal, tribal, state or local law or requirement imposed for the protection of the environment;

(11) Have a reasonable likelihood of significant impact to subsistence activities; or

(12) Have a reasonable likelihood of significant impacts on environmentally sensitive resources, such as:

(i) Properties listed, or eligible for listing, in the National Register of Historic Places;

(ii) Species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or their habitat; or

(iii) Natural resources and unique geographic characteristics such as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; special aquatic sites (defined under Section 404 of the Clean Water Act); floodplains; national monuments; and other ecologically significant or critical areas.

#### § 900.205 Environmental assessment.

(a) An EA is required for all proposals, except those exempt or categorically excluded under this part, and those requiring or determined to require an EIS. EAs provide sufficient evidence and analysis to determine whether to prepare an EIS or a finding of no significant impact (FONSI).

(b) In addition, an EA may be prepared on any action at any time in order to assist in planning and decision making, to aid in the Commission's compliance with NEPA when no EIS is necessary, or to facilitate EIS preparation.

(c) EAs shall be prepared in accordance with subpart C of this part and shall contain analyses to support conclusions regarding environmental impacts. If a FONSI is proposed, it shall be prepared in accordance with § 900.305.

#### § 900.206 Environmental impact statement.

An EIS is required when the project is determined to have a potentially significant impact on the human environment. EISs shall be prepared in accordance with subpart D of this part.

#### § 900.207 Programmatic environmental reviews.

(a) A programmatic NEPA review is used to assess the environmental impacts of a proposed action that is broad in reach, such as a program, plan, or policy (see 40 CFR 1502.4). Analyses of subsequent actions that fall within the program, plan, or policy may be tiered to the programmatic review, as described in 40 CFR 1502.20 and 1508.28.

(b) Programmatic NEPA reviews may take the form of a programmatic EA or a programmatic EIS.

(c) A programmatic EA shall meet all of the requirements for EAs in subpart C of this part, including those for content and public involvement. In order to adopt a programmatic EA prepared by another agency that did not provide the same public involvement opportunities as the Commission, the Commission shall provide notice of the availability of the programmatic EA and make it available for public comment consistent with § 900.303(b) and (c) before adopting it.

(d) A programmatic EIS shall meet all of the requirements for EISs in subpart D of this part and in 40 CFR parts 1500 through 1508.

## Subpart C—Environmental Assessments

#### § 900.301 Content.

(a) An EA shall include brief discussions of the need for the proposal; of alternatives to the proposal as required by NEPA section 102(2)(E); and of the environmental impacts of the proposal and alternatives. The EA shall also include a listing of agencies and persons consulted.

(b) An EA may describe a broad range of alternatives and proposed mitigation measures to facilitate planning and decisionmaking.

(c) The EA should also document compliance, to the extent possible, with all applicable environmental laws and Executive Orders, or provide reasonable assurance that those requirements can be met.

(d) The level of detail and depth of impact analysis will normally be limited to the minimum needed to determine the significance of potential environmental effects.

#### § 900.302 Adoption and incorporation by reference.

(a) The Commission may adopt an environmental document prepared for a proposal before the Commission by another agency or an applicant when the EA, or a portion thereof, addresses the proposed action and meets the

standards for an adequate analysis under this part and relevant provisions of 40 CFR parts 1500 through 1508, provided that the Commission makes its own evaluation of the environmental issues and takes responsibility for the scope and content of the EA in accordance with 40 CFR 1506.5(b).

(b) An environmental document or portion thereof prepared for a proposal before the Commission by another agency or applicant, may be incorporated by reference in accordance with 40 CFR 1502.21 and used in preparing an EA in accordance with 40 CFR 1501.4(e) and 1506.5(a), provided that the Commission makes its own evaluation of the environmental issues and takes responsibility for the scope and content of the EA in accordance with 40 CFR 1506.5(b).

(c) The Commission may use an environmental document that, upon independent evaluation, is found not to comply with the requirements of an EA, if the document is incorporated by reference in accordance with 40 CFR 1502.21 and is augmented as necessary to meet the requirements of an EA or an EIS.

(d) If an EA is adopted or incorporated by reference under this section, the Commission shall prepare a notice of availability and proposed FONSI; or, if the EA results in the decision to do an EIS, the Commission shall prepare a notice of intent (NOI). In either case, the FONSI or NOI shall be prepared in accordance with this part and shall acknowledge the origin of the EA, and the Commission shall make its own evaluation of the environmental issues and take full responsibility for the scope and content of the EA in accordance with 40 CFR 1506.5(b).

(e) The Commission may adopt a programmatic EA prepared by another agency consistent with § 900.207(c).

#### § 900.303 Public involvement.

(a) Commission approval is required before an EA is made available to the public and the notice of availability is published.

(b) The public shall be provided notice of the availability of EAs and draft FONSIs in accordance with 40 CFR 1506.6 and § 900.108(a) by the Approving Official. The Approving Official is responsible for making the EA available for public inspection and will provide hard copies on request to the affected units of Alaska Native/American Indian tribal organizations and/or local government.

(c) EAs and draft FONSIs will be available for public comment for not less than 15 calendar days but may be published for a longer period of time as determined by the Approving Official.

(d) Final Commission action will be taken after public comments received on an EA or draft FONSI are reviewed and considered.

#### § 900.304 Actions resulting from assessment.

(a) *Accepted without modification.* A proposal may be accepted without modifications if the EA indicates that the proposal does not have significant environmental impacts and a FONSI is prepared in accordance with § 900.305.

(b) *Accepted with modification.* If an EA identifies potentially significant environmental impacts, the proposal may be modified to eliminate such impacts. Proposals so modified may be accepted if the proposed changes are evaluated in an EA and a FONSI is prepared in accordance with § 900.305. In addition to the requirements set forth in § 900.305, the FONSI shall list any mitigation measures necessary to make the recommended alternative environmentally acceptable and describe applicable monitoring and enforcement measures intended to ensure the implementation of the mitigation measures.

(c) *Rejected.* A proposal should be rejected if significant and unavoidable adverse environmental impacts would still exist after modifications have been made to the proposal and an EIS is not prepared.

(d) *Prepare an EIS.* A proposal shall require an EIS, prepared in accordance with subpart D to this part, if the EA indicates significant environmental impacts.

#### § 900.305 Findings of no significant impact.

(a) *Definition.* Finding of no significant impact (FONSI) means a document by the Commission briefly presenting the reasons why an action, not otherwise excluded as provided in § 900.204, will not have a significant impact on the human environment and for which an EIS will not be prepared.

(b) *Applicant responsibility.* The applicant shall assist the Commission with preparing the EA. The Commission remains responsible for compiling the public hearing summary or minutes, where applicable; and copies of any written comments received and responses thereto.

(c) *Content.* A FONSI shall include the EA or a summary of it and shall note any other environmental documents related to it (40 CFR 1501.7(a)(5)). If the assessment is included, the finding need not repeat any of the discussion in the assessment but may incorporate it by reference.

(d) *Publication.* The Commission shall make the final FONSI available to the public on the Commission Web site.

(e) *Special circumstances.* The FONSI notice of availability will be made available for public review (including State and areawide clearinghouses) for 30 days before the Commission makes its final determination whether to prepare an environmental impact statement and before the action may begin (40 CFR 1501.4(e)(2)) where:

(1) The proposed action is, or is closely similar to, one which normally requires the preparation of an environmental impact statement under § 900.405; or

(2) The nature of the proposed action is one without precedent.

#### § 900.306 Proposals normally requiring an EA.

Proposals that normally require preparation of an EA include the following:

(a) Initial field demonstration of a new technology; and

(b) Field trials of a new product or new uses of an existing technology.

### Subpart D—Environmental Impact Statements

#### § 900.401 Notice of Intent and Scoping.

(a) The Commission shall publish a NOI, as described in 40 CFR 1508.22, in the **Federal Register** as soon as practicable after a decision is made to prepare an EIS, in accordance with 40 CFR 1501.7. If there will be a lengthy period of time between the Commission's decision to prepare an EIS and its actual preparation, the Commission may defer publication of the NOI until a reasonable time before preparing the EIS, provided that the Commission allows a reasonable opportunity for interested parties to participate in the EIS process. Through the NOI, the Commission shall invite comments and suggestions on the scope of the EIS.

(b) Publication of the NOI in the **Federal Register** shall begin the public scoping process. The public scoping process for a Commission EIS shall allow a minimum of 30 days for the receipt of public comments.

#### § 900.402 Preparation and filing of draft and final EISs.

(a) *General.* Except for proposals for legislation as provided for in 40 CFR 1506.8, EISs shall be prepared in two stages and may be supplemented.

(b) *Format.* The EIS format recommended by 40 CFR 1502.10 shall be used unless a determination is made on a particular project that there is a compelling reason to do otherwise. In

such a case, the EIS format must meet the minimum requirements prescribed in 40 CFR 1502.10, as further described in 40 CFR 1502.11 through 1502.18.

(c) *Applicant role.* The draft or final EIS shall be prepared by the Commission with assistance from the applicant under appropriate guidance and direction from the Approving Official.

(d) *Third-party consultants.* A third-party consultant selected by the Commission or in cooperation with a cooperating agency may prepare the draft or final EIS.

(e) *Commission responsibility.* The Commission shall provide guidance, participate in the preparation, independently evaluate, and take responsibility for the draft or final EIS.

(f) *Filing.* After a draft or final EIS has been prepared, the Commission shall file the draft or final EIS with the Environmental Protection Agency (EPA). The EPA will publish a notice of availability in accordance with 40 CFR 1506.9 and 1506.10.

(g) *Draft to final EIS.* When a final EIS does not require substantial changes from the draft EIS, the Commission may document required changes in errata sheets, insertion pages, and revised sections. The Commission will then circulate such changes together with comments on the draft EIS, responses to comments, and other appropriate information as its final EIS. The Commission will not circulate the draft EIS again; however, the Commission will provide the draft EIS if requested.

(h) *Record of decision.* A record of decision (ROD) will be prepared in accordance with 40 CFR 1505.2.

### § 900.403 Supplemental EIS.

(a) Supplements to either draft or final EISs shall be prepared, as prescribed in 40 CFR 1502.9, when substantial changes are proposed in a project that are relevant to environmental concerns; or when there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

(b) Where action remains to be taken and the EIS is more than a year old, the Commission will review the EIS to determine whether it is adequate or requires supplementation.

(c) The Commission shall prepare, circulate and file a supplement to an EIS in the same fashion (exclusive of scoping) as a draft and final EIS. In addition, the supplement and accompanying administrative record shall be included in the administrative record for the proposal. When an applicant is involved, the applicant shall, under the direction of the approving official, provide assistance.

(d) An NOI to prepare a supplement to a final EIS will be published in those cases where a ROD has already been issued.

### § 900.404 Adoption.

(a) The Commission may adopt a draft or final EIS or portion thereof (see 40 CFR 1506.3), including a programmatic EIS, prepared by another agency.

(b) If the actions covered by the original EIS and the proposal are substantially the same, the Commission shall recirculate it as a final statement. Otherwise, the Commission shall treat the statement as a draft and recirculate it except as provided in paragraph (c) of this section.

(c) Where the Commission is a cooperating agency, it may adopt the EIS of the lead agency without recirculating it when, after an independent review of the EIS, the Commission concludes that its comments and suggestions have been satisfied.

(d) When the Commission adopts an EIS which is not final within the agency that prepared it, or when the action it assesses is the subject of a referral under 40 CFR part 1504, or when the EIS's adequacy is the subject of a judicial action which is not final, the Commission shall so specify.

### § 900.405 Proposals normally requiring an EIS.

The Approving Official shall assure that an EIS will be prepared and issued for proposals when it is determined that any of the following conditions exist:

(a) The proposal may significantly affect the pattern and type of land use (industrial, commercial, agricultural, recreational, residential) or the growth and distribution of population;

(b) The use or effects of any structure or facility constructed or operated under the proposal may conflict with federal, tribal, state, regional or local land use plans or policies;

(c) The proposal may have significant adverse effects on special aquatic sites (defined under Section 404 of the Clean Water Act), including indirect and cumulative effects, or any major part of a structure or facility constructed or operated under the proposal may be located in special aquatic sites;

(d) The proposal may likely adversely affect species protected under the Endangered Species Act or their habitats, such as when a structure or a facility constructed or operated under the proposal may be located in the habitat;

(e) Implementation of the proposal may directly cause or induce changes that significantly:

(1) Displace population;

(2) Alter the character of existing residential areas; or

(3) Adversely affect a floodplain.

## Appendix A to Part 900—Categorical Exclusions

### A. General Categorical Exclusions

Actions consistent with any of the following categories are, in the absence of extraordinary circumstances, categorically excluded from further analysis in an EA or EIS:

A1. Routine administrative and management activities including, but not limited to, those activities related to budgeting, finance, personnel actions, procurement activities, compliance with applicable executive orders and procedures for sustainable or ''greened'' procurement, retaining legal counsel, public affairs activities (*e.g.,* issuing press releases, newsletters and notices of funding availability), internal and external program evaluation and monitoring (*e.g.,* site visits), database development and maintenance, and computer systems administration.

A2. Routine activities that the Commission does to support its program partners and stakeholders, such as serving on task forces, ad hoc committees or representing Commission interests in other forums.

A3. Approving and issuing grants for administrative overhead support.

A4. Approving and issuing grants for social services, education and training programs, including but not limited to support for Head Start, senior citizen programs, drug treatment programs, and funding internships, except for projects involving construction, renovation, or changes in land use.

A5. Approving and issuing grants for facility planning and design.

A6. Nondestructive data collection, inventory, study, research, and monitoring activities (*e.g.,* field, aerial and satellite surveying and mapping).

A7. Research, planning grants and technical assistance projects that are not reasonably expected to commit the federal government to a course of action, to result in legislative proposals, or to result in direct development.

A8. Acquisition and installation of equipment including, but not limited to, EMS, emergency and non-expendable medical equipment (*e.g.,* digital imaging devices and dental equipment), and communications equipment (*e.g.,* computer upgrades).

### B. Program Categorical Exclusions

Actions consistent with any of the following categories are, in the absence of extraordinary circumstances, categorically excluded from further analysis and documentation in an EA or EIS upon completion of the Denali Commission CATEX checklist:

B1. Upgrade, repair, maintenance, replacement, or minor renovations and additions to buildings, roads, harbors and

other maritime facilities, grounds, equipment, and other facilities, including but not limited to, roof replacement, foundation repair, ADA access ramp and door improvements, weatherization and energy efficiency related improvements, HVAC renovations, painting, floor system replacement, repaving parking lots and ground maintenance, that do not result in a change in the functional use of the real property.

B2. Engineering studies and investigations that do not permanently change the environment.

B3. Construction or lease of new infrastructure including, but not limited to, health care facilities, community buildings, housing, and bulk fuel storage and power generation plants, where such lease or construction:

(a) Is at the site of existing infrastructure and capacity is not substantially increased; or

(b) Is for infrastructure of less than 12,000 square feet of useable space when less than two aces of surface land area are involved at a new site.

B4. Construction or modification of electric power stations or interconnection facilities (including, but not limited to, switching stations and support facilities).

B5. Construction of electric powerlines approximately ten miles in length or less, or approximately 20 miles in length or less within previously disturbed or developed powerline or pipeline rights-of-way.

B6. Upgrading or rebuilding approximately twenty miles in length or less of existing electric powerlines, which may involve minor relocations of small segments or the powerlines.

B7. Demolition, disposal, or improvements involving buildings or structures when done in accordance with applicable regulations, including those regulations applying to removal of asbestos, polychlorinated biphenyls (PCBs), and other hazardous materials.

B8. Project or program actions for which applicable environmental documentation has been prepared previously, by either the Commission or another federal agency, and environmental circumstances have not subsequently changed.

Dated: December 10, 2015.

**Joel Neimeyer,**

*Federal Co-Chair.*

[FR Doc. 2015–31701 Filed 12–18–15; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 23

**[Docket No. FWS–HQ–IA–2015–0035; 96300–1671–0000–R4]**

**RIN 1018–AH89**

## Wild Bird Conservation Act; Blue-Fronted Amazon Parrots From Argentina's Sustainable-Use Management Plan

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service, or we), withdraw a 2003 proposed rule to approve a sustainable-use management plan developed by the Management Authority of Argentina for blue-fronted amazon parrots *(Amazona aestiva),* under the Wild Bird Conservation Act of 1992. We are taking this action because Argentina has withdrawn their application. As a result, we will no longer consider allowing importation of this species from Argentina under this plan.

**DATES:** This document is withdrawn as of December 21, 2015.

**FOR FURTHER INFORMATION CONTACT:** 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:**

### Background

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is an international treaty designed to regulate international trade in certain animal and plant species that are now, or may become, threatened with extinction. These species are listed in the Appendices to CITES, which are available on the CITES Secretariat's Web site at *http://www.cites.org/eng/app/appendices.php.* Currently 180 countries and the European Union have ratified, accepted, approved, or acceded to CITES; these 181 entities are known as Parties. The U.S. Fish and Wildlife Service has been delegated authority to carry out U.S. responsibilities under CITES.

The Wild Bird Conservation Act of 1992 (WBCA) limits or prohibits import into the United States of exotic bird species to ensure that their wild populations are not harmed by international trade. It also encourages wild bird conservation programs in countries of origin by ensuring that all imports of such species are biologically sustainable and not detrimental to the survival of the species.

*Previous Federal Actions*

On November 16, 1993, we published a final rule in the **Federal Register** (58 FR 60524) that implemented the prohibitions stipulated in the WBCA and provided permit requirements and procedures for some allowed exemptions. In that rule, we informed the public that imports of all CITES-listed birds (as defined in the rule) were prohibited, except for (a) species included in an approved list; (b) specimens for which an import permit has been issued; (c) species from countries that have approved sustainable-use management plans for those species; or (d) specimens from approved foreign captive-breeding facilities. Criteria for approval of sustainable-use management plans are in title 50 of the Code of Federal Regulations at 50 CFR 15.32.

Argentina petitioned the Service to allow the import into the United States of blue-fronted amazon parrots *(Amazona aestiva)* removed from the wild in Argentina under an approved sustainable-use management plan. Consequently, on August 10, 2000, we published a notice of receipt of application for approval in the **Federal Register** (65 FR 49007) that announced the receipt of a petition from the CITES Management Authority of Argentina, Dirección de Fauna and Flora Silvestre, for approval of a sustainable-use management plan for the blue-fronted amazon parrot in Argentina. On January 8, 2003, we published a notice in the **Federal Register** (68 FR 1066) announcing the availability of a draft environmental assessment of the addition of blue-fronted amazon parrots from a sustainable-use management plan in Argentina to the approved list of non-captive-bred birds under the WBCA.

Later that year, on August 6, 2003, we published a proposed rule in the **Federal Register** (68 FR 46559) to approve a sustainable-use management plan developed by the CITES Management Authority of Argentina for blue-fronted amazon parrots under the WBCA. The proposed rule would add blue-fronted amazon parrots from Argentina's program to the approved list of non-captive-bred (wild-caught) species contained at 50 CFR 15.33(b).

The public comment period on the proposed rule was open for 60 days.

On March 29, 2005, we published a notice in the **Federal Register** (70 FR 15798) reopening the comment period on the proposed rule for 30 days to enter into the record Dr. Jorge Rabinovich's 2004 study, ''Modeling the Sustainable Use of the Blue-Fronted Parrot *(Amazona aestiva)* in the Dry Chaco Region of Argentina,'' and to accept comments related to the relationship of this study to the proposed addition of blue-fronted amazon parrots from Argentina's program to the approved list of non-captive-bred (wild-caught) species under the WBCA. On May 24, 2005, we published a notice in the **Federal Register** (70 FR 29711) reopening the comment period for an additional 45 days.

**Reason for Withdrawal of Proposed Rule**

We reviewed the public comments received during the open comment periods for the notice and the proposed rule and new information that became available after the publication of the proposed rule. We also reevaluated information in our files, our proposed rule, and Argentina's request, in accordance with our approval criteria in 50 CFR 15.32. As a result, we determined that it was unlikely that we would be able to make a positive finding for the sustainable-use management plan developed by Argentina for blue-fronted amazon parrots under the WBCA. Subsequently, Argentina determined that the best course of action would be to withdraw their application. Argentina withdrew its application by letter (undated) from the CITES Management Authority of Argentina (Ministry of the Environment of Sustainable Development), therefore, we are withdrawing our proposed rule of August 6, 2003 (68 FR 46559).

**Author**

The primary author of this document is Clifton A. Horton, Division of Management Authority, U.S. Fish and Wildlife Service (see **FOR FURTHER INFORMATION CONTACT**).

**Authority**

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: December 9, 2015.

**Stephen Guertin,**

*Acting Director, U.S. Fish and Wildlife Service.*

[FR Doc. 2015–32054 Filed 12–18–15; 8:45 am]

**BILLING CODE 4333–15–P**

# Notices

Federal Register
Vol. 80, No. 244
Monday, December 21, 2015

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Del Norte County Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Del Norte County Resource Advisory Committee (RAC) will meet in Crescent City, California. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with title II of the Act. Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *http://www.fs.usda.gov/main/srnf/workingtogether/advisorycommittee*.

**DATES:** The meeting will be held January 7, 2016, at 6:00 p.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**ADDRESSES:** The meeting will be held at the Del Norte County Unified School District, Redwood Room, 301 West Washington Boulevard, Crescent City, California.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Six Rivers National Forest (NF) Office. Please call ahead to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Lynn Wright, RAC Coordinator, by phone at 707–441–3562 or via email at *hwright02@fs.fed.us*.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is to:

- Provide updates regarding status of Secure Rural Schools Title II program and funding; and
- Review and potentially recommend projects eligible for funding.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by January 4, 2016 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Lynn Wright, RAC Coordinator, Six Rivers NF Office, 1330 Bayshore Way, Eureka, CA. 95501; by email to *hwright02@fs.fed.us,* or via facsimile to 707–445–8677.

*Meeting Accommodations:* If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: December 14, 2015.

**Merv George Jr.,**

*Forest Supervisor.*

[FR Doc. 2015–32040 Filed 12–18–15; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Del Norte County Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Del Norte County Resource Advisory Committee (RAC) will meet in Crescent City, California. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with title II of the Act. Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *http://www.fs.usda.gov/main/srnf/workingtogether/advisorycommittee.*

**DATES:** The meeting will be held January 14, 2016, at 6:00 p.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**ADDRESSES:** The meeting will be held at the Del Norte County Unified School District, Redwood Room, 301 West Washington Boulevard, Crescent City, California.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Six Rivers National Forest (NF) Office. Please call ahead to facilitate entry into the building.

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**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is to:

- Provide updates regarding status of Secure Rural Schools Title II program and funding; and
- Review and recommend potential projects eligible for funding.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by January 7, 2016 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Lynn Wright, RAC Coordinator, Six Rivers NF Office, 1330 Bayshore Way, Eureka, CA. 95501; by email to *hwright02@fs.fed.us,* or via facsimile to 707–445–8677.

*Meeting Accommodations:* If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: December 14, 2015.

**Merv George Jr.,**

*Forest Supervisor.*

[FR Doc. 2015–32041 Filed 12–18–15; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Revision of the Land Management Plan for the Chugach National Forest, Alaska

**AGENCY:** Forest Service, USDA.

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

**SUMMARY:** As directed by the National Forest Management Act (NFMA), the USDA Forest Service is preparing the Chugach National Forest's revised land management plan (forest plan), which requires preparation of an environmental impact statement (EIS). Publication of this notice marks the initiation of the public scoping period for the proposed action. This notice briefly describes the nature of the decision to be made, the proposed action, and information concerning public participation. It also provides estimated dates for filing the EIS, the name and address of the responsible agency official, and the individuals who can provide additional information. The revised forest plan will supersede the existing forest plan that was approved by the Regional Forester in 2002. The existing forest plan will remain in effect until the revised forest plan takes effect.

**DATES:** Comments concerning the proposed action provided in this notice will be most useful in the development of the proposed revised forest plan and draft EIS if received by February 17, 2016. The agency expects to release the proposed revised forest plan and draft EIS for formal comment by summer 2016 and a final EIS and draft record of decision by April 2017.

**ADDRESSES:** Comments may be sent in one of the following ways: (1) Via the Forest Plan Revision Web page at *http://go.usa.gov/cBWvQ* or (2) send or deliver written comments to the Chugach National Forest's Supervisor's Office, Attn: Forest Plan Revision, 161 East 1st Street, Door 8, Anchorage, AK 99501.

**FOR FURTHER INFORMATION CONTACT:** Mary C. Rasmussen, Forest Plan Revision Team Leader, at *mcrasmussen@fs.fed.us* or (907) 743–9500. 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:**

#### Purpose and Need for Action

Several areas where changes are needed in the Chugach Forest Plan surfaced from the requirements of the 2012 Planning Rule for the National Forest System, findings from the development of the Assessment of the Chugach National Forest (a precursor document in the planning process that identified and evaluated the existing condition across the forest landscape), changes in conditions and demands since the 2002 forest plan, and public concerns to date.

The 2012 Planning Rule, which became effective May 9, 2012, requires inclusion of plan components that address social and economic sustainability, ecosystem services, and multiple uses integrated with the plan components for ecological sustainability and species diversity. Social and economic management direction is needed to provide people and communities with a range of social and economic benefits for present and future generations. To meet the Planning Rule's requirement to provide for ecological sustainability, management direction is needed that addresses ecosystem diversity (including key ecosystem characteristics and their integrity), in light of changes in climate, federal subsistence regulations, land ownership and recreational use patterns, and threats to ecosystem integrity from invasive species and pollution sources (*e.g.* the *Exxon Valdez* oil spill). Revised plan components are needed that focus on maintaining or restoring aquatic and terrestrial ecosystems to provide for species diversity including threatened and endangered species, species of conservation concern, and species of public interest. Additionally, updates and modifications to management direction are needed to address suitability of certain areas for particular uses, address access and sustainable recreation, provide for the management of existing and anticipated uses, as well as protect resources. During the plan revision process, the 2012 Planning Rule requires the Forest Service to undertake processes to identify and evaluate existing and new designated areas including lands that may be suitable for inclusion in the National Wilderness Preservation System and eligible rivers for inclusion in the National Wild and Scenic Rivers System.

#### Proposed Action

The Forest Service is preparing the Chugach National Forest revised land management plan. The detailed proposed action is available on the Forest's Web site at: *http://go.usa.gov/cBWvQ.* The proposed action describes the strategic intent of managing the Forest for the next 10 to 15 years and provides management direction in the form of goals, desired conditions, objectives, standards, and guidelines. It identifies management areas and geographic areas across the Forest and estimates the timber sale program quantity. The proposed action describes the plan area's distinctive roles and contributions within the broader landscape, identifies watersheds that are a priority for maintenance or restoration, and identifies the suitability of national forest lands to support a variety of proposed and possible actions that may occur on the plan area over the life of the plan. The proposed action also identifies a monitoring program.

The proposed action includes plan components to maintain or restore ecological conditions that contribute to maintaining viable populations of dusky Canada goose *(Branta canadensis occidentalis),* a species of conservation concern identified for the Chugach National Forest by the Regional Forester.

#### Nature and Scope of Decision To Be Made

As the forest plan is revised, the responsible official will use the National Environmental Policy Act (NEPA)

process to develop alternatives to the proposed action and decide which alternative best promotes the ecological integrity and sustainability of the Chugach National Forest's ecosystems, watersheds, and diverse plant and animal communities. In addition, the responsible official will decide if the plan provides sufficient management guidance to contribute to social and economic sustainability, and to provide people and communities with ecosystem services and multiple uses including a range of social, economic, and ecological benefits for the present and into the future.

The responsible official will also determine whether to make new recommendations for Wilderness and other designated areas.

The revised forest plan will provide strategic direction and a framework for decision making during the life of the plan, but it will not make site-specific project decisions and will not dictate day-to-day administrative activities needed to carry on the Forest Service's internal operations. The authorization of project-level activities will be based on the direction contained in the revised forest plan, but will occur through subsequent project specific decision making, including NEPA analysis.

The revised forest plan will provide broad, strategic guidance designed to supplement, not replace, overarching laws and regulations. Though strategic guidance will be provided, no decisions will be made regarding the management of individual roads or trails, such as those that might be associated with a travel management plan under 36 CFR part 212. Some issues, although important, are beyond the authority or control of a forest plan and will not be addressed during this revision process. For example, the revision process cannot be used to modify inventoried roadless area boundaries established by the Roadless Area Conservation Rule.

**Responsible Official**

The responsible official who will approve the Record of Decision is Terri Marceron, Forest Supervisor for the Chugach National Forest, 161 East 1st Avenue, Door 8, Anchorage, AK 99501.

**Applicable Planning Rule**

Preparation of the revised forest plan for the Chugach National Forest began with the publication of a Notice of Initiation in the **Federal Register** on July 9, 2014 [79 FR 38852] and was initiated under the planning procedures contained in the 2012 Forest Service planning rule (36 CFR 219 (2012)).

**Scoping Process**

This notice of intent initiates the scoping process, which guides the development of the EIS. Written comments received in response to this notice will be analyzed to further develop the proposed revised forest plan and identify potential significant issues. Significant issues will, in turn, form the basis for developing alternatives to the proposed action.

It is important that reviewers provide their comments such that they are useful to the agency's preparation of the EIS. Comments on the proposed action will be most valuable if received within 60 days of the publication of this notice and should clearly articulate the reviewer's opinions and concerns.

Comments received in response to this solicitation, including names and addresses of those who comment, will become part of the public record. Comments submitted anonymously will be accepted and considered; however, anonymous comments will not provide the Agency with the ability to provide the respondent with subsequent environmental documents. See the section below concerning the objection process and the requirements for filing an objection.

While we are interested in all comments related to the proposed action, the Forest Service is particularly interested in receiving comments about which if any areas of the Chugach National Forest should be included in the analysis of wilderness character. The areas analyzed will form the basis for recommendations for future Wilderness designation.

**Public Participation in the Planning Process**

Beginning in March 2012, the Forest Service began to lay the foundation to engage the public about the forest plan revision process. The public and stakeholders were informed through press releases, letters and Web-based information, and the Forest Service partnered with the University of Alaska Anchorage (UAA) to hold 10 community workshops in the spring of 2012. Additionally, an online participatory mapping interface (Talking Points) was available for the public to use from April to November 2012.

On January 31, 2013, the Forest Service issued a news release announcing the beginning of the first phase of the planning process. On February 7, 2013, a legal notice was published in the Anchorage Daily News announcing the beginning of the assessment phase of the plan revision and upcoming opportunities for public engagement. Eighteen additional public meetings and workshops were held in local communities in 2013. In addition to these efforts, the Forest Service also conducted a series of targeted outreach efforts to federally recognized Alaska Native Tribes and Corporations, youth, new audiences, permittees, and neighboring landowners, including the State of Alaska, to capture stakeholder input for the assessment.

A public comment period with nine accompanying ''open house'' meetings was held in spring 2015 following publication of the following documents: Preliminary Need to Change Report; Draft Wilderness Inventory and Evaluation Report; Wild, Scenic and Recreational Rivers Evaluation Report; and a spring 2015 Plan Revision newsletter.

The public engagement strategy for early 2016 will focus on issue identification and alternative development. Engagement tools include: Keeping the Plan Revision Web page updated; notifying mailing list subscribers and interested parties when information is available; and soliciting invitations to stakeholder meetings to present additional forest plan revision information. Additional comment periods and public meetings will be scheduled to coincide with the availability of the revised forest plan and draft environmental impact statement expected in July 2016.

**Decision Will Be Subject to Objection**

The decision to approve the revised forest plan for the Chugach National Forest will be subject to the objection process identified in 36 CFR 219 Subpart B (219.50 to 219.62). According to 36 CFR 219.53(a), those who may file an objection are individuals and entities who have submitted substantive formal comments related to plan revision during the opportunities provided for public comment during the planning process.

**Documents Available for Review**

The detailed proposed action text describing preliminary desired conditions, objectives, standards, guidelines, and other plan content; the 2015 Need for Change; the 2014 Assessment; other documents that support the proposed action; and information from previous public meetings are posted on the Chugach National Forest's Web site at: *http://go.usa.gov/cBWvQ.* The material available on this site may be revised or updated at any time as part of the planning process.

**Authority:** 16 U.S.C. 1600–1614; 36 CFR part 219 [77 FR 21162–21276].

Dated: December 14, 2015.

**Alicia King,**

*Acting Forest Supervisor.*

[FR Doc. 2015–32043 Filed 12–18–15; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–962, C–570–963]**

### Certain Potassium Phosphate Salts From the People's Republic of China: Continuation of Antidumping Duty Order and Countervailing Duty Order

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

**SUMMARY:** As a result of the determinations by the Department of Commerce (''Department'') and the International Trade Commission (''ITC'') that revocation of the antidumping duty (''AD'') order on certain potassium phosphate salts (''salts'') from the People's Republic of China (''PRC'') would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing a notice of continuation of the antidumping duty order. As a result of the determinations by the Department and the ITC that revocation of the countervailing duty (''CVD'') order on salts from the PRC would likely lead to a continuation or recurrence of a countervailable subsidy and material injury to an industry in the United States, the Department is publishing a notice of continuation of the CVD order.

**DATES:** Effective Date: December 21, 2015.

**FOR FURTHER INFORMATION:** Ryan Mullen, AD/CVD Operations, Office V (AD Order), or Jacky Arrowsmith, AD/CVD Operations, Office VII (CVD Order), Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5260 or (202) 482–5255, respectively.

**SUPPLEMENTARY INFORMATION:**

## Background

On June 1, 2010, the Department published its *Final AD Determination* and *Final CVD Determination* on salts from the PRC.[1] On July 22, 2010, the Department published the *Amended Final AD Order* on salts from the PRC.[2] On June 1, 2015, the Department published the notice of initiation of the first five-year (''sunset'') review of the AD order and CVD order on salts from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (the ''Act'').[3] As a result of its reviews, the Department determined that revocation of the AD order on salts from the PRC would likely lead to a continuation or recurrence of dumping and that revocation of the CVD order on salts from the PRC would likely lead to a continuation or recurrence of a countervailable subsidy. Therefore, the Department notified the ITC of the magnitude of the margins likely to prevail should the AD order be revoked[4] and the net countervailable subsidy rates likely to prevail should the CVD order be revoked.[5] On December 10, 2015, the ITC published its determination, pursuant to section 751(c) of the Act, that revocation of the AD order and the CVD order on salts from the PRC would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[6]

## Scope of the Order

The phosphate salts covered by the scope of the order include anhydrous Dipotassium Phosphate (DKP) and Tetrapotassium Pyrophosphate (TKPP), whether anhydrous or in solution (collectively ''phosphate salts'').

TKPP, also known as normal potassium pyrophosphate, Diphosphoric acid or Tetrapotassium salt, is a potassium salt with the formula $K_4P_2O_7$. The CAS registry number for TKPP is 7320–34–5. TKPP is typically 18.7% phosphorus and 47.3% potassium. It is generally greater than or equal to 43.0% $P_2O_5$ content. TKPP is classified under heading 2835.39.1000, HTSUS.

DKP, also known as Dipotassium salt, Dipotassium hydrogen orthophosphate or Potassium phosphate, dibasic, has a chemical formula of $K_2HPO_4$. The CAS registry number for DKP is 7758–11–4. DKP is typically 17.8% phosphorus, 44.8% potassium and 40% $P_2O_5$ content. DKP is classified under heading 2835.24.0000, HTSUS.

The products covered by this order include the foregoing phosphate salts in all grades, whether food grade or technical grade. The products covered by this order also include anhydrous DKP without regard to the physical form, whether crushed, granule, powder or fines. Also covered are all forms of TKPP, whether crushed, granule, powder, fines or solution.

For purposes of the order, the narrative description is dispositive, and not the tariff heading, American Chemical Society, CAS registry number or CAS name, or the specific percentage chemical composition identified above.

## Continuation of the Order

As a result of the determinations by the Department and the ITC that revocation of the AD order would likely lead to a continuation or recurrence of dumping and that revocation of the CVD order would likely lead to continuation or recurrence of a countervailable subsidy and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the AD and CVD orders on salts from the PRC. U.S. Customs and Border Protection will continue to collect AD and CVD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the AD and CVD orders will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next sunset review of the AD order and CVD order not later than 30 days prior to the fifth anniversary of the effective date of continuation. These sunset reviews and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

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[1] *See Certain Potassium Phosphate Salts From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Termination of Critical Circumstances Inquiry,* 75 FR 30377 (June 1, 2010) (''*Final AD Determination*''); *see also Certain Potassium Phosphate Salts From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Termination of Critical Circumstances Inquiry,* 75 FR 30375 (June 1, 2010) (''*Final CVD Determination*'').

[2] *See Certain Potassium Phosphate Salts From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 75 FR 42683 (July 22, 2010) (''*Amended Final AD Order*'').

[3] *See Initiation of Five-Year (''Sunset'') Review,* 80 FR 31012 (June 1, 2015).

[4] *See Certain Potassium Phosphate Salts from the People's Republic of China: Final Results of Expedited First Sunset Review of the Antidumping Duty Order,* 80 FR 60122 (October 5, 2015) and accompanying Issues and Decision Memorandum.

[5] *See Potassium Phosphate Salts from the People's Republic of China: Final Results of Expedited First Sunset Review of the Countervailing Duty Order,* 80 FR 60121 (October 5, 2015) and accompanying Issues and Decision Memorandum.

[6] *See Potassium Phosphate Salts from China,* 80 FR 76708 (December 10, 2015); Potassium Phosphate Salts from China (Inv. Nos. 701–TA–473 and 731–TA–1173 (Review), USITC Publication 4584, December 2015).

Dated: December 15, 2015.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2015–32020 Filed 12–18–15; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Meeting of the United States Manufacturing Council

**AGENCY:** International Trade Administration, U.S. Department of Commerce.

**ACTION:** Notice of an open meeting.

**SUMMARY:** The United States Manufacturing Council (Council) will hold an open meeting via teleconference on Wednesday, January 20, 2016. The Council was established in April 2004 to advise the Secretary of Commerce on matters relating to the U.S. manufacturing industry. The purpose of the meeting is for Council members to review and deliberate on a recommendation by the Innovation, Research and Development Subcommittee focused on the National Network for Manufacturing Innovation Institutes for Manufacturing Innovation. The final agenda will be posted on the Department of Commerce Web site for the Council at *http://www.trade.gov/manufacturingcouncil/,* at least one week in advance of the meeting.

**DATES:** Wednesday, January 20, 2016, 12:00 p.m.–1:00 p.m. The deadline for members of the public to register, including requests to make comments during the meeting and for auxiliary aids, or to submit written comments for dissemination prior to the meeting, is 5 p.m. EST on January 11, 2016.

**ADDRESSES:** The meeting will be held by conference call. The call-in number and passcode will be provided by email to registrants. Requests to register (including to speak or for auxiliary aids) and any written comments should be submitted to: U.S. Manufacturing Council, U.S. Department of Commerce, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230; email: *archana.sahgal@trade.gov.* Members of the public are encouraged to submit registration requests and written comments via email to ensure timely receipt.

**FOR FURTHER INFORMATION CONTACT:** Archana Sahgal, U.S. Manufacturing Council, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: 202–482–4501, email: *archana.sahgal@trade.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background:* The Council advises the Secretary of Commerce on matters relating to the U.S. manufacturing industry.

*Public Participation:* The meeting will be open to the public and will be accessible to people with disabilities. All guests are required to register in advance by the deadline identified under the **DATES** caption. Requests for auxiliary aids must be submitted by the registration deadline. Last minute requests will be accepted, but may be impossible to fill. There will be fifteen (15) minutes allotted for oral comments from members of the public joining the call. To accommodate as many speakers as possible, the time for public comments may be limited to three (3) minutes per person. Individuals wishing to reserve speaking time during the meeting must submit a request at the time of registration, as well as the name and address of the proposed speaker. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the International Trade Administration may conduct a lottery to determine the speakers. Speakers are requested to submit a written copy of their prepared remarks by 5:00 p.m. on January 11, 2016, for inclusion in the meeting records and for circulation to the members of the U.S. Manufacturing Council.

In addition, any member of the public may submit pertinent written comments concerning the Council's affairs at any time before or after the meeting. Comments may be submitted to Archana Sahgal at the contact information indicated above. To be considered during the meeting, comments must be received no later than 5:00 p.m. EST on January 11, 2016, to ensure transmission to the Board prior to the meeting. Comments received after that date and time will be distributed to the members but may not be considered on the call. Copies of Council meeting minutes will be available within 90 days of the meeting.

Dated: December 11, 2015.

**Tricia Van Orden,**

*Office of Advisory Committees and Industry Outreach, International Trade Administration.*

[FR Doc. 2015–31945 Filed 12–18–15; 8:45 am]

**BILLING CODE 3510–DR–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–849, A–821–808, A–823–808]**

### Continuation of Antidumping Duty Order on Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China and Continuation of Suspended Antidumping Duty Investigations on Certain Cut-to-Length Carbon Steel Plate From the Russian Federation and Ukraine

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

**SUMMARY:** As a result of the respective determinations by the Department of Commerce (''the Department'') and the International Trade Commission (''ITC'') that revocation of the antidumping duty order on certain cut-to-length carbon steel plate (''CTL plate'') from the People's Republic of China (''PRC''), and the termination of the suspension agreements and the underlying antidumping duty investigations on CTL plate from the Russian Federation (''Russia'') and Ukraine (collectively, ''the Agreements''), would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing this notice of continuation of the antidumping duty order on CTL plate from the PRC and continuation of the Agreements on CTL plate from Russia and Ukraine.

**DATES:** *Effective Date:* December 21, 2015.

**FOR FURTHER INFORMATION CONTACT:** Howard Smith (PRC), David Cordell (Russia) or Julie Santoboni (Ukraine), Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–5193, (202) 482–0408 or (202) 482–3063, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Background

The Department initiated, and the ITC instituted, sunset reviews of the antidumping duty order on CTL plate from the PRC and the Agreements on CTL plate from Russia and Ukraine, pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). *See Initiation of Five-year (''Sunset'') Reviews,* 79 FR 59216 (October 1, 2014) and *Cut-To-Length Carbon Steel Plate From China, Russia, and Ukraine: Notice of Commission Determinations to Conduct Full Five-Year Reviews,* 80 FR 2443 (January 16, 2015).

As a result of its reviews, pursuant to sections 751(c) and 752 of the Act, the Department determined that revocation of the antidumping duty order on CTL plate from the PRC and termination of the Agreements on CTL plate from Russia and Ukraine would likely lead to a continuation or recurrence of dumping and notified the ITC of the magnitude of the margins likely to prevail, should the order and the Agreements be revoked or terminated, respectively. *See Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China: Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order,* 80 FR 6051 (February 4, 2015), *Certain Cut-to-Length Carbon Steel Plate from the Russian Federation and Ukraine; Final Results of the Expedited Third Sunset Reviews of the Suspension Agreements,* 80 FR 6052 (February 4, 2015).

On December 9, 2015, pursuant to section 751(c) of the Act, the ITC determined that revocation of the antidumping duty order on CTL plate from the PRC and termination of the Agreements on CTL plate from Russia and Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Cut-to-Length Carbon Steel Plate From China, Russia, and Ukraine,* 80 FR 76575 (December 9, 2015).

Therefore, pursuant to section 351.218(f)(4) of the Department's regulations, the Department is publishing this notice of the continuation of the antidumping duty order on CTL plate from the PRC and continuation of the Agreements on CTL plate from Russia and Ukraine.

**Scope**

The products covered under the antidumping duty order and the Agreements are hot-rolled iron and non-alloy steel universal mill plates (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain iron and non-alloy steel flat-rolled products not in coils, of rectangular shape, hot-rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Included as subject merchandise in this order and these Agreements are flat-rolled products of nonrectangular cross- section where such cross-section is achieved subsequent to the rolling process (*i.e.,* products which have been ''worked after rolling'')—for example, products which have been bevelled or rounded at the edges. This merchandise is currently classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000. Excluded from the subject merchandise within the scope of this order and these Agreements is grade X–70 plate. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order and the Agreements is dispositive.

**Continuation**

As a result of the respective determinations by the Department and the ITC that revocation of the antidumping duty order on CTL plate from the PRC and termination of the Agreements on CTL plate from Russia and Ukraine would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby gives notice of the continuation of the antidumping duty order on CTL plate from the PRC and the continuation of the Agreements on CTL plate from Russia and Ukraine. The effective dates of continuation will be the date of publication in the **Federal Register** of this Continuation Notice. Pursuant to sections 751(c)(2) and 751(c)(6) of the Act, the Department intends to initiate the next five-year sunset reviews of the antidumping duty order on CTL plate from the PRC and the Agreements on CTL plate from Russia and Ukraine not later than November 2019.

These five-year (sunset) reviews and notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: December 15, 2015.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2015–32022 Filed 12–18–15; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Application(s) for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before (Insert date 20 days after publication in the **Federal Register**). Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. at the U.S. Department of Commerce in Room 3720.

Docket Number: 15–048. Applicant: Battelle/Pacific Northwest National Laboratory, 790 6th Street, Richland, WA 99352. Instrument: Electron Microscope. Manufacturer: FEI, Co., Czech Republic. Intended Use: The instrument will be used to study radioactive ceramic and metallic materials including irradiated fuel-type materials. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: October 30, 2015.

Docket Number: 15–050. Applicant: Rutgers University, 89 French Street, New Brunswick, NJ 08901. Instrument: Junior Micromanipulator unit with remote control system, shifting table and chamber unit parts. Manufacturer: Luigs & Neumann, Germany. Intended Use: The instrument will be used to simultaneously measure the microscopic electric signals generated from neurons, specifically the patch-clamp whole cell recordings from neurons, to identify specific alterations in synaptic transmission that leads to neuropsychiatric or neurological disorders. The instrument is a highly flexible, highly precise system, offering the highest mechanical resolution and smoothest movement because of its patented spindle nut system, which guarantees a unique and extraordinary stability for long term recordings. The step motor is decoupled preventing a thermal bridge from the motor to the machine and also prevents vibration

during movement. The experiments require high precision equipment to precisely determine the measurement of voltage in the mV range and current in the pA range. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: October 30, 2015.

Docket Number: 15–053. Applicant: University of California at San Diego, 9500 Gilman Drive, MC 0651, GPL Building, Room H204, La Jolla, CA 92093–0651. Instrument: Electron Microscope. Manufacturer: FEI Company, the Netherlands. Intended Use: The instrument will be used to determine three-dimensional structures of macromolecules to understand their normal functions in the cell and thus how these functions are altered in disease states. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: November 2, 2015.

Dated: December 14, 2015.

**Gregory W. Campbell,**

*Director of Subsidies Enforcement, Enforcement and Compliance.*

[FR Doc. 2015–31999 Filed 12–18–15; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XE349**

### Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meeting

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

**ACTION:** Workshop to discuss design considerations for a potential citizen science program.

**SUMMARY:** The South Atlantic Fishery Management Council (Council) is considering developing a comprehensive citizen science program. This workshop will be convened to consider program goals and design, and gather input from constituents and potential regional partners and collaborators. See **SUPPLEMENTARY INFORMATION**.

**DATES:** The workshop will be held 1 p.m.–6 p.m., Tuesday, January 19, 2016; 8:30 a.m.–6 p.m., Wednesday, January 20, 2016; and 8:30 a.m.–5 p.m., Thursday, January 21, 2016.

**ADDRESSES:** The meeting will be held at the Town and Country Inn, 2008 Savannah Highway, Charleston, SC 29407; phone: (843) 571–1000.

*Council address:* South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

**FOR FURTHER INFORMATION CONTACT:** John Carmichael, Science and Statistics Program Manager, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: *john.carmichael@safmc.net.*

**SUPPLEMENTARY INFORMATION:** Citizen science is a growing field in which trained members of the public collaborate and engage with scientists in the inquiry and discovery of new knowledge. Public participation in scientific research advances science, research, and policy and fosters an informed and engaged citizenship. The Council recognizes the desire of constituents to get involved and the need to have a well-designed program and accompanying sampling protocols to ensure that information collected through such efforts is useful. To meet this growing need, the Council intends to develop a comprehensive Citizen Science Program. The first step in this process is a workshop where interested citizens, fisheries managers and scientists, and citizen science practitioners will gather to develop recommendations for designing such a program. The product of this workshop will be a report to the Council addressing the workshop goals. The Council provided the following goals for the workshop:

1. Document and evaluate existing citizen science and cooperative research experiences;
2. Identify existing funding opportunities;
3. Develop objectives for the South Atlantic Citizen Science Program;
4. Develop a framework for achieving program objectives, considering:
   (a) Research and monitoring activities appropriate for citizen science;
   (b) Funded and unfunded opportunities and avenues to support citizen science;
   (c) The full range of data needs;
   (d) Potential web-based platforms;
   (e) Outreach and education needs, short and long term; and
   (f) Governance, including ongoing staff support, management, and oversight
5. Develop a prioritized list of citizen science project candidates, and identify 2–5 high priority projects that could be implemented within 1 year of the workshop.

Discussion topics for consideration at this workshop:

1. Introduction to citizen science.
2. Selected citizen science case studies.
3. Identifying potential projects for the South Atlantic.
4. Design requirements and attributes of successful projects.
5. Recommendations addressing workshop goals.

**Special Accommodations**

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 10 business days prior to the meeting.

**Note:** The times and sequence specified in this agenda are subject to change.

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

Dated: December 16, 2015.

**Tracey L. Thompson,**

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

[FR Doc. 2015–31946 Filed 12–18–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XE359**

### Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meetings

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

**ACTION:** Notice of SEDAR 41 Assessment Webinar 4, 5 and 6.

**SUMMARY:** The SEDAR 41 assessments of the South Atlantic stocks of red snapper and gray triggerfish will consist of a series of workshop and webinars: Data Workshops; an Assessment Workshop and webinars; and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

**DATES:** SEDAR 41 Assessment Webinar 4 will be held on Monday, January 11, 2016, from 9 a.m. until 1 p.m.; Assessment Webinar 5 will be held on Wednesday, January 27, 2016, from 1 p.m. until 5 p.m.; and Assessment Webinar 6 will be held on Wednesday, February 17, 2016, from 1 p.m. until 5 p.m.

**ADDRESSES:**

*Meeting address:* The meetings will be held via webinar. Each webinar is open to members of the public. Those interested in participating should contact Julia Byrd at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

*SEDAR address:* South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405; *www.sedarweb.org*.

**FOR FURTHER INFORMATION CONTACT:** Julia Byrd, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571–4366; email: *julia.byrd@safmc.net*.

**SUPPLEMENTARY INFORMATION:** The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop; (2) Assessment Process utilizing webinars; and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include: Data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion in the Assessment webinar are as follows:

Participants will discuss any remaining modeling issues from the Assessment Workshop.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

### Special Accommodations

These meetings are accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 10 business days prior to the meeting.

**Note:** The times and sequence specified in this agenda are subject to change.

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

Dated: December 16, 2015.

**Tracey L. Thompson,**

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

[FR Doc. 2015–31947 Filed 12–18–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XE360**

### Fisheries of the Caribbean; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

**ACTION:** Notice of SEDAR 46 post-workshop webinar II for Caribbean Data-limited Species.

**SUMMARY:** The SEDAR 46 assessment of the Caribbean Data-limited Species will consist of one in-person workshop and a series of webinars. See **SUPPLEMENTARY INFORMATION**.

**DATES:** The SEDAR 46 post-workshop webinar II will be held from 1 p.m. to 3 p.m. on January 11, 2016.

**ADDRESSES:**

*Meeting address:* The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

*SEDAR address:* 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

**FOR FURTHER INFORMATION CONTACT:** Julie A. Neer, SEDAR Coordinator; phone: (843) 571–4366; email: *Julie.neer@safmc.net.*

**SUPPLEMENTARY INFORMATION:** The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data/Assessment Workshop, and (2) a series of webinars. The product of the Data/Assessment Workshop is a report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses, and describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion in the Assessment Process webinars are as follows:

1. Using datasets and initial assessment analysis recommended from the In-person Workshop, panelists will employ assessment models to evaluate stock status, estimate population benchmarks and management criteria, and project future conditions.

2. Participants will recommend the most appropriate methods and configurations for determining stock

status and estimating population parameters.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 10 business days prior to each workshop.

**Note:** The times and sequence specified in this agenda are subject to change.

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

Dated: December 16, 2015.

**Tracey L. Thompson,**

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

[FR Doc. 2015–31948 Filed 12–18–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Docket ID: DoD–2015–OS–0116]**

### Privacy Act of 1974; System of Records

**AGENCY:** Office of the Secretary of Defense, DoD.

**ACTION:** Notice to alter a System of Records.

**SUMMARY:** The Office of the Secretary of Defense proposes to alter a system of records, DMDC 16 DoD, entitled ''Interoperability Layer Service (IoLS)'' to evaluate individuals' eligibility for access to DoD facilities or installations and implement security standards controlling entry to DoD facilities and installations. This process includes vetting to determine the fitness of an individual requesting or requiring access, issuance of local access credentials for members of the public requesting access to DoD facilities and installations, and managing and providing updated security and credential information on these individuals. To ensure that identity and law enforcement information is considered when determining whether to grant physical access to DoD facilities and installations.

**DATES:** Comments will be accepted on or before January 20, 2016. This proposed action will be effective the date following the end of the comment period unless comments are received which result in a contrary determination.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.*

Follow the instructions for submitting comments.

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

**FOR FURTHER INFORMATION CONTACT:** Ms. Cindy Allard, Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Service, 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0461.

**SUPPLEMENTARY INFORMATION:** The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy and Civil Liberties Division Web site at *http://dpcld.defense.gov/.*

The proposed system report, as required by U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on October 29, 2015, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: December 2, 2015.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**DMDC 16 DoD**

**SYSTEM NAME:**

Interoperability Layer Service (IoLS) (February 27, 2014, 79 FR 11091)

**CHANGES:**

* * * * *

**SYSTEM NAME:**

Delete entry and replace with ''Identity Management Engine for Security and Analysis (IMESA)''

* * * * *

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Delete entry and replace with ''Any individual seeking access to a DoD facility or installation, and all individuals with felony warrants listed in the Federal Bureau of Investigation's (FBI) National Crime Information Center's (NCIC) Wanted Person File, all individuals maintained in the NCIC National Sex Offender Registry (NSOR) File and all individuals maintained in the FBI's Terrorist Screening Database (TSDB) records.''

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Delete entry and replace with ''Information on individuals identified in the IMESA Interoperability Layer Service (IoLS) DoD Population Database: DoD ID number, Social Security Number (SSN), last name, date of birth, credential type, issuance, and expiration information; and security alert information (alert type, alert source, case number).

Information on individuals identified in the IMESA IoLS Local Population Database: Full name; date of birth; SSN; Local Population identifier; foreign national ID; gender; race; citizenship information; contact information (*e.g.,* home or work mailing address, personal phone, work phone); physical features (height, weight, eye color, hair color); biometrics (photograph and fingerprints); credential type, issuance, and expiration information; security alert information (alert type, alert source, case number); and secondary identification such as a driver's license or passport.

The following will be included for individuals about whom records are maintained in the FBI's NCIC Wanted Person File, FBI's NCIC NSOR File, and FBI's TSDB records: Identity information (to include alternate identity information): SSN; full name; gender; race; ethnicity; address; place of

birth; date of birth; citizenship; physical features (height, weight, eye color, hair color or other identifying characteristics); vehicle/vessel license information; want/warrant type, time, location, and case number of offense, violation or incident; extradition limitations; incarceration information; employment information; vehicle, vessel, aircraft and/or train information; caution and medical condition indicators.''

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Delete entry and replace with ''10 U.S.C. 113, Secretary of Defense; DoD Directive 1000.25, DoD Personnel Identity Protection (PIP) Program; DoD Instruction 5200.08, Security of DoD Installations and Resources and the DoD Physical Security Review Board (PSRB); DoD 5200.08–R, Physical Security Program; DoD Directive 5200.27, Acquisition of Information Concerning Persons and Organizations not Affiliated with the Department of Defense (Exception to policy memos); Directive-Type Memorandum (DTM) 09–012, Interim Policy Guidance for DoD Physical Access Control; DTM 14–005, DoD Identity Management Capability Enterprise Services Application (IMESA) Access to FBI National Crime Information Center (NCIC) Files; and E.O. 9397 (SSN), as amended.''

* * * * *

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Delete entry and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

**LAW ENFORCEMENT ROUTINE USE:**

If a system of records maintained by a DoD Component to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the agency concerned, whether federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

**CONGRESSIONAL INQUIRIES DISCLOSURE ROUTINE USE:**

Disclosure from a system of records maintained by a DoD Component may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

**DISCLOSURE TO THE DEPARTMENT OF JUSTICE FOR LITIGATION ROUTINE USE:**

A record from a system of records maintained by a DoD Component may be disclosed as a routine use to any component of the Department of Justice for the purpose of representing the Department of Defense, or any officer, employee or member of the Department in pending or potential litigation to which the record is pertinent.

**DISCLOSURE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION ROUTINE USE:**

A record from a system of records maintained by a DoD Component may be disclosed as a routine use to the National Archives and Records Administration for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

**DATA BREACH REMEDIATION PURPOSES ROUTINE USE:**

A record from a system of records maintained by a Component may be disclosed to appropriate agencies, entities, and persons when (1) The Component suspects or has confirmed that the security or confidentiality of the information in the system of records has been compromised; (2) the Component has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Component or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Components efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

The DoD Blanket Routine Uses set forth at the beginning of the Office of the Secretary of Defense (OSD) compilation of systems of records notices may apply to this system. The complete list of DoD Blanket Routine Uses can be found online at: *http://dpcld.defense.gov/Privacy/SORNsIndex/BlanketRoutineUses.aspx*

* * * * *

**SAFEGUARDS:**

Delete entry and replace with ''Access to these records is role-based and is limited to those individuals requiring access in the performance of their official duties. Audit logs will be maintained to document access to data. All data transfers and information retrievals using remote communication facilities are encrypted. Access to individual records requires role-based access and use of a Common Access Card (CAC) and PIN. Records are maintained in encrypted databases in a controlled area accessible only to authorized personnel. Entry to these areas is restricted by the use of locks, guards, and administrative procedures. All individuals granted access to this system of records are to receive Information Assurance and Privacy Act training annually.''

**RETENTION AND DISPOSAL:**

Delete entry and replace with ''Records will be destroyed five (5) years after no access by all DoD Physical Access Control Systems (PACS) associated to that individual OR after all PACS have submitted a de-registration request for the individual.''

* * * * *

[FR Doc. 2015–31867 Filed 12–18–15; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Defense Policy Board; Notice of Federal Advisory Committee Meeting

**AGENCY:** Department of Defense, Office of the Under Secretary of Defense (Policy).

**ACTION:** Federal Advisory Committee Meeting Notice.

**SUMMARY:** The Department of Defense (DoD) is publishing this notice to announce the following Federal advisory committee meeting of the Defense Policy Board (DPB). This meeting will be closed to the public.

**DATES:** *Quarterly Meeting:* Monday, January 11, 2016, from 8:30 a.m. to 5:00 p.m. and Tuesday, January 12, 2016, from 7:00 a.m. to 10:00 a.m.

**ADDRESSES:** The Pentagon, 2000 Defense Pentagon, Washington, DC 20301–2000.

**FOR FURTHER INFORMATION CONTACT:** Ms. Ann Hansen, 2000 Defense Pentagon, Washington, DC 20301–2000. Phone: (703) 571–9232.

**SUPPLEMENTARY INFORMATION:** This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5

U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended) (''the Sunshine Act''), and the Federal Advisory Committee Management Act; Final Rule 41 CFR parts 101–6 and 102–3 (''the FACA Final Rule'').

*Purpose of Meeting:* To obtain, review and evaluate classified information related to the DPB's mission to advise on: (a) Issues central to strategic DoD planning; (b) policy implications of U.S. force structure and force modernization and on DoD's ability to execute U.S. defense strategy; (c) U.S. regional defense policies; and (d) other research and analysis of topics raised by the Secretary of Defense, the Deputy Secretary or the Under Secretary of Defense for Policy.

*Meeting Agenda:* Beginning at 8:30 a.m. on January 11 through the end of the meeting on January 12, the DPB will have secret through top secret (SCI) level discussions on national security issues regarding Turkey.

*Meeting Accessibility:* Pursuant to the Sunshine Act and the FACA Final Rule, the Department of Defense has determined that this meeting shall be closed to the public. The Under Secretary of Defense (Policy), in consultation with the DoD FACA Attorney, has determined in writing that this meeting be closed to the public because the discussions fall under the purview of section 552b(c)(1) of the Sunshine Act and are so inextricably intertwined with unclassified material that they cannot reasonably be segregated into separate discussions without disclosing secret or higher classified material.

*Committee's Designated Federal Officer or Point of Contact:* Ann Hansen, *osd.pentagon.ousd-policy.mbx.defense-board@mail.mil.*

*Written Statements:* Pursuant to 41 CFR 102–3.105(j) and 102–3.140(c) and section 10(a)(3) of the FACA, the public or interested organizations may submit written statements to the membership of the DPB at any time regarding its mission or in response to the stated agenda of a planned meeting. Written statements should be submitted to the DPB's Designated Federal Officer (DFO); the DFO's contact information is listed in this notice or it can be obtained from the GSA's FACA Database—*http://facadatabase.gov/.*

Written statements that do not pertain to a scheduled meeting of the DPB may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than five business days prior to the meeting in question. The DFO will review all submitted written statements and provide copies to all committee members.

Dated: December 16, 2015.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2015–31985 Filed 12–18–15; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2015–ICCD–0143]**

### Agency Information Collection Activities; Comment Request; Health Education Assistance Loan (HEAL).

**AGENCY:** Federal Student Aid (FSA), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before February 19, 2016.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2015–ICCD–0143. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E103, Washington, DC 20202–4537.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Health Education Assistance Loan (HEAL).

*OMB Control Number:* 1845–0126.

*Type of Review:* An extension of an existing information collection.

*Respondents/Affected Public:* Private Sector.

*Total Estimated Number of Annual Responses:* 390.

*Total Estimated Number of Annual Burden Hours:* 205.

*Abstract:* Section 525 of the Consolidated Appropriations Act of 2014 transferred the collection of HEAL program loans from the U.S. Department of Health and Human Services (HHS) to the U.S. Department of Education (Department). The pertinent information collections were transferred from HHS to the Department and the forms were updated with new contact information and numbers. This is a request for an extension of the information collection for forms HEAL 502–1 and 502–2, HEAL repayment schedules and form HEAL 512, Holder's Report on HEAL program loans. The forms 502–1 and 502–2 provide the borrowers with any updated repayment schedule including the cost of the loan, number and amount of payments with Truth-in-Lending disclosures. The form 512 is prepared quarterly and provides information on the status of outstanding loans such as the number of borrowers by stage of loan life-cycle, repayment status and the corresponding dollars.

Dated: December 16, 2015.

**Kate Mullan,**

*Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.*

[FR Doc. 2015–31998 Filed 12–18–15; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

### Application for New Awards; Indian Education Formula Grants to Local Educational Agencies

**AGENCY:** Office of Elementary and Secondary Education, Department of Education.

**ACTION:** Notice.

*Overview Information:*

Indian Education Formula Grants to Local Educational Agencies

Notice inviting applications for new awards for fiscal year (FY) 2016.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.060A.

*Dates:*

Part I of the Formula Grant Electronic Application System for Indian Education (EASIE) Applications Available: January 25, 2016.

Deadline for Transmittal of Part I Applications: February 26, 2016.

Part II of the Formula Grant EASIE Applications Available: April 11, 2016.

Deadline for Transmittal of Part II Applications: May 13, 2016.

**Note:** Applicants must meet the deadlines for both EASIE Part I and Part II to receive a grant. Any application not meeting the Part I and Part II deadlines will not be considered for funding. Failure to submit the required supplemental documentation, described under *Content and Form of Application Submission* in section IV of this notice, by the EASIE Parts I and II deadlines will result in an incomplete application that will not be considered for funding. The Office of Indian Education recommends uploading the documentation at least three days prior to each closing date to ensure that any potential submission issues are resolved prior to the deadlines.

#### I. Funding Opportunity Description

*Purpose of Program:* The Indian Education Formula Grants to Local Educational Agencies (Formula Grants) program provides grants to support local educational agencies (LEAs) and other eligible entities described in this notice in reforming and improving elementary and secondary school programs that serve Indian students. The Department funds comprehensive programs that are designed to help Indian students meet the same State academic content and student academic achievement standards used for all students while addressing the language and cultural needs of Indian students. Such programs include supporting the professional development of teachers of Indian students.

In addition, under section 7116 of the Elementary and Secondary Education Act of 1965, as amended (ESEA), the Secretary will, upon receipt of an acceptable plan for the integration of education and related services, and in cooperation with other relevant Federal agencies, authorize the entity receiving the funds under this program to consolidate all Federal formula funds that are to be used exclusively for Indian students. Instructions for submitting an integration of education and related services plan are included in the EASIE, which is described under *Application Process and Submission Information* in section IV of this notice.

**Note:** Under the Formula Grants program, applicants are required to develop the project for which an application is made: (a) In open consultation with parents and teachers of Indian students and, if appropriate, Indian students from secondary schools, including through public hearings held to provide a full opportunity to understand the program and to offer recommendations regarding the program (section 7114(c)(3)(C) of the ESEA); (b) with the participation of a parent committee selected in accordance with section 7114(c)(4) of the ESEA; and (c) with the written approval of that parent committee (section 7114(c)(4) of the ESEA).

*Program Authority:* 20 U.S.C. 7421 *et seq.*

*Applicable Regulations:* (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 81, 82, 84, 97, 98, and 99. (b) The Office of Management and Budget 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.

**Note:** The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

#### II. Award Information

*Type of Award:* Formula grants.

*Estimated Available Funds:* $100,381,000.

*Estimated Range of Awards:* $4,000 to $3,144,787.

*Estimated Average Size of Awards:* $78,213.

*Estimated Number of Awards:* 1,300.

**Note:** The Department is not bound by any estimates in this notice.

*Project Period:* 12 months.

#### III. Eligibility Information

1. *Eligible Applicants:* Certain LEAs, including charter schools authorized as LEAs under State law, as prescribed by section 7112(b) of the ESEA; certain schools funded by the Bureau of Indian Education of the U.S. Department of the Interior, as prescribed by section 7113(d) of the ESEA; and Indian tribes under certain conditions, as prescribed by section 7112(c) of the ESEA.

2. a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Supplement-Not-Supplant:* This program involves supplement-not-supplant funding requirements. Section 7114(c)(1) of the ESEA requires an LEA to use these grant funds only to supplement the funds that, in the absence of these Federal funds, such agency would make available for the education of Indian children, and not to supplant such funds.

#### IV. Application and Submission Information

1. *How to Request an Application Package:* You can obtain a login and password for the electronic application for grants under this program by contacting the EdFacts Partner Support Center listed under *Agency Contacts* in section VI of this notice.

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 EDFacts Partner Support Center listed under *Agency Contacts* in section VI 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 EASIE.

a. *Supplementary Documentation:* The EASIE application requires the electronic Portable Document Format (PDF) submission of the following supplementary documentation:

(i) In EASIE Part I, applicants that are tribes must upload their verification of eligibility no later than the deadline for transmittal of EASIE Part I, which is February 26, 2016. The details of the verification process, which is necessary to meet the statutory eligibility requirements for tribes, are in the application package. Tribes may use the sample agreement for Tribes Applying in Lieu of LEAs, which is available in EASIE as a downloadable document, as a guide.

(ii) In EASIE Part I, an applicant that is the lead LEA for a consortium of LEAs must upload a consortium agreement that meets the requirements of 34 CFR 75.128(b) no later than the deadline for transmittal of EASIE Part I, which is February 26, 2016. The consortium may use the sample agreement, which is available in EASIE as a downloadable document, as a guide.

(iii) In EASIE Part II, an applicant that is an LEA or consortia of LEAs must upload the Indian Parent Committee Approval form no later than the deadline for transmittal of EASIE Part II, which is May 13, 2016. The required form is available in EASIE.

3. *Submission Dates and Times:*

Part I of the Formula Grant EASIE Applications Available: January 25, 2016.

Deadline for Transmittal of Part I Applications: February 26, 2016, 8:00:00 p.m., Washington, DC time.

Part II of the Formula Grant EASIE Applications Available: April 11, 2016.

Deadline for Transmittal of Part II Applications: May 13, 2016, 8:00:00 p.m., Washington, DC time.

Part III Formula Grant EASIE Annual Performance Report (APR) Available: September 19, 2016.

Deadline for Transmittal of Part III APR: October 21, 2016, 8:00:00 p.m., Washington, DC time.

Applications and the APR for grants under this program must be submitted electronically using EASIE. 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 requirements, 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 VI 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.

Below are tables summarizing the FY 2016 EASIE deadlines for Part I, Part II and Part III, the APR.

| Entity type | Requirement | Open date | Close/due date |
|---|---|---|---|
| All Applicants | EASIE Part I | Jan 25, 2016 | Feb 26, 2016, 8:00:00 p.m., Washington, DC time |
| Tribe in Lieu of LEA(s) | Upload Tribes Applying in Lieu of LEAs Agreement. | Jan 25, 2016 | Feb 26, 2016, 8:00:00 p.m., Washington, DC time |
| LEA Consortium | Upload Consortium Agreement | Jan 25, 2016 | Feb 26, 2016, 8:00:00 p.m., Washington, DC time |

Applicants must meet the deadlines for Part I to be eligible to complete Part II of the application process.

| Entity type | Requirement | Open date | Close/due date |
|---|---|---|---|
| All Applicants | EASIE Part II | Apr 11, 2016 | May 13, 2016, 8:00:00 p.m., Washington, DC time |
| All LEA (and Consortia) Applicants | Upload Indian Parent Committee Approval Form. | Apr 11, 2016 | May 13, 2016, 8:00:00 p.m., Washington, DC time |

Grantees receiving grants in FY 2016 must also complete Part III, the APR.

| Entity type | Requirement | Open date | Close/due date |
|---|---|---|---|
| All Grantees | EASIE Part III | Sep 19, 2016 | Oct 21, 2016, 8:00:00 p.m., Washington, DC time |

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* We reference additional regulations outlining funding restrictions under *Applicable Regulations* in section I 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.*

7. *Other Submission Requirements:* Applications for grants under this program 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 Formula Grants program, CFDA number 84.060A, must be submitted electronically using the EASIE application located in the EDF*acts* System Portal at *https://eden.ed.gov.*

Applications submitted in paper format will be rejected unless you qualify for one of the exceptions to the electronic submission requirement described later in this section under *Exception to Electronic Submission Requirement,* and follow the submission rules outlined therein.

*Electronic Application System for Indian Education (EASIE):* EASIE is an easy-to-use, electronic application found in the Ed*Facts* System Portal at *https://eden.ed.gov.*

The EASIE application is divided into three parts.

Part I, Student Count, provides the appropriate data-entry screens to submit your verified Indian student count totals. All applicants must submit a current Indian student count for FY 2016. Applicants must use the Indian Student Eligibility Certification Form (ED 506 Form) to document eligible Indian students; however Bureau of Indian Education schools may use either Indian School Equalization Program (ISEP) count or ED 506 Form count to verify Indian student count.

Applicants that are either an LEA or a tribe must document their Indian student counts by completing the following procedures: (1) The LEA or tribe must submit an ED 506 Form for each Indian child included in the count; (2) all ED 506 Forms included in the count must be completed, signed, and dated by the parent, and be on file with the LEA or tribe; (3) the LEA or tribe must maintain a copy of the student enrollment roster(s) covering the same period of time indicated in the application as the ''count period,'' and (4) each Indian child included in the count must be listed on the LEA's enrollment roster(s) for at least one day during the count period.

Bureau of Indian Education schools will be required to enter either their ISEP count or ED 506 Form count as an Indian student count in Part I of the application.

In Part I, applicants will indicate the time span for the project objectives and corresponding activities and services for American Indian/Alaska Native (AI/AN) students. Applicants can choose to set objectives that remain the same for up to four years in order to facilitate data collection and enhance long-term planning. Grantees that have previously established multiyear project objectives will not have to re-enter information in EASIE Part II if they have no changes to their project objectives, activities, or coordination of services. Grantees that previously established multiyear project objectives and would like to change the objectives, activities, or coordination of services for FY 2016 will need to indicate in Part I the duration of the new selections.

In EASIE Part II, new applicants or applicants making changes to either the objectives, activities, or coordination of services must: (1) Identify, from a list of possible programs (*e.g.,* ESEA title I), the programs in the school district that are currently coordinated with a title VII project, or with which the school district plans to coordinate during the project year, in accordance with the statutory requirement to provide a comprehensive program that includes other Federal, State, and local funds; (2) describe the coordination of services for AI/AN students and identify specific project objectives towards the goal of providing culturally responsive education for AI/AN students to meet their academic needs and help them meet State achievement standards and choose the data sources that will be used to measure progress towards meeting project objectives, and on which you will report in the APR after the grant year closes; and (3) submit a realistic program budget based on the estimated grant amount that the EASIE system calculates from the Indian student count you submitted in EASIE Part I. After the initial grant amounts are determined, additional funds may become available due to such circumstances as withdrawn applications or reduction in an applicant's student count. An applicant whose award amount increases or decreases more than $1,000 must submit a revised budget prior to receiving its grant award but will not need to re-certify its application. For an applicant that receives an increase or decrease in its award of less than $1,000, there will be no need for further action. For any applicant that receives notification of an increased award amount following submission of its original budget, the applicant must allocate the increased amount only to previously approved budget categories.

In EASIE Part III, grantees must submit a performance report. More information on annual performance reporting is provided later in section V. of this notice, titled *Grant Administration Information* under part 3. *Reporting.*

*Registration for Formula Grant EASIE:* Current, former, and new applicants interested in submitting an Indian Education Formula Grant EASIE application must register for Formula Grant EASIE. Entities are encouraged to register as soon as possible at the registration Web site *www.easie.org,* to ensure that any potential registration issues are resolved prior to the deadline for the submission of an application. Through this initial registration, an entity activates or re-activates access to EASIE and ensures that the correct entity information (*e.g.,* NCES or DUNS numbers) is pre-populated into the first part of Formula Grant EASIE. Registration at this Web site *does not* serve as the entity's grant application. For assistance registering, contact the EDFacts Partner Support Center listed under *Agency Contacts* in section VI of this notice.

*Certification for Formula Grant EASIE:* The applicant's authorized representative, who must be authorized by the applicant/able to legally bind the applicant, must certify Part I, Part II and

Part III of EASIE. Only users with the role type ''managing user'' or ''certifying official user'' in the EASIE system can certify an application. The certification process ensures that the information in the application is true, reliable, and valid. An applicant that provides a false statement in the application is subject to penalties under the False Claims Act, 18 U.S.C. 1001.

*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 EASIE system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload documents to the EASIE system; *and*
- No later than two weeks before the application deadline date for Part I (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: Bernard Garcia, U.S. Department of Education, Office of Indian Education, 400 Maryland Avenue SW., Room 3W115, Washington, DC 20202–6335. FAX: (202) 205–0606.

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 dates for both Part I and Part II, to the Department at the following address: U.S. Department of Education, Office of Indian Education, Attention: CFDA Number 84.060A, 400 Maryland Avenue SW., Room 3W115, Washington, DC 20202–6335.

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 for Part I or Part II.

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 dates for both Part I and Part II, to the Department at the following address: U.S. Department of Education, Office of Indian Education, Attention: CFDA Number 84.060A, 400 Maryland Avenue SW., Room 3W115, Washington, DC 20202–6335.

The program office 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 program office will mail 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 contact the program office at (202) 260–3774.

## V. Grant Administration Information

1. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special 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.

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 a grant in the *Applicable Regulations* section of this notice.

3. *Reporting:* (a) If you apply for a grant under this program, 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. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) You must submit a performance report using the EDF*acts* System Portal at *https://eden.ed.gov,* including financial information, as directed by the Secretary, within 90 days after the close of the grant year. The performance report is located within EASIE as Part III.

(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:* The Secretary has established the following key performance measures for assessing the effectiveness and efficiency of the Formula Grants program: (1) The percentage of AI/AN students in grades four and eight who score at or above the basic level in reading on the National Assessment of Educational Progress (NAEP); (2) the percentage of AI/AN students in grades four and eight who score at or above the basic level in mathematics on the NAEP; (3) the percentage of AI/AN students in grades three through eight meeting State performance standards by scoring at the proficient or the advanced levels in reading and mathematics on State assessments; (4) the difference between the percentage of AI/AN students in grades three through eight at the proficient or advanced levels in reading and mathematics on State assessments and the percentage of all students scoring at those levels; (5) the

percentage of AI/AN students who graduate from high school; and (6) the percentage of funds used by grantees prior to award close-out.

## VI. Agency Contacts

**FOR FURTHER INFORMATION CONTACT:** For questions about the Formula Grants program, contact Bernard Garcia, U.S. Department of Education, 400 Maryland Avenue SW., Room 3W115, Washington, DC 20202–6335. Telephone: (202)260–1454 or by email: *Bernard.Garcia@ed.gov*. For questions about the EASIE application and uploading documentation, contact the EDFacts Partner Support Center, telephone: 877–457–3336 (877–HLP–EDEN) or by email at: *eden_OIE@ed.gov*.

If you use a telecommunications device for the deaf or a text telephone, call the EDFacts Partner Support Center, toll free, at 1–888–403–3336 (888–403–EDEN).

## VII. 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 EDFacts Partner Support Center listed under *Agency Contacts* in section VI of this notice.

*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 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: December 15, 2015.

**Ann Whalen,**

*Delegated the authority to perform the functions and duties of Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. 2015–32012 Filed 12–18–15; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2015–ICCD–0123]**

## Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Educational Quality Through Innovative Partnerships (EQUIP) Experimental Sites Initiative

**AGENCY:** Federal Student Aid (FSA), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

**DATES:** Interested persons are invited to submit comments on or before January 20, 2016.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2015–ICCD–0123. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E103, Washington, DC 20202–4537.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Educational Quality through Innovative Partnerships (EQUIP) Experimental Sites Initiative.

*OMB Control Number:* 1845—NEW.

*Type of Review:* A new information collection.

*Respondents/Affected Public:* Private Sector, State, Local and Tribal Governments.

*Total Estimated Number of Annual Responses:* 20.

*Total Estimated Number of Annual Burden Hours:* 1,500.

*Abstract:* The Department of Education (the Department) is requesting this new information collection package to provide for a series of questions that are components of the selection process for a new Federal Student Aid experimental site project. The Educational Quality through Innovative Partnerships (EQUIP) project is being undertaken in order to advance the Department's understanding of how to best increase access to high quality innovative programs in higher education. An invitation to participate and an explanation of this proposed experimental site was published separately in the **Federal Register**. This experimental site project is designed to explore ways to increase access for low-income students to high-quality innovate programs in higher education through the engagement of institutions of higher education (IHEs) with non-IHE providers and quality assurance entities that can develop new quality assurance processes for student and taxpayer protection. The data and information collected can provide valuable guidance for the Department in determining future policy in these areas.

Dated: December 16, 2015.

**Kate Mullan,**

*Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.*

[FR Doc. 2015–31944 Filed 12–18–15; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2015–ICCD–0122]**

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Student Assistance General Provisions—Non-Title IV Revenue Requirements (90/10)

**AGENCY:** Federal Student Aid (FSA), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before January 20, 2016.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2015–ICCD–0122. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E103, Washington, DC 20202–4537.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Student Assistance General Provisions—Non-Title IV Revenue Requirements (90/10).

*OMB Control Number:* 1845–0096.

*Type of Review:* An extension of an existing information collection.

*Respondents/Affected Public:* State, Local and Tribal Governments.

*Total Estimated Number of Annual Responses:* 3,360.

*Total Estimated Number of Annual Burden Hours:* 5,040.

*Abstract:* As enacted by the Higher Education Opportunity Act (Pub. L. 110–315), the regulations in 34 CFR 668.28 provide that a proprietary institution must derive at least 10% of its annual revenue from sources other than Title IV, HEA funds, sanctions for failing to meet this requirement, and otherwise implement the statute by (1) specifying a Net Present Value (NPV) formula used to establish the revenue for institutional loans, (2) providing an administratively easier alternative to the NPV calculation, and (3) describing more fully the non-Title IV eligible programs from which revenue may be counted for 90/10 purposes. The regulations require an institution to disclose in a footnote to its audited financial statements the amounts of Federal and non-Federal revenues, by category, that it used in calculating its 90/10 ratio (see section 487(d) of the HEA). This is a request to extend the information collection that identifies the reporting burden for this regulation.

Dated: December 16, 2015.

**Kate Mullan,**

*Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.*

[FR Doc. 2015–31943 Filed 12–18–15; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

**[OE Docket No. EA–416]**

### Application To Export Electric Energy; Consolidated Edison Energy, Inc.

**AGENCY:** Office of Electricity Delivery and Energy Reliability, DOE.

**ACTION:** Notice of application.

**SUMMARY:** Consolidated Edison Energy, Inc. (Applicant or CEE) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

**DATES:** Comments, protests, or motions to intervene must be submitted on or before January 20, 2016.

**ADDRESSES:** Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to 202–586–8008.

**SUPPLEMENTARY INFORMATION:** Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C.§ 824a(e)).

On November 30, 2015, DOE received an application from CEE for authority to transmit electric energy from the United States to Canada as a power marketer for five years using existing international transmission facilities.

In its application, CEE states that it does not own or operate any electric generation or transmission facilities, and it does not have a franchised service area. The electric energy that CEE proposes to export to Canada would be surplus energy purchased from third parties such as electric utilities and Federal power marketing agencies pursuant to voluntary agreements. The existing international transmission facilities to be utilized by CEE have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

*Procedural Matters:* Any person desiring to be heard in this proceeding

should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning CEE's application to export electric energy to Canada should be clearly marked with OE Docket No. EA–416. An additional copy is to be provided directly to both Thomas DiCapua and James J. Dixon, Consolidated Edison Energy, Inc., 100 Summit Lake Drive, Suite 410, Valhalla, NY 10595 and to both Peter P. Thieman and Stuart A. Caplan, Dentons US LLP, 1301 K Street NW., Suite 600, East Tower, Washington, DC 20005.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Issued in Washington, DC, on December 15, 2015.

**Christopher Lawrence,**

*Electricity Policy Analyst, Office of Electricity Delivery and Energy Reliability.*

[FR Doc. 2015–32028 Filed 12–18–15; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

### Revision of a Currently Approved Collection

**AGENCY:** Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy.

**ACTION:** Notice and request for OMB review and comment.

**SUMMARY:** The Department of Energy (DOE) has submitted to the Office of Management and Budget (OMB) for clearance, a proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995. The proposed collection will be used to report the progress of participants in the DOE Better Buildings programs, including the Better Buildings Challenge, Better Buildings, Better Plants program, and the Better Buildings Alliance. These voluntary programs are intended to drive greater energy efficiency in the commercial and industrial marketplace to create cost savings and jobs. This will be accomplished by highlighting the ways participants overcome market barriers and persistent obstacles with replicable, marketplace solutions. These programs will showcase real solutions and partner with industry leaders to better understand policy and technical opportunities. Since the published 60-Day Notice and request for comments on October 2, 2015, 80 FR 59758, there are noted changes to the following supplemental information items: (5) Annual Estimated Number of Respondents is increased from 480 to 740; (6) Annual Estimated Number of Total Responses is reduced from 972 to 933; (7) Annual Estimated Number of Burden Hours is reduced from 2,720 to 2,709.25; and (8) Annual Estimated Reporting and Recordkeeping Cost Burden is reduced from $107,349 to $106,934.

**DATES:** Comments regarding this collection must be received on or before January 20, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the DOE Desk Officer at OMB of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4718.

**ADDRESSES:** Written comments should be sent to the DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW., Washington, DC 20503.

And to Andre de Fontaine, EE–5F/Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 or by fax at 202–586–5234 or by email at *andre.defontaine@ee.doe.gov.*

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Andre de Fontaine, EE–5F/Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 or by fax at 202–586–5234 or by email at *andre.defontaine@ee.doe.gov.*

**SUPPLEMENTARY INFORMATION:** This information collection request contains: (1) *OMB No.:* 1910–5141; (2) *Information Collection Request Title:* Better Buildings Challenge, Better Buildings Alliance and the Better Buildings, Better Plants Voluntary Pledge Program; (3) *Type of Request:* Amendment; (4) *Purpose:* This Information Collection Request applies to three Department of Energy (DOE) voluntary leadership initiatives that fall under the President's Better Buildings Initiative: (A) The Better Buildings Challenge; (B) the Better Buildings, Better Plants Program; and (C) the Better Buildings Alliance. The information being collected is needed so as to include participants in new sub-programs under the Better Buildings Challenge concerning energy efficiency in the multifamily residential and data center sectors, as well as a new water savings challenge. Additionally, other pre-existing collection forms are being amended for clarity and to reduce burden on respondents. Also, the total number of respondents for individual program areas is being adjusted to align with practical experience and to account for the fact that certain one-time reporting requirements have already been satisfied by a majority of the participants.; (5) *Annual Estimated Number of Total Respondents:* 740; (6) *Annual Estimated Number of Total Responses:* 933; (7) *Annual Estimated Number of Burden Hours:* 2,709.25; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $106,934.

*Statutory Authority:* Section 421 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17081); Section 911 of the Energy Policy Act of 2005, as amended (42 U.S.C. 16191).

Issued in Washington, DC, on December 15, 2015.

**Maria Vargas,**

*Director, Better Buildings Challenge, Office of Energy Efficiency and Renewable Energy.*

[FR Doc. 2015–32029 Filed 12–18–15; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER16–479–000]**

### Avalon Solar Partners II LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding Avalon Solar Partners II LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 6, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 14, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–31966 Filed 12–18–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. Rm98–1–000]**

### Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

| Docket No. | File date | Presenter or requester |
|---|---|---|
| **Prohibited** | | |
| 1. CP15–504–000 | 11–24–2015 | International Paper. |
| 2. CP15–554–000, CP16–10–000 | 11–30–2015 | Margie Lucas and Whitney Feldmann. |
| 3. CP15–554–000 | 11–30–2015 | Ronald Lundie. |
| 4. CP15–554–000 | 11–30–2015 | Harold Jackson. |
| 5. CP15–554–000 | 11–30–2015 | Elizabeth Marshall. |
| 6. CP14–115–000, CP14–493–000 | 11–30–2015 | Rayonier Advanced Materials. |
| 7. CP16–21–000 | 12–1–2015 | Susan Jones. |
| 8. CP15–554–000 | 12–1–2015 | Grace Wunderlich. |
| 9. CP15–554–000 | 12–1–2015 | Eliane Blose. |
| 10. CP15–554–000 | 12–1–2015 | Linda Campbell. |
| 11. CP15–554–000 | 12–1–2015 | Charles Alexander. |
| 12. CP15–554–000 | 12–1–2015 | Arthur Porter. |
| 13. CP15–554–000 | 12–2–2015 | Bonnie Spearman. |

| Docket No. | File date | Presenter or requester |
|---|---|---|
| 14. CP14–554–000, CP15–16–000, CP15–17–000 | 12–3–2015 | Susan VanBrunt. |
| 15. CP15–554–000 | 12–3–2015 | Kenneth Sisson. |
| 16. CP15–554–000 | 12–7–2015 | Thelma Lepley. |
| 17. CP15–554–000 | 12–7–2015 | Mildred Buck. |
| 18. CP15–554–000 | 12–7–2015 | Donna Moser. |
| 19. CP15–554–000 | 12–7–2015 | Ricky Rochelle. |
| 20. CP15–554–000 | 12–10–2015 | Kathryn B. Parker. |
| 21. CP15–554–000 | 12–10–2015 | Ellyson Robinson. |
| 22. CP15–554–000 | 12–10–2015 | Roger Marshall. |
| 23. CP15–554–000 | 12–10–2015 | Ronnie Johnson. |
| 24. CP15–554–000 | 12–11–2015 | Billy Vaughan. |
| 25. CP15–554–000 | 12–11–2015 | Clifton Lowrey. |
| **Exempt** | | |
| 1. CP15–554–000, CP16–10–000 | 11–30–2015 | State of Virginia Delegate Manoli Loupassi. |
| 2. CP15–554–000 | 12–1–2015 | State of Virginia Delegate Minority Leader Davis J. Toscano. |
| 3. CP16–21–000 | 12–2–2015 | US Congresswoman Ann McLane Kuster. |
| 4. CP15–554–000 | 12–2–2015 | US Congressman Bob Goodlatte. |
| 5. CP16–21–000 | 12–4–2015 | State of New Hampshire Governor Margaret Wood Hassan. |
| 6. CP16–10–000, CP16–13–000 | 12–4–2015 | FERC Staff.[1] |
| 7. CP15–504–000 | 12–9–2015 | FERC Staff.[2] |
| 8. CP15–554–000, CP16–10–000 | 12–9–2015 | State of Virginia Delegate Betsy B. Carr. |
| 9. CP15–554–000, CP16–10–000 | 12–10–2015 | US House Representatives.[3] |

[1] Meeting Summary from December 1, 2015 call with cooperating agencies regarding Mountain Valley Pipeline Project and Equitrans Expansion Project.

[2] Meeting Summary from December 8, 2015 call between FERC, HDR Engineering, Inc., and Dominion Carolina Gas, L.L.C. regarding Columbia to Eastover Project.

[3] Bob Goodlatte, H. Morgan Griffith, and Robert Hurt.

Dated: December 15, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–31957 Filed 12–18–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. NJ16–3–000]**

### City of Pasadena, California; Notice of Filing

Take notice that on December 11, 2015, City of Pasadena, California submitted its tariff filing: Pasadena 2016 Transmission Revenue Balancing Account Adjustment Update to be effective 1/1/2016.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5:00 p.m. Eastern Time on January 4, 2016.

Dated: December 15, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–31956 Filed 12–18–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[ Docket No. ER16–498–000 ]**

### RE Mustang LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding RE Mustang LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 6, 2016.

The Commission encourages electronic submission of protests and

interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 14, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–31967 Filed 12–18–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. IC16–4–000]**

### Commission Information Collection Activities (Ferc–500, Ferc–542); Consolidated Comment Request; Extension

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of information collections and request for comments.

**SUMMARY:** In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the requirements and burden [1] of the information collections described below.

**DATES:** Comments on the collections of information are due February 19, 2016.

**ADDRESSES:** You may submit comments (identified by Docket No. IC16–4–000) by either of the following methods:

- *eFiling at Commission's Web site: http://www.ferc.gov/docs-filing/efiling.asp*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Please reference the specific collection number and/or title in your comments.

*Instructions:* All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

*Docket:* Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

**FOR FURTHER INFORMATION CONTACT:** Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

**SUPPLEMENTARY INFORMATION:**

*Type of Request:* Three-year extension of the information collection requirements for all collections described below with no changes to the current reporting requirements. Please note that each collection is distinct from the next.

*Comments:* Comments are invited on: (1) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collections; and (4) ways to minimize the burden of the collections of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

**FERC–500, [Application for License/Relicense and Exemption for Water Projects With More Than 5 Megawatt [2] Capacity]**

*OMB Control No.:* 1902–0058.

*Abstract:* Pursuant to the Federal Power Act, the Commission is authorized to issue licenses and exemptions to citizens of the United States, or to any corporation organized under the laws of United States or any State thereof, or to any State or municipality for the purpose of constructing, operating, and maintaining dams, water conduits, reservoirs, power houses, transmission lines, or other project works necessary or convenient for the development and improvement of navigation and for the development, transmission, and utilization of power across, along, from, or in any of the streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States, or upon any part of the public lands and reservations of the United States.

FERC–500 is an application (for water projects with more than 5 megawatt capacity) for a hydropower license or exemption. FERC–500 includes certain reporting requirements in 18 CFR 4, 5, 8, 16, 141, 154.15, and 292. Depending on the type of application, it may include project description, schedule, resource allocation, project operation, construction schedule, cost, and financing; and an environmental report.

After an application is filed, the Federal agencies with responsibilities under the Federal Power Act (FPA) and other statutes,[3] the States, Indian tribes, and other participants have opportunities to request additional studies and provide comments and recommendations.

Submittal of the FERC–500 application is necessary to fulfill the requirements of the FPA in order for the Commission to make the required finding that the proposal is economically, technically, and environmentally sound, and is best adapted to a comprehensive plan for improving/developing a waterway or waterways.

*Type of Respondent:* Applicants for major hydropower licenses or exemptions greater than 5 MW

*Estimate of Annual Burden:* Applicants for licenses are required to

[1] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

[2] Megawatt = MW.

[3] Statutes include the Electric Consumers Protection Act (ECPA), the National Environmental Policy Act (NEPA), the Endangered Species Act, the Federal Water Pollution Control Amendments of 1972 (the Clean Water Act), and the Coastal Zone Management Act.

include an estimate of their cost to prepare the license application, which would include nearly all of the reporting requirements in FERC–500.[4] Because the requirements for an exemption application are largely the same as that of a license application, the license application costs are a good estimate of the exemption application costs and of the overall burden of preparing license and exemption applications for projects greater than 5 MW. To estimate the total annual burden, we averaged the reported license application costs for proposed projects greater than 5 MW filed in fiscal years (FY) 2012 through 2015. The results are presented in the table below:

FERC–500 (APPLICATION FOR LICENSE/RELICENSE AND EXEMPTION FOR WATER PROJECTS WITH MORE THAN 5 MW CAPACITY)

| Fiscal Year | 2012 | 2013 | 2014 | 2015 |
|---|---|---|---|---|
| Number of Applications (Responses) | 9 | 7 | 15 | 2 |
| Average Cost per Response | $2,059,828 | $1,234,987 | $3,776,864 | $500,000 |
| Total Burden Cost | $18,538,451 | $8,644,909 | $56,652,960 | $1,000,000 |

The average burden cost per application over the period FY 2012 through FY 2015 was approximately $2,570,797.[5] We estimate a cost (salary plus benefits) of $72/hour.[6] Using this hourly cost estimate, the average burden for each application filed from FY 2012 to FY 2015 is 35,706 hours.

FERC–500

| Number of respondents | Annual number of responses per respondent | Total number of responses | Average burden hours and cost per response | Total annual burden hours and total annual cost | Cost per respondent ($) |
|---|---|---|---|---|---|
| (1) | (2) | (1)*(2)=(3) | (4) | (3)*(4)=(5) | (5)÷(1) |
| 9 | 1 | 9 | 35,705.52<br>$2,570,797.42 | 321,349.68<br>$23,137,176.82 | $2,570,797.42 |

**FERC–542, [Gas Pipeline Rates: Rate Tracking]**

*OMB Control No.:* 1902–0070

*Abstract:* Commission regulations at 18 CFR 154.402 establish requirements for natural gas pipelines that choose to recover Commission-assessed annual charges through an annual charge adjustment (ACA) clause. All natural gas pipelines subject to FERC jurisdiction must have a clause in their tariff that incorporates the Commission-authorized annual charge unit rate by reference to that rate, as published on the Commission's Web site located at *http://www.ferc.gov.*

This reporting requirements results from the Commission's being required to ''assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred by the Commission in that fiscal year.'' [7] To accomplish this, the Commission created the annual charges program, which is designed to recover the costs of administering the natural gas, oil, and electric programs by calculating the costs of each program, net of filing fees, and properly allocating them among the three programs.[8]

This reporting requirement applies only to the recovery of annual charges assessed to entities in the natural gas program.

The provisions governing the assessment of annual charges are codified in Part 382 of the Commission's regulations.[9] In brief, after the Commission calculates the costs of administering the natural gas regulatory program,[10] it assesses those costs to natural gas pipeline companies (Pipelines).[11] Each Pipeline is assessed a proportional share of the Commission's costs of administering the natural gas program. That proportional share is based on the following:

. . ..the proportion of the total gas subject to Commission regulation which was sold and transported by each company in the immediately preceding calendar year to the sum of the gas subject to the Commission regulation which was sold and transported in the immediately preceding calendar year by all natural gas pipeline companies being assessed annual charges.[12]

*Type of Respondent:* Natural Gas Pipelines.

[4] Exceptions would be 18 CFR 2.19, 4.201, 4.202, 4.303, 4.35, 8.1, 8.2, 16.19, 141.15, and 292.208, none of which directly relate to preparation of a license or exemption application for a project greater than 5 MW.

[5] $84,836,320 (Total burden cost from 2012–2015) ÷ 33 (total number of applications received from 2012–2015) = $2,570,797.

[6] FERC staff estimates that industry is similarly situated in terms of the hourly cost for salary plus benefits. Therefore, we are using the FERC FY 2015 hourly cost (salary plus benefits) of $72/hour.

[7] *See Omnibus Budget Reconciliation Act,* Pub. L. 99–509, Title III, Subtitle E, § 3401, 1986 U.S. Code Cong. & Ad. News (100 Stat.) 1874, 1890–91 (*codified at* 42 U.S.C. 7178 (2012)).

[8] *Annual Charges Under the Omnibus Budget Reconciliation Act of 1986,* Order No. 472, FERC Stats & Regs. ¶ 30,746, *clarified by,* Order No. 472–A, FERC Stats. & Regs. ¶ 30,750, *order on reh'g,* Order No. 472–B, FERC Stats. & Regs. ¶ 30,767 (1987), *order on reh'g,* Order No. 472–C, 42 FERC ¶ 61,013 (1988).

[9] 18 CFR 382 (2015).

[10] *Id.* at 382.102(d) (defining the ''natural gas regulatory program'' as the Commission's regulation of the natural gas industry under the Natural Gas Act; Natural Gas Policy Act of 1978; Alaska Natural Gas Transportation Act; Public Utility Regulatory Policies Act; Department of Energy Organization Act; Outer Continental Shelf Lands Act; Energy Security Act; Regulatory Flexibility Act; Crude Oil Windfall Profit Tax Act; National Environmental Policy Act; National Historic Preservation Act).

[11] For the purposes of this proceeding, we use the term natural gas pipeline company (Pipeline) as it is defined in 18 CFR 382.101(a) (2012): ''any person: (1) Engaged in natural gas sales for resale or natural gas transportation subject to the jurisdiction of the Commission under the Natural Gas Act whose sales for resale and transportation exceed 200,000 Mcf at 14.73 psi (60°F) in any of the three calendar years immediately preceding the fiscal year for which the Commission is assessing annual charges; and (2) Not engaged solely in ''first sales'' of natural gas as that term is defined in section 2(21) of the Natural Gas Policy Act of 1978; and (3) To whom the Commission has not issued a Natural Gas Act Section 7(f) declaration; and (4) Not holding a limited jurisdiction certificate.''

[12] 18 CFR 382.202 (2015).

*Estimate of Annual Burden:* The Commission estimates the annual public reporting burden for the information collection as:

FERC–542 (GAS PIPELINE RATES: RATE TRACKING)

| Number of respondents | Annual number of responses per respondent | Total number of responses | Average burden hours and cost per response | Total annual burden hours and total annual cost | Cost per respondent ($) |
|---|---|---|---|---|---|
| (1) | (2) | (1)*(2)=(3) | (4) | (3)*(4)=(5) | (5)÷(1) |
| 5 | 1 | 5 | 2<br>$144 | 10<br>$720 | $144 |

Dated: December 14, 2015

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–31970 Filed 12–18–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER11–4380–005; ER15–1045–001; ER13–338–006; ER13–1641–002; ER13–1562–004; ER12–610–007; ER12–2314–005; ER12–2037–006; ER12–1931–006; ER11–4381–005; ER10–2504–007; ER10–2488–012; ER10–2467–006; ER10–2436–006; ER10–2434–006.

*Applicants:* Bellevue Solar, LLC, Catalina Solar Lessee, LLC, Chestnut Flats Lessee, LLC, Fenton Power Partners I, LLC, Hoosier Wind Project, LLC, Oasis Power Partners, LLC, Pacific Wind Lessee, LLC, Pilot Hill Wind, LLC, Shiloh Wind Project 2, LLC, Shiloh III Lessee, LLC, Shiloh IV Lessee, LLC, Spearville 3, LLC, Spinning Spur Wind, LLC, Wapsipinicon Wind Project, LLC, Yamhill Solar, LLC.

*Description:* Supplement to October 7, 2015 Notice of Change in Status of the EDF–RE MBR Companies.

*Filed Date:* 12/8/15.

*Accession Number:* 20151208–5082.

*Comments Due:* 5 p.m. ET 12/29/15.

*Docket Numbers:* ER15–2657–001.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* Compliance filing: 2015–12–14_Order 1000 CTDS Enhancement Compliance Filing to be effective 11/16/2015.

*Filed Date:* 12/14/15.

*Accession Number:* 20151214–5242.

*Comments Due:* 5 p.m. ET 1/4/16.

*Docket Numbers:* ER16–518–000.

*Applicants:* Central Maine Power Company.

*Description:* § 205(d) Rate Filing: Executed Interconnection Agreement with Hackett Mills Hydro Associates to be effective 1/1/2016.

*Filed Date:* 12/14/15.

*Accession Number:* 20151214–5241.

*Comments Due:* 5 p.m. ET 1/4/16.

*Docket Numbers:* ER16–519–000.

*Applicants:* Nevada Power Company.

*Description:* § 205(d) Rate Filing: OATT Revisions to Schedule 1 12.14.15 to be effective 10/1/2015.

*Filed Date:* 12/14/15.

*Accession Number:* 20151214–5244.

*Comments Due:* 5 p.m. ET 1/4/16.

*Docket Numbers:* ER16–520–000.

*Applicants:* Southwestern Public Service Company.

*Description:* § 205(d) Rate Filing: 12–14–15_SPS Unfunded Reserves to be effective 1/1/2016.

*Filed Date:* 12/14/15.

*Accession Number:* 20151214–5245.

*Comments Due:* 5 p.m. ET 1/4/16.

*Docket Numbers:* ER16–521–000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: 2015–12–14 Attachment Y alignment with PRA to be effective 2/12/2016.

*Filed Date:* 12/14/15.

*Accession Number:* 20151214–5246.

*Comments Due:* 5 p.m. ET 1/4/16.

*Docket Numbers:* ER16–522–000.

*Applicants:* Consolidated Edison Company of New York, Inc.

*Description:* § 205(d) Rate Filing: PASNY Tariff RY 3 2015 to be effective 1/1/2016.

*Filed Date:* 12/14/15.

*Accession Number:* 20151214–5262.

*Comments Due:* 5 p.m. ET 1/4/16.

*Docket Numbers:* ER16–523–000.

*Applicants:* Sierra Pacific Power Company.

*Description:* Notices of Cancellation of Transmission Service Agreements of Sierra Pacific Power Company.

*Filed Date:* 12/14/15.

*Accession Number:* 20151214–5264.

*Comments Due:* 5 p.m. ET 1/4/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 15, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–31953 Filed 12–18–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER16–452–000]**

### Tranquillity LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding Tranquillity LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and

385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 6, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 14, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–31965 Filed 12–18–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER16–499–000]**

### RE Mustang 3 LLC; Supplemental Notice that Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding RE Mustang 3 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 6, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 14, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–31968 Filed 12–18–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 13821–002]**

### ORPC Alaska 2, LLC; Notice of Surrender of Preliminary Permit

Take notice that ORPC Alaska 2, LLC, permittee for the proposed East Foreland Tidal Energy Project, has requested that its preliminary permit be terminated. A successive permit was issued on June 16, 2014, and would have expired on June 1, 2016.[1] The project would have been located in Cook Inlet near Nikiski in the Kenai Peninsula Borough, Alaska.

The preliminary permit for Project No. 13821 will remain in effect until the close of business, January 13, 2016. But, if the Commission is closed on this day, then the permit remains in effect until the close of business on the next day in which the Commission is open.[2] New applications for this site may not be submitted until after the permit surrender is effective.

Dated: December 14, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–31971 Filed 12–18–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. Nj16–2–000]**

### City of Riverside, California; Notice of Filing

Take notice that on December 9, 2015, City of Riverside, California submitted its tariff filing: Riverside 2016 Transmission Revenue Balancing Account Adjustment Update to be effective 1/1/2016.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the

[1] 147 FERC ¶ 62,207 (2014).

[2] 18 CFR 385.2007(a)(2) (2015).

comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5:00 p.m. Eastern Time on December 30, 2015.

Dated: December 15, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–31955 Filed 12–18–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice Of Filings #2

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER16–270–001.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* Tariff Amendment: 2015–12–15_SA 2863 Amendment to ATC Construction Management Agreement to be effective 10/30/2015.

*Filed Date:* 12/15/15.

*Accession Number:* 20151215–5161.

*Comments Due:* 5 p.m. ET 1/5/16.

*Docket Numbers:* ER16–524–000.

*Applicants:* Wolverine Holdings, L.P.

*Description:* § 205(d) Rate Filing: Tariff Change to be effective 1/1/2016.

*Filed Date:* 12/15/15.

*Accession Number:* 20151215–5079.

*Comments Due:* 5 p.m. ET 1/5/16.

*Docket Numbers:* ER16–525–000.

*Applicants:* Mesquite Solar 1, LLC.

*Description:* § 205(d) Rate Filing: Mesquite Solar 1, LLC Amended and Restated Inter-Phase Co-Tenancy Agreement to be effective 12/17/2015.

*Filed Date:* 12/15/15.

*Accession Number:* 20151215–5092.

*Comments Due:* 5 p.m. ET 1/5/16.

*Docket Numbers:* ER16–526–000.

*Applicants:* Sempra Generation, LLC.

*Description:* § 205(d) Rate Filing: Sempra Generation, LLC Revised Market-Based Rate Tariff to be effective 12/16/2015.

*Filed Date:* 12/15/15.

*Accession Number:* 20151215–5093.

*Comments Due:* 5 p.m. ET 1/5/16.

*Docket Numbers:* ER16–527–000.

*Applicants:* Mesquite Solar 2, LLC.

*Description:* Initial rate filing: Mesquite Solar 2, LLC Certificate of Concurrence to Amended and Restated Agmt to be effective 12/17/2015.

*Filed Date:* 12/15/15.

*Accession Number:* 20151215–5118.

*Comments Due:* 5 p.m. ET 1/5/16.

*Docket Numbers:* ER16–528–000.

*Applicants:* Duke Energy Indiana, Inc.

*Description:* Notice of Termination of Rate Schedule No. 271 of Duke Energy Indiana, Inc.

*Filed Date:* 12/15/15.

*Accession Number:* 20151215–5121.

*Comments Due:* 5 p.m. ET 1/5/16

*Docket Numbers:* ER16–529–000.

*Applicants:* Mesquite Solar 3, LLC.

*Description:* Initial rate filing: Mesquite Solar 3, LLC Certificate of Concurrence to Amended and Restated Agmt to be effective 12/17/2015.

*Filed Date:* 12/15/15.

*Accession Number:* 20151215–5124.

*Comments Due:* 5 p.m. ET 1/5/16.

*Docket Numbers:* ER16–530–000.

*Applicants:* SEP II, LLC.

*Description:* § 205(d) Rate Filing: SEP II, LLC Certificate of Concurrence to Amended and Restated Agmt to be effective 12/17/2015.

*Filed Date:* 12/15/15.

*Accession Number:* 20151215–5125.

*Comments Due:* 5 p.m. ET 1/5/16.

*Docket Numbers:* ER16–531–000.

*Applicants:* Rolling Thunder I Power Partners, LLC.

*Description:* § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 2/14/2016.

*Filed Date:* 12/15/15.

*Accession Number:* 20151215–5133.

*Comments Due:* 5 p.m. ET 1/5/16.

*Docket Numbers:* ER16–532–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Revisions to OATT Att DD to Permit Release of Capacity in Incremental Auctions to be effective 2/15/2016.

*Filed Date:* 12/15/15.

*Accession Number:* 20151215–5171.

*Comments Due:* 5 p.m. ET 1/5/16.

*Docket Numbers:* ER16–533–000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: 2015–12–15 Coordinated Transaction Scheduling Filing to be effective 3/1/2017.

*Filed Date:* 12/15/15.

*Accession Number:* 20151215–5231.

*Comments Due:* 5 p.m. ET 1/5/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 15, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–31954 Filed 12–18–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER16–500–000]**

### RE Mustang 4 LLC; Supplemental Notice that Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding RE Mustang 4 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure

(18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 6, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 14, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–31969 Filed 12–18–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC16–52–000.

*Applicants:* Twin Eagle Resource Management, LLC,TERM Holdings, LLC.

Description: Application under FPA Section 203 of Twin Eagle Resource Management, LLC, et. al.

*Filed Date:* 12/14/15.

*Accession Number:* 20151214–5181.

*Comments Due:* 5 p.m. ET 1/4/16.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER14–1776–006*; ER14–474–004.*

*Applicants:* Broken Bow Wind II, LLC, Sempra Generation, LLC.

Description: Updated Market Power Analysis for the Southwest Power Pool Region of Broken Bow Wind II, LLC, et. al.

*Filed Date:* 12/14/15.

*Accession Number:* 20151214–5184.

*Comments Due:* 5 p.m. ET 2/12/16.

*Docket Numbers:* ER15–949–003.

*Applicants:* Southwestern Public Service Company.

Description: Compliance filing: 12–14–15_SPS Compliance Filing to be effective 10/20/2014.

*Filed Date:* 12/14/15.

*Accession Number:* 20151214–5234.

*Comments Due:* 5 p.m. ET 1/4/16.

*Docket Numbers:* ER15–2527–000.

*Applicants:* Oasis Power, LLC.

Description: Report Filing: Refund Report to be effective N/A.

*Filed Date:* 12/14/15.

*Accession Number:* 20151214–5207.

*Comments Due:* 5 p.m. ET 1/4/16.

*Docket Numbers:* ER15–2529–000.

*Applicants:* Censtar Energy Corp.

Description: Report Filing: Refund Report to be effective N/A.

*Filed Date:* 12/14/15.

*Accession Number:* 20151214–5204.

*Comments Due:* 5 p.m. ET 1/4/16.

*Docket Numbers:* ER16–295–002.

*Applicants:* Midcontinent Independent System Operator, Inc.

Description: Tariff Amendment: 2015–12–14_SA 1503 NSP-Mankato Sub. 2nd Rev. GIA (G261) to be effective 11/10/2015.

*Filed Date:* 12/14/15.

*Accession Number:* 20151214–5186.

*Comments Due:* 5 p.m. ET 1/4/16.

*Docket Numbers:* ER16–514–000.

*Applicants:* AEP Texas North Company.

Description: § 205(d) Rate Filing: TNC–RE Roserock Interconnection Agreement to be effective 11/19/2015.

*Filed Date:* 12/14/15.

*Accession Number:* 20151214–5156.

*Comments Due:* 5 p.m. ET 1/4/16.

*Docket Numbers:* ER16–515–000.

*Applicants:* Public Service Company of Oklahoma.

Description: § 205(d) Rate Filing: PSO-Coffeyville Pricing Schedule Filing to be effective 3/1/2016.

*Filed Date:* 12/14/15.

*Accession Number:* 20151214–5180.

*Comments Due:* 5 p.m. ET 1/4/16.

*Docket Numbers:* ER16–516–000.

*Applicants:* Power Resources, Ltd.

Description: Tariff Cancellation: Notice of Cancellation of MBR Tariff to be effective 12/15/2015.

*Filed Date:* 12/14/15.

*Accession Number:* 20151214–5183.

*Comments Due:* 5 p.m. ET 1/4/16.

*Docket Numbers:* ER16–517–000.

*Applicants:* Shelby County Energy Center, LLC.

Description: Baseline eTariff Filing: Baseline—MBR Tariff to be effective 1/28/2016.

*Filed Date:* 12/14/15.

*Accession Number:* 20151214–5185.

*Comments Due:* 5 p.m. ET 1/4/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 14, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–31963 Filed 12–18–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC16–40–000

*Applicants:* Marina Energy, LLC.

*Description:* Supplement to November 25, 2015 Application for Authorization Under Section 203 of the Federal Power Act of Marina Energy, LLC.

*Filed Date:* 12/11/15.

*Accession Number:* 20151211–5163.

*Comments Due:* 5 p.m. ET 12/4/16.

*Docket Numbers:* EC16–51–000.

*Applicants:* Roosevelt Wind Project, LLC, Milo Wind Project, LLC, RPG Finale Investco, LLC.

*Description:* Application for Authorization for Disposition of

Jurisdictional Facilities, Requests for Confidential Treatment, Expedited Action and Certain Waivers of Roosevelt Wind Project, LLC, Milo Wind Project, LLC and RPG Finale Investco, LLC.

*Filed Date:* 12/11/15.

*Accession Number:* 20151211–5237.

*Comments Due:* 5 p.m. ET 1/4/16.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER16–72–000.

*Applicants:* San Gorgonio Westwinds II—Windustries, LLC.

*Description:* Second Supplement to October 14, 2015 San Gorgonio Westwinds II—Windustries, LLC tariff filing.

*Filed Date:* 12/9/15.

*Accession Number:* 20151209–5078.

*Comments Due:* 5 p.m. ET 12/30/15.

*Docket Numbers:* ER16–182–000.

*Applicants:* Cameron Ridge II, LLC.

*Description:* Supplement to October 30, 2015 Cameron Ridge II, LLC tariff filing.

*Filed Date:* 12/11/15.

*Accession Number:* 20151211–5165.

*Comments Due:* 5 p.m. ET 1/4/16.

*Docket Numbers:* ER16–328–001.

*Applicants:* Cogentrix Virginia Financing Holding Company, LLC.

Description: Tariff Amendment: Supplement to MBR Application to be effective 1/12/2016.

*Filed Date:* 12/14/15.

*Accession Number:* 20151214–5078.

*Comments Due:* 5 p.m. ET 1/4/16.

*Docket Numbers:* ER16–371–000.

*Applicants:* BioUrja Power, LLC.

Description: Clarification to November 20, 2015 BioUrja Power, LLC tariff filing.

*Filed Date:* 12/11/15.

*Accession Number:* 20151211–5270.

*Comments Due:* 5 p.m. ET 1/4/16.

*Docket Numbers:* ER16–454–000.

*Applicants:* Seward Generation, LLC.

*Description:* Amendment to December 3, 2015 Seward Generation, LLC tariff filing.

*Filed Date:* 12/11/15.

*Accession Number:* 20151211–5059.

*Comments Due:* 5 p.m. ET 1/4/16.

*Docket Numbers:* ER16–512–000.

*Applicants:* Public Service Company of Colorado.

*Description:* Compliance filing: 2015–12–14_Att O–SPS Global Stlmnt Filing to be effective 10/20/2014.

*Filed Date:* 12/14/15.

*Accession Number:* 20151214–5103.

*Comments Due:* 5 p.m. ET 1/4/16.

*Docket Numbers:* ER16–513–000.

*Applicants:* Gulf Oil Limited Partnership.

Description: Tariff Cancellation: notice of cancellation to be effective 12/15/2015.

*Filed Date:* 12/14/15.

*Accession Number:* 20151214–5118.

*Comments Due:* 5 p.m. ET 1/4/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 14, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–31962 Filed 12–18–15; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP16–25–000]**

### East Cheyenne Gas Storage, LLC; Notice of Application To Amend Certificate

Take notice that on November 30, 2015, East Cheyenne Gas Storage, LLC (East Cheyenne) filed in Docket No. CP16–25–000, pursuant to Section 7 (c) of the Natural Gas Act and Part 157 of the regulations of the Federal Energy Regulatory Commission (Commission), a request to amend the certificate of public convenience and necessity issued by the Commission on August 2, 2010, in Docket No. CP10–34–000 as amended in Docket Nos. CP11–40–000, CP12–35–000, CP12–124–000, and CP14–486–000.

Any questions concerning this application may be directed to: James Hoff, Vice President, Reservoir Engineering, East Cheyenne Gas Storage, LLC, 10370 Richmond Avenue, Suite 510, Houston, Texas 77042, telephone: (713) 403–6467, facsimile: (888) 861–5701.

East Cheyenne seeks authorization to expand the existing certificated boundaries of the Project's reservoirs in the West Peetz and Lewis Creek fields as well as the buffer zone surrounding the reservoirs located in Logan County, Colorado, all as more fully set forth in the application which is on file with the Commission and open for public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

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 commenters 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 he Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters 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 via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link. 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:* January 4, 2016.

Dated: December 14, 2015.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2015–31964 Filed 12–18–15; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OAR–2015–0806; FRL–9940–40–OAR]**

## Access by EPA Contractors to Information Claimed as Confidential Business Information (CBI) Submitted under Title II of the Clean Air Act and Related Regulations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA)'s Office of Transportation and Air Quality (OTAQ) plans to authorize various contractors to access information which will be submitted to the EPA under Title II of the Clean Air Act that may be claimed as, or may be determined to be, confidential business information (CBI). Access to this information, which is related to registration of fuels and fuel additives under 40 CFR part 79; various fuels reporting programs under 40 CFR part 80; and reporting of various greenhouse gas reporting items under the mandatory reporting rule of 40 CFR part 98, subparts A, LL and MM will begin on December 31, 2015.

**DATES:** The EPA will accept comments on this Notice through December 28, 2015.

**FOR FURTHER INFORMATION CONTACT:** Jaimee Dong, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., MC 6405A, Washington, DC, 20004; telephone number: 202–343–9672; fax number: 202–343–2800; email address: *dong.jaimee@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

### I. Does this Notice Apply to Me?

This action is directed to the general public. However, this action may be of particular interest to parties who submit or have previously submitted information to the EPA regarding the following programs: fuel and fuel additive registration (40 CFR part 79); and various fuels programs including reformulated gasoline, anti-dumping, gasoline sulfur, ultra low sulfur diesel, benzene content, and the renewable fuel standard (40 CFR part 80). Parties who may be interested include refiners, importers, producers of renewable fuels, parties who engage in RIN transactions, and all those who submit compliance reports to the EPA via any method (*e.g.,* via EPA's Central Data Exchange, or CDX), including those who engage in reporting via the EPA Moderated Transaction System (EMTS).

This action may also be of particular interest to parties such as suppliers of coal-based liquid fuels and suppliers of petroleum products, as described in 40 CFR part 98 subparts LL and MM, respectively. (40 CFR part 98, subpart A contains general provisions related to registration and reporting.) Parties who may be interested in this notice include refiners, importers, and exporters of these products.

This **Federal Register** notice may be of particular relevance to parties that have submitted data under the above-listed programs or systems. Since other parties may also be interested, the Agency has not attempted to describe all the specific parties that may be affected by this action. If you have further questions regarding the applicability of this action to a particular party, please contact the person listed in **FOR FURTHER INFORMATION CONTACT**.

### II. How can I get copies of this document and other related information?

*A. Electronically*

The EPA has established a public docket for this **Federal Register** notice under Docket EPA–HQ–OAR–2015–0806.

All documents in the docket are identified in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, such as confidential business information (CBI) or other information for which disclosure is restricted by statute. Certain materials, such as copyrighted material, will only be available in hard copy at the EPA Docket Center.

*B. EPA Docket Center*

Materials listed under Docket EPA–HQ–OAR–2015–0806 will be available for public viewing at the EPA Docket Center Reading Room, WJC West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

**III. Description of Programs and Potential Disclosure of Information Claimed as Confidential Business Information (CBI) to Contractors**

The EPA's Office of Transportation and Air Quality (OTAQ) has responsibility for protecting public health and the environment by regulating air pollution from motor vehicles, engines, and the fuels used to operate them, and by encouraging travel choices that minimize emissions. In order to implement various Clean Air Act programs, and to permit regulated entities flexibility in meeting regulatory requirements (*e.g.,* compliance on average), we collect compliance reports and other information from them. Occasionally, the information submitted is claimed to be confidential business information (CBI). Information submitted under such a claim is handled in accordance with EPA's regulations at 40 CFR part 2, subpart B and in accordance with the EPA procedures, including comprehensive system security plans (SSPs) that are consistent with those regulations. When the EPA has determined that disclosure of information claimed as CBI to contractors is necessary, the corresponding contract must address the appropriate use and handling of the information by the contractor and the contractor must require its personnel who require access to information claimed as CBI to sign written non-disclosure agreements before they are granted access to data.

In accordance with 40 CFR 2.301(h), we have determined that the contractors, subcontractors, and grantees (collectively referred to as ''contractors'') listed below require access to CBI submitted to us under the Clean Air Act and in connection with the Mandatory Greenhouse Gas (GHG) Reporting Rule [40 CFR part 98, subparts A (general registration and reporting provisions) LL, and MM], as well as various OTAQ programs related to fuels, vehicles, and engines (40 CFR parts 79 and 80) and we are providing notice and an opportunity to comment. OTAQ collects this data in order to monitor compliance with Clean Air Act programs and, in many cases, to permit regulated parties flexibility in meeting regulatory requirements. For example, data that may contain CBI are collected to register fuels and fuel additives prior to introduction into commerce. Certain programs are designed to permit regulated parties an opportunity to comply on average, or to engage in transactions using various types of credits. For example, OTAQ collects information about batches of gasoline that refiners produce to ensure compliance with reformulated gasoline standards. We are issuing this **Federal Register** notice to inform all affected submitters of information that we plan to grant access to material that may be claimed as CBI to the contractors identified below on a need-to-know basis.

Under Contract Number EP–C–11–007, CSRA, located at 3170 Fairview Park Drive, Falls Church, VA 22042, and at 650 Peter Jefferson Parkway, Suite 300, Charlottesville, VA 22901, and its subcontractor, Ecco Select, 1301 Oak Street, Suite 400, Kansas City, MO 64106, provide report processing, program support, technical support, and information technology services that involve access to information claimed as CBI related to 40 CFR part 79, 40 CFR part 80, and 40 CFR part 98 subparts A, LL, and MM. Access to data, including information claimed as CBI, will commence on December 31, 2015. and will continue until June 30, 2016. If the contract is extended, this access will continue for the remainder of the contract without further notice.

OTAQ utilizes the services of enrollees under the Senior Environmental Employment (SEE) program. Some SEE enrollees are provided through Grant Number CQ–834621, the National Association for Hispanic Elderly (NAHE), located at 234 East Colorado Boulevard, Suite 300, Pasadena, CA 91101, and through Grant Numbers CQ–835372 and CQ–835572, the Senior Service America, Inc. (SSAI), located at 8403 Colesville Road, Suite 1200, Silver Spring, MD 20910. Access to data relating to all of OTAQ's programs and to subparts A, LL, and MM of the Mandatory GHG Reporting Rule, including information claimed as CBI, is ongoing until December 31, 2016 for Grant Number CQ–834621, October 14, 2016 for Grant Number CQ–835372, and September 30, 2016 for Grant Number CQ–835572. If these grants are extended, this access will continue for the remainder of the grants and any future extensions without further notice.

OTAQ also has fellows provided via the Oak Ridge Institute for Science and Education (ORISE) Intern/Research Participation Program. Some participants are provided through Interagency Agreement Number DW89924039, the ORISE, located at 1299 Bethel Valley Road, Building SC–200, Oak Ridge, TN 37830. Access to data relating to all of OTAQ's programs and to subparts A, LL, and MM of the Mandatory GHG Reporting Rule, including information claimed as CBI, but excluding CBI under the Toxic Substances Control Act (TSCA) and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), is ongoing until September 30, 2016. If the program is extended, this access will continue for the remainder of the program and any future extensions without further notice.

Parties who want further information about this **Federal Register** notice or about OTAQ's disclosure of information claimed as CBI to contactors may contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Dated: December 15, 2015.

**Byron J. Bunker,**

*Director, Compliance Division, Office of Transportation & Air Quality, Office of Air and Radiation.*

[FR Doc. 2015–32011 Filed 12–18–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9940–45–OA]**

## Notification of a Public Meeting of the Clean Air Scientific Advisory Committee (CASAC) Sulfur Oxides Panel and a Public Teleconference of the Chartered CASAC and the CASAC Sulfur Oxides Panel

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public meeting of the Clean Air Scientific Advisory Committee (CASAC) Sulfur Oxides Panel and a public teleconference of the Chartered CASAC and CASAC Sulfur Oxides Panel to review of EPA's *Integrated Science Assessment (ISA) for Sulfur Oxides—Health Criteria (External Review Draft—November 2015).*

**DATES:** The face-to-face meeting will be held on Wednesday, January 27, 2016, and Thursday, January 28, 2016. The teleconference will be held on Wednesday, April 6, 2016 from 2:00 p.m. to 6:00 p.m. (Eastern Time).

*Location:* The face-to-face meeting will be held at the DoubleTree by Hilton Hotel Raleigh-Brownstone-University, 1707 Hillsborough Street, Raleigh, North Carolina. The public teleconference will be held by telephone only. Call-in information will be available on the respective CASAC meeting Web pages or by contacting the Designated Federal Officer (DFO).

**FOR FURTHER INFORMATION CONTACT:** Any member of the public wishing to obtain information concerning the public

meeting or teleconference may contact Mr. Aaron Yeow, DFO, EPA Science Advisory Board Staff Office (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; by telephone/voice mail at (202) 564–2050 or at *yeow.aaron@epa.gov.* General information about the CASAC, as well as any updates concerning the meetings announced in this notice, may be found on the CASAC Web page at *http://www.epa.gov/casac.*

**SUPPLEMENTARY INFORMATION:** The CASAC was established pursuant to the Clean Air Act (CAA) Amendments of 1977, codified at 42 U.S.C. 7409(d)(2), to review air quality criteria and National Ambient Air Quality Standards (NAAQS) and recommend any new NAAQS and revisions of existing criteria and NAAQS as may be appropriate. The CASAC is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. Section 109(d)(1) of the CAA requires that the Agency periodically review and revise, as appropriate, the air quality criteria and the NAAQS for the six ''criteria'' air pollutants, including sulfur oxides. EPA is currently reviewing the primary (health-based) NAAQS for sulfur dioxide ($SO_2$), as an indicator for health effects caused by the presence of sulfur oxides in the ambient air. Pursuant to FACA and EPA policy, notice is hereby given that the CASAC Sulfur Oxides Panel will hold a public face-to-face meeting to review EPA's *Integrated Science Assessment for Sulfur Oxides—Health Criteria (External Review Draft—November 2015).* The CASAC Sulfur Oxides Panel will hold a public teleconference to discuss its draft peer review report and the Chartered CASAC will discuss the disposition of the panel's report at the end of the teleconference. The Chartered CASAC and CASAC Sulfur Oxides Panel will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

*Technical Contacts:* Any technical questions concerning the *Integrated Science Assessment for Sulfur Oxides—Health Criteria (External Review Draft—November 2015)* should be directed to Dr. Tom Long (*long.tom@epa.gov*), EPA Office of Research and Development.

*Availability of Meeting Materials:* Prior to the meeting, the review documents, agenda and other materials will be available on the CASAC Web page at *http://www.epa.gov/casac/.*

*Procedures for Providing Public Input:* Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit comments for a federal advisory committee to consider as it develops advice for EPA. Interested members of the public may submit relevant written or oral information on the topic of this advisory activity, and/or the group conducting the activity, for the CASAC to consider during the advisory process. Input from the public to the CASAC will have the most impact if it provides specific scientific or technical information or analysis for CASAC panels to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the DFO directly. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public face-to-face meeting will be limited to five minutes and on a public teleconference will be limited to three minutes. Each person making an oral statement should consider providing written comments as well as their oral statement so that the points presented orally can be expanded upon in writing. Interested parties should contact Mr. Aaron Yeow, DFO, in writing (preferably via email) at the contact information noted above by January 20, 2016, to be placed on the list of public speakers for the face-to-face meeting and by March 30, 2016, for the teleconference. *Written Statements:* Written statements should be supplied to the DFO via email at the contact information noted above by January 20, 2016, for the face-to-face meeting and by March 30, 2016, for the teleconference so that the information may be made available to the Panel members for their consideration. It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the CASAC Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

*Accessibility:* For information on access or services for individuals with disabilities, please contact Mr. Aaron Yeow at (202) 564–2050 or *yeow.aaron@epa.gov.* To request accommodation of a disability, please contact Mr. Yeow preferably at least ten days prior to each meeting to give EPA as much time as possible to process your request.

Dated: December 14, 2015.

**Thomas H. Brennan,**

*Deputy Director, EPA Science Advisory Staff Office.*

[FR Doc. 2015–31996 Filed 12–18–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–ORD–2015–0588; FRL–9940–38–ORD]**

## Human Studies Review Board; Notification of Public Meetings

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) Office of the Science Advisor announces two separate public meetings of the Human Studies Review Board to advise the Agency on the ethical and scientific reviews of EPA research with human subjects.

**DATES:** A public virtual meeting will be held on January 12–13, 2016, from 1:00 p.m. to approximately 5:00 p.m. Eastern Standard Time each day. A separate teleconference meeting is planned for Wednesday, March 30, 2016, from 1:00 p.m. to approximately 2:30 p.m. for the HSRB to finalize its Final Report of the January 12–13, 2016 meeting.

**ADDRESSES:** Both of these meetings will be conducted entirely on the Internet using Adobe Connect. For detailed access information visit the HSRB Web site: *http://www2.epa.gov/osa/human-studies-review-board.*

*Comments:* Submit your written comments, identified by Docket ID No. EPA–HQ–ORD–2015–0588, by one of the following methods:

*Internet: http://www.regulations.gov:* Follow the online instructions for submitting comments.

*Email: ORD.Docket@epa.gov.*

*Mail:* The EPA Docket Center EPA/DC, ORD Docket, Mail code: 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

*Hand Delivery:* The EPA/DC Public Reading Room is located in the EPA Headquarters Library, Room Number 3334 in the EPA WJC West, at 1301 Constitution Avenue NW., Washington,

DC 20460. The hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Time, Monday through Friday, excluding federal holidays. Please call (202) 566–1744 or email the ORD Docket at *ord.docket@epa.gov* for instructions. Updates to Public Reading Room access are available on the Web site at: *http://www.epa.gov/epahome/dockets.htm.*

*Instructions:* The Agency's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information or other information the disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://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 the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any electronic storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**FOR FURTHER INFORMATION CONTACT:** Any member of the public who wishes to receive further information should contact Jim Downing on telephone number (202) 564–2468; fax number: (202) 564–2070; email address: *downing.jim@epa.gov;* or mailing address Environmental Protection Agency, Office of the Science Advisor, Mail code 8105R, 1200 Pennsylvania Avenue NW., Washington, DC 20460. General information concerning the EPA HSRB can be found on the EPA Web site at: *http://www2.epa.gov/osa/human-studies-review-board.*

**SUPPLEMENTARY INFORMATION:**

*Meeting access:* Access to these Internet meetings are open to all by following the information provided above.

*Procedures for providing public input:* Interested members of the public may submit relevant written or oral comments for the HSRB to consider during the advisory process. Additional information concerning submission of relevant written or oral comments is provided in Section I, ''Public Meeting'' under subsection D. ''How May I Participate in this Meeting?'' of this notice.

## I. Public Meeting

*A. Does this action apply to me?*

This action is directed to the public in general. This Notice may, however, be of particular interest to persons who conduct or assess human studies, especially studies on substances regulated by the EPA, or to persons who are, or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act or the Federal Insecticide, Fungicide, and Rodenticide Act. This notice might also be of special interest to participants of studies involving human subjects, or representatives of study participants or experts on community engagement. The Agency has not attempted to describe all the specific entities that may have interest in human subjects research. If you have any questions regarding this notice, consult with Jim Downing listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How can I access electronic copies of this document and other related information?*

In addition to using regulations.gov, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.*

*Docket:* All documents in the docket are listed in the *http://www.regulations.gov* index. Although all documents are listed in the index, certain documents are not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the ORD Docket, EPA Docket Center, in the Public Reading Room. The Public Reading Room is located in the EPA Headquarters Library, Room Number 3334 in the EPA WJC West, at 1301 Constitution Avenue NW., Washington, DC 20460. The hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time, Monday through Friday, excluding federal holidays. Please call (202) 566–1744 or email the ORD Docket at *ord.docket@epa.gov* for instructions. Updates to Public Reading Room access are available on the Web site (*http://www.epa.gov/epahome/dockets.htm*).

The Agency's position paper(s), charge/questions to the HSRB, and the meeting agenda will be available by late December 2015. In addition, the Agency may provide additional background documents as the materials become available. You may obtain electronic copies of these documents, and other related documents that are available electronically, from the regulations.gov Web site and the EPA HSRB Web site at *http://www2.epa.gov/osa/human-studies-review-board.* For questions on document availability, or if you do not have access to the Internet, consult with Jim Downing listed under **FOR FURTHER INFORMATION CONTACT**.

*C. What should I consider as I prepare my comments for the EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data that you used to support your views.
4. Provide specific examples to illustrate your concerns and suggest alternatives.
5. To ensure proper receipt by the EPA, be sure to identify the Docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

*D. How may I participate in this meeting?*

You may participate in these meetings by following the instructions in this section. To ensure proper receipt by the EPA, it is imperative that you identify Docket ID number EPA–HQ–ORD–2015–0588 in the subject line on the first page of your request.

*1. Oral comments.* Requests to present oral comments during either conference call will be accepted up to Noon Eastern Time on Wednesday, January 6, 2016, for the January 12–13, 2016 meeting and up to Noon Eastern Time on Wednesday, March 23, 2016 for the March 30, 2016 conference call. To the extent that time permits, interested persons who have not pre-registered may be permitted by the Chair of the HSRB to present oral comments during

either call. Individuals or groups wishing to make brief oral comments to the HSRB on January 12–13, 2016 are strongly advised to submit their request (preferably via email) to Jim Downing, listed under **FOR FURTHER INFORMATION CONTACT** no later than noon, Eastern Time, Wednesday, January 6, 2016 in order to be included on the meeting agenda and to provide sufficient time for the HSRB Chair and HSRB Designated Federal Official to review the meeting agenda to provide an appropriate public comment period. Individuals or groups wishing to make brief oral comments to the HSRB during the March 30, 2016 teleconference should submit their request by Noon Eastern Time on Wednesday, March 23, 2016. The request should identify the name of the individual making the presentation and the organization (if any) the individual will represent. Oral comments before the HSRB are generally limited to five minutes per individual or organization. Please note that this includes all individuals appearing either as part of, or on behalf of, an organization. While it is our intent to hear a full range of oral comments on the science and ethics issues under discussion, it is not our intent to permit organizations to expand the time limitations by having numerous individuals sign up separately to speak on their behalf. If additional time is available, further public comments may be possible.

*2. Written comments.* Submit your written comments prior to the meetings. For the Board to have the best opportunity to review and consider your comments as it deliberates, you should submit your comments by Noon Eastern Time on Wednesday, January 6, 2016 for the January 12–13, 2016 meeting, and by noon Eastern Time on Wednesday, March 23, 2016 for the March 30, 2016 teleconference. If you submit comments after these dates, those comments will be provided to the HSRB members, but you should recognize that the HSRB members may not have adequate time to consider your comments prior to their discussion. You should submit your comments using the instructions in Section I., under subsection C., ''What Should I Consider as I Prepare My Comments for the EPA?'' In addition, the agency also requests that persons submitting comments directly to the docket also provide a copy of their comments to Jim Downing listed under **FOR FURTHER INFORMATION CONTACT**. There is no limit on the length of written comments for consideration by the HSRB.

*E. Background*

The HSRB is a Federal advisory committee operating in accordance with the Federal Advisory Committee Act 5 U.S.C. App.2 9. The HSRB provides advice, information, and recommendations to the EPA on issues related to scientific and ethical aspects of human subjects research. The major objectives of the HSRB are to provide advice and recommendations on: (1) Research proposals and protocols; (2) reports of completed research with human subjects; and (3) how to strengthen EPA's programs for protection of human subjects of research. The HSRB reports to the EPA Administrator through the Agency's Science Advisor.

*1. Topics for discussion.* On Tuesday, January 12–13, 2016, EPA's Human Studies Review Board will consider seven scientific and ethical topics: (1) Assessing intermittent pesticide exposure from flea control collars containing the organophosphorus insecticide tetrachlorvinphos, authored by M. Keith Davis, J. Scott Boone, John E. Moran, John W. Tyler, and Janice E. Chambers. Journal of Exposure Science and Environmental Epidemiology (2008) 18, 564–570; (2) Field Testing of SC Johnson Personal Mosquito Repellent Products to Support their Use of the EPA Repellency Awareness Graphic, GLP Study Number 865E1, J. Palm, September 24, 2015. Test Substance: MARK–3 OFF! Deep Woods Sportsmen Insect Repellent I (Maximum Strength Pump Spray Deep Woods OFF! EPA Reg. No. 4822–276); (3) Field Testing of SC Johnson Personal Mosquito Repellent Products to Support their Use of the EPA Repellency Awareness Graphic, GLP Study Number 864E1, J. Palm, September 24, 2015. Test Substance: MARK–2 OFF! Deep Woods Sportsmen Insect Repellent II (UNSCENTED DEEP WOODS OFF! EPA Reg. No. 4822–397); (4) Field Testing of SC Johnson Personal Mosquito Repellent Products to Support their Use of the EPA Repellency Awareness Graphic, GLP Study Number 867E1, E. Laznicka, October 21, 2015. Test Substance: MARK–5 OFF! Family Care Insect Repellent IV (Unscented) (UNSCENTED OFF! SKINTASTIC SPRAY INSECT REPELLENT, EPA Reg. No. 4822–395); (5) Field Testing of SC Johnson Personal Mosquito Repellent Products to Support their Use of the EPA Repellency Awareness Graphic, GLP Study Number 866E1, E. Laznicka, October 21, 2015. Test Substance: MARK–4 OFF! Active Insect Repellent I (Unscented OFF! Insect Repellent, EPA Reg. No. 4822–380); 6.) Field Testing of SC Johnson Personal Mosquito Repellent Products to Support their Use of the EPA Repellency Awareness Graphic, GLP Study Number 873E1, C. Talbert, October 21, 2015. Test Substance: MARK–8 OFF! Deep Woods Insect Repellent V (OFF! Insect Repellent Formula, EPA Reg. No. 4822–167)

On Wednesday, March 30, 2016 the HSRB will approve its Final Report of the January 12–13, 2016 meeting.

*2. Meeting minutes and reports.* Minutes of these meetings, summarizing the matters discussed and recommendations, if any, made by the advisory committee regarding such matters, will be released within 90 calendar days of the meeting. Such minutes will be available at *http://www2.epa.gov/osa/human-studies-review-board* and *http://www.regulations.gov.* In addition, information regarding the HSRB's Final Report, will be found at *http://www2.epa.gov/osa/human-studies-review-board* or from the person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: December 14, 2015.

**Thomas A. Burke,**

*EPA Science Advisor.*

[FR Doc. 2015–32021 Filed 12–18–15; 8:45 am]

**BILLING CODE P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FLR–9940–43–Region 10]**

## Proposed Reissuance of NPDES General Permit for Discharges From Federal Aquaculture Facilities and Aquaculture Facilities Located in Indian Country Within the Boundaries of Washington State (Permit Number WAG130000)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed reissuance of NPDES General Permit and request for public comment.

**SUMMARY:** The Director, Office of Water and Watersheds, Environmental Protection Agency (EPA) Region 10, is proposing to reissue a National Pollutant Discharge Elimination System (NPDES) General Permit for Federal Aquaculture Facilities and Aquaculture Facilities Located in Indian Country within the Boundaries of Washington State (General Permit). The draft General Permit contains effluent limitations, along with administrative reporting and monitoring requirements, as well as standard conditions,

prohibitions, and management practices. A fact sheet is available that explains the draft General Permit in detail.

Section 401 of the Clean Water Act, 33 U.S.C. 1341, requires EPA to seek a certification from the State of Washington, and Indian Tribes with Treatment as a State for Water Quality Standards, that the conditions of the General Permit are stringent enough to comply with State water quality standards. The Washington Department of Ecology (Ecology) and the Lummi, Makah, Spokane, and Tulalip Tribes have provided draft certification that the draft General Permit complies with applicable Water Quality Standards. EPA will seek final certification from Ecology and tribes prior to issuing the General Permit. This is also notice of the draft § 401 certification provided by Ecology and tribes. Persons wishing to comment on the draft § 401 certifications should send written comments to the contacts in the fact sheet.

**DATES:** The public comment period for the draft General Permit will be from the date of publication of this Notice until March 31, 2016. Comments must be received or postmarked by no later than midnight Pacific Standard Time on March 31, 2016. All comments related to the draft General Permit and Fact Sheet received by EPA Region 10 by the comment deadline will be considered prior to issuing the General Permit.

*Submitting Comments:* You may submit comments by any of the following methods. All comments must include the name, address, and telephone number of the commenter.

*Mail:* Send paper comments to Catherine Gockel, Office of Water and Watersheds; USEPA Region 10; 1200 6th Ave., Suite 900, OWW–191; Seattle, Washington 98101.

*Email:* Send electronic comments to *gockel.catherine@epa.gov*. Write ''Comments on the Draft Aquaculture General Permit'' in the subject line.

*Fax:* Fax comments to the attention of Catherine Gockel at (206) 553–1280.

*Hand Delivery/Courier:* Deliver comments to Catherine Gockel, EPA Region 10, Office of Water and Watersheds, Mail Stop OWW–191, 1200 6th Avenue, Suite 900, Seattle, WA 98101–3140. Call (206) 553–0523 before delivery to verify business hours.

*Viewing and/or Obtaining Copies of Documents.* A copy of the draft General Permit and the Fact Sheet, which explains the proposal in detail, may be obtained by contacting EPA at 1 (800) 424–4372.

Copies of the documents are also available for viewing and downloading at: *http://yosemite.epa.gov/R10/WATER.NSF/NPDES+Permits/General+NPDES+Permits#WA* .Requests may also be made to Audrey Washington at (206) 553–0523 or *washington.audrey@epa.gov*.

*Public Hearing:* Persons wishing to request a public hearing should submit their written request by March 31, 2016 stating the nature of the issues to be raised as well as the requester's name, address, and telephone number to Catherine Gockel at the address above. If a public hearing is scheduled, notice will be published in the **Federal Register**. Notice will also be posted on the Region 10 Web site, and will be mailed to all interested persons receiving letters of the availability of the draft General Permit.

**FOR FURTHER INFORMATION CONTACT:** Additional information can be obtained by contacting Catherine Gockel, Office of Water and Watersheds, U.S. Environmental Protection Agency, Region 10. Contact information is included above.

Other Legal Requirements

*Endangered Species Act [16 U.S.C. 1531 et al.].* Section 7 of the Endangered Species Act (ESA) requires Federal agencies to consult with NOAA Fisheries (NMFS) and the U.S. Fish and Wildlife Service (USFWS) (the Services) if their actions have the potential

to either beneficially or adversely affect any threatened or endangered species. EPA has analyzed the discharges proposed to be authorized by the draft General Permit, and their potential to adversely affect any of the threatened or endangered species or their designated critical habitat areas in the vicinity of the discharges. Based on this analysis, EPA has determined that the issuance of this permit is not likely to adversely affect any threatened or endangered species in the vicinity of the discharge.

*National Environmental Policy Act (NEPA) [42 U.S.C. 4321 et.seq.] and Other Federal Requirements.* Regulations at 40 CFR 122.49, list the federal laws that may apply to the issuance of permits *i.e.,* ESA, National Historic Preservation Act, the Coastal Zone Act Reauthorization Amendments (CZARA), NEPA, and Executive Orders, among others. The NEPA compliance program requires analysis of information regarding potential impacts, development and analysis of options to avoid or minimize impacts; and development and analysis of measures to mitigate adverse impacts. EPA determined that no Environmental Assessments (EAs) or Environmental Impact Statements (EISs) are required under NEPA. EPA also determined that CZARA does not apply.

*Essential Fish Habitat (EFH).* The Magnuson-Stevens Fishery Management and Conservation Act requires EPA to consult with NOAA–NMFS when a proposed discharge has the potential to adversely affect a designated EFH. The EFH regulations define an adverse effect as ''any impact which reduces quality and/or quantity of EFH . . . [and] may include direct (*e.g.* contamination or physical disruption), indirect (*e.g.* loss of prey, reduction in species' fecundity), site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions.'' NMFS may recommend measures for attachment to the federal action to protect EFH; however, such recommendations are advisory, and not prescriptive in nature. EPA has evaluated the Draft General Permit and has made the determination that issuance of the General Permit will is not likely to adversely affect EFH.

*Executive Order 12866:* The Office of Management and Budget (OMB) exempts this action from the review requirements of Executive Order 12866 pursuant to Section 6 of that order.

*Economic Impact [Executive Order 12291]:* The EPA has reviewed the effect of Executive Order 12291 on this Draft General Permit and has determined that it is not a major rule pursuant to that Order.

*Paperwork Reduction Act [44 U.S.C. 3501 et seq.]* The EPA has reviewed the requirements imposed on regulated facilities in the Draft General Permit and finds them consistent with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

*Regulatory Flexibility Act [5 U.S.C. 601 et seq.]* The Regulatory Flexibility Act (RFA) requires that EPA prepare an initial regulatory flexibility analysis for rules subject to the requirements of the Administrative Procedures Act [APA, 5 U.S.C. 553] that have a significant impact on a substantial number of small entities. However, EPA has concluded that NPDES General Permits are not rulemakings under the APA, and thus not subject to APA rulemaking requirements or the RFA.

Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, generally requires Federal agencies to assess the effects of their regulatory actions (defined to be the same as rules subject to the RFA) on tribal, state, and local governments, and the private sector. However, General NPDES Permits are not rules subject to

the requirements of the APA, and are, therefore, not subject to the UMRA.

**Authority:** This action is taken under the authority of Section 402 of the Clean Water Act as amended, 42 U.S.C. 1342. I hereby provide public notice of the Draft General Permit for Federal Aquaculture Facilities and Aquaculture Facilities Located in Indian Country within the Boundaries of Washington State in accordance with 40 CFR 124.10.

Dated: December 14, 2015.

**Daniel D. Opalski,**

*Director, Office of Water and Watersheds, Region 10.*

[FR Doc. 2015–32026 Filed 12–18–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPPT–2015–0780; FRL–9939–68]**

## Lead; Renovation, Repair and Painting Program; Lead Test Kit; Notice of Opening of Comment Period

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA is opening a comment period to allow for further public comment on lead test kits and other field testing options as suggested in EPA's Fiscal Year 2015 Appropriations Act policy rider. Among other things, the 2008 Lead Renovation, Repair, and Painting rule (RRP) established performance recognition criteria for lead test kits for use as an option to determine if regulated lead-based paint is not present in target housing and child-occupied facilities. The use of an EPA-recognized lead test kit, when used by a trained professional, can reliably determine that regulated lead-based paint is not present by virtue of a negative result. The RRP rule also established negative response and positive response criteria for lead test kits recognized by EPA. No lead test kit has been developed that meets the positive response criterion. On June 4, 2015, EPA hosted a public meeting and webinar to solicit input from stakeholders in an effort to understand the current state of the science for lead test kits and lead-based paint field testing alternatives, as well as the existing market and potential availability of additional lead test kits. To date, no company's lead test kit has met both the negative response and positive response criteria outlined in the RRP rule. Based on stakeholder input, EPA is unaware of any lead test kit available now or in the foreseeable future that would meet both of the performance criteria.

**DATES:** Comments must be received on or before February 19, 2016.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2015–0780, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html*.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets*. The docket for this action will remain open until February 19, 2016.

**FOR FURTHER INFORMATION CONTACT:** *For technical information contact:*

The Agency's lead information Contact Us form at *http://www2.epa.gov/lead/forms/contact-us* or visit *www2.epa.gov/lead*. You may also contact Toiya Goodlow, National Program Chemicals Division (7404M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 566–2305; email address: *goodlow.toiya@epa.gov*.

*For general information contact:* The National Lead Information Center, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: 1–800–424–LEAD (5323); online information request form: *http://www2.epa.gov/lead/forms/lead-hotline-national-lead-information-center*.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this action apply to me?*

This document is directed to stakeholders that develop, manufacture and/or sell lead test kits or other lead-based paint field testing instruments. You may be potentially affected by this action if you manufacture or sell lead test kits, or if you use lead test kits to determine if lead-safe work practices are required under the RRP rule to perform renovations for compensation in target housing or child-occupied facilities. Examples of child-occupied facilities are day-care centers, preschools, and kindergarten classrooms.

*B. What should I consider as I prepare my comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html*.

### II. What action is the Agency taking?

On April 22, 2008, EPA published the Lead Renovation, Repair, and Painting rule. It requires contractors to use lead-safe work practices during renovation, repair, and painting activities that disturb lead-based paint in target housing and child-occupied facilities built before 1978 unless a determination can be made that no lead-based paint would be disturbed during the renovation or repair (Ref. 1). The use of an EPA-recognized lead test kit, when used by a trained professional, can reliably determine that regulated lead-based paint is not present by virtue of a negative result. The federal standards for lead-based paint in target housing and child-occupied facilities is a lead content in paint that equals or exceeds a level of 1.0 milligram per square centimeter ($mg/cm^2$) or 0.5 percent by weight. If regulated lead-based paint is not present, there is no requirement to employ lead-safe work practices under the RRP rule.

The RRP rule established negative response and positive response criteria outlined in 40 CFR 745.88(c) for lead test kits recognized by EPA. Lead test kits recognized before September 1, 2010, must meet only the negative response criterion outlined in 40 CFR 745.88(c)(1). The negative response

criterion states that for paint containing lead at or above the regulated level, 1.0 mg/cm² or 0.5% by weight, a demonstrated probability (with 95% confidence) of a negative response less than or equal to 5% of the time must be met. The recognition of kits that meet only this criterion will last until EPA publicizes its recognition of the first lead test kit that meets both the negative and positive response criteria outlined in the rule.

Lead test kits recognized after September 1, 2010, must meet both the negative response and positive response criteria outlined in 40 CFR 745.88(c)(1) and (2). The positive response criterion states that for paint containing lead below the regulated level, 1.0 mg/cm² or 0.5% by weight, a demonstrated probability (with 95% confidence) of a positive response less than or equal to 10% of the time must be met. Qualitatively speaking, lead test kits recognized by EPA should also serve as a quick, inexpensive, reliable, and easy to perform option for lead-based paint testing in the field.

To date no lead test kit has met both of the performance criteria outlined in the RRP rule. However, there are two EPA-recognized lead test kits commercially available nationwide that meet the negative response criterion and continue to be recognized by EPA on such basis.

The report accompanying the EPA Fiscal Year 2015 Appropriations Act included a policy rider that states:

> Lead Test Kit-In 2008, EPA adopted the Lead Renovation, Repair, and Painting rule which included criteria by which the Agency could certify a test kit that contractors could use onsite to comply with the rule; yet, 6 years later no kit has been developed that meet these standards. The Agency is directed to prioritize efforts with stakeholders in fiscal year 2015 to identity solutions that would allow for a test kit to meet the criteria within the 2008 rule to reduce costs for consumers, remodelers and families to comply with the rule. If no solution is reached by the end of the fiscal year, EPA should revisit the test kit criteria in the 2008 rule and solicit public comment on alternatives (Ref. 2).

In response, EPA solicited input from stakeholders in an effort to understand the current state of the science for lead test kits and lead-based paint field testing alternatives, as well as the existing market and potential availability of additional lead test kits (Ref. 3). On June 4, 2015, EPA hosted a public meeting and webinar with stakeholders including lead test kit developers and manufacturers, non-governmental organizations, trade associations, National Lead Laboratory Accreditation Program (NLLAP) accreditation organizations and laboratories, and state and federal government staff members. Ninety-five people participated in the meeting and 12 public comments were submitted to the public docket. EPA also held three individual meetings with lead test kit developers and trade associations.

EPA has carefully reviewed the comments and recommendations received through these stakeholder outreach efforts. Stakeholders provided comments on the following topics: lead test kits, X-Ray Fluorescence (XRF) testing, limiting the scope of the RRP rule, NLLAP testing, the lead-based paint definition, EPA's Environmental Technology Verification (ETV) Program, the economic analysis supporting the RRP rule, and harmonization of regulatory standards. Based on stakeholder input, EPA is unaware of any lead test kit available now or in the foreseeable future that would meet both the positive response and negative response criteria. EPA concluded that no recommendation received thus far would provide an immediate solution to allow for a lead test kit that would meet both of the performance criteria and have the potential to ''reduce costs for consumers, remodelers and families,'' per the EPA Fiscal Year 2015 Appropriations Act policy rider.

At this time, EPA has no plans or resources to sponsor additional testing of kits as was done previously through the agency's ETV Program. However, lead test kit manufacturers are allowed at any time to submit to EPA data on their kit's performance that is based on an EPA approved ETV-equivalent test protocol. If a newly-developed lead test kit is shown to meet both the positive response and negative response criteria, EPA would recognize the lead test kit as meeting both criteria under 40 CFR 745.88(c).

Given this current status and the input received from stakeholders, EPA is opening a comment period to allow for further public comment on lead test kits and other field testing options as suggested in EPA Fiscal Year 2015 Appropriations Act policy rider. Without proposing any regulatory amendments at this time, EPA is specifically soliciting comment on the following potential lead test kit and field testing options:

- Proposing to eliminate the positive response criterion;
- Proposing to modify the positive response criterion;
- Maintaining the current negative response and positive response criteria;
- Proposing to provide reduced RRP certification training requirements for XRF technicians; and
- Exploring any other lead-based paint field testing technology that would provide reduced costs for consumers, remodelers and families to comply with the RRP rule.

Commenters should provide technical information and data used to substantiate your recommendation. See the commenting tips at *http://www2.epa.gov/dockets/commenting-epa-dockets#tips* for further information on preparing and submitting comments. Comments must be received on or before February 19, 2016.

Additionally and separately, EPA will provide a subsequent opportunity to provide public comment through the Regulatory Flexibility Act, section 610, review of the RRP rule. Public comments requested at that time will be related to broader stakeholder recommendations regarding the RRP rule. For more information about the Regulatory Flexibility Act, section 610, reviews, please visit *http://www2.epa.gov/reg-flex/section-610-reviews*.

## III. References

As indicated under **ADDRESSES**, a docket has been established for this notice under docket ID number EPA–HQ–OPPT–2015–0780. The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. Lead; Renovation, Repair, and Painting Program; Final Rule, **Federal Register**, April 22, 2008 (73 FR 21692) (FRL–8355–7).
2. 160 Cong. Rec. H9,307, H9,767 (daily ed. Dec. 11, 2014) (Explanatory Statement Submitted by Mr. Rogers of Kentucky, Chairman of the House Committee on Appropriations regarding the House Amendment to the Senate Amendment on H.R. 83) (mentioning lead test kits).
3. EPA. Lead; Renovation, Repair and Painting Program; Lead Test Kit Stakeholder Meeting; Notice of Public Meeting. **Federal Register**, May 14, 2015 (80 FR 27621) (FRL–9927–40).

**Authority:** 15 U.S.C. 2601 *et seq.*

Dated: December 14, 2015.

**James Jones,**

*Assistant Administrator, Office of Chemical Safety and Pollution Prevention.*

[FR Doc. 2015–31994 Filed 12–18–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9940–44–OA]**

### Notification of a Public Teleconference of the Chartered Science Advisory Board

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The EPA Science Advisory Board (SAB) Staff Office announces a public teleconference to review a draft SAB report on the EPA's Integrated Risk Information System (IRIS) Toxicological Review of Benzo[a]pyrene.

**DATES:** The public teleconference for the Chartered SAB will be conducted on Tuesday January 26, 2016 from 2:00 p.m. to 4:00 p.m. (Eastern Time).

**ADDRESSES:** The public teleconference will be conducted by telephone only.

**FOR FURTHER INFORMATION CONTACT:** Any member of the public wishing to obtain information concerning the public teleconference may contact Mr. Thomas Carpenter, Designated Federal Officer (DFO), EPA Science Advisory Board Staff Office (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; by telephone/voice mail at (202) 564–4885 or at *carpenter.thomas@epa.gov*. General information about the SAB as well as any updates concerning the teleconference announced in this notice may be found on the EPA Web site at *http://www.epa.gov/sab.*

**SUPPLEMENTARY INFORMATION:** The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a federal advisory committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. Pursuant to FACA and EPA policy, notice is hereby given that the chartered SAB will hold a public teleconference to conduct a quality review of the draft SAB report on the IRIS programs Toxicological Assessment for Benzo[a]pyrene. The SAB undertook this review at the request of the EPA's Office of Research and Development (ORD). Quality review is a key function of the chartered SAB. Draft reports prepared by SAB committees, panels, or work groups must be reviewed and approved by the chartered SAB before transmittal to the EPA Administrator. Consistent with FACA, the chartered SAB makes a determination in a public meeting about each draft report and determines whether the report is ready to be transmitted to the EPA Administrator.

For the EPA's Toxicological Review of Benzo[a]pyrene, External Review Draft (September, 2014), the ORD conducted a qualitative characterization of the hazards for benzo[a]pyrene, including a cancer descriptor of the chemical's human carcinogenic potential, cancer risk estimates for oral, inhalation and dermal exposure, and noncancer toxicity values for chronic oral (reference dose) and inhalation (reference concentration) exposure. Information about this advisory activity can be found on the Web at: *http://yosemite.epa.gov/sab/sabproduct.nsf/02ad90b136fc21ef85256eba00436459/4dcfd0e5f45a8cad85257b65005b17c8!OpenDocument.*

*Availability of Meeting Materials:* The agenda and materials in support of this teleconference will be available on the EPA Web site at *http://www.epa.gov/sab* in advance of the teleconference.

*Procedures for Providing Public Input:* Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit comments for a federal advisory committee to consider as it develops advice for EPA. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for SAB panels to consider or if it relates to the clarity or accuracy of the technical information. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a teleconference will be limited to three minutes. Each person making an oral statement should consider providing written comments as well as their oral statement so that the points presented orally can be expanded upon in writing. Interested parties should contact Mr. Thomas Carpenter, DFO, in writing (preferably via email) at the contact information noted above, by January 19, 2016 to be placed on the list of public speakers. *Written Statements:* Written statements should be supplied to the DFO, preferably via email, at the contact information noted above one week before the teleconference so that the information may be made available to the Board members for their consideration. It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

*Accessibility:* For information on access or services for individuals with disabilities, please contact Mr. Thomas Carpenter at (202) 564–4885 or *carpenter.thomas@epa.gov.* To request accommodation of a disability, please contact Mr. Carpenter preferably at least ten days prior to the teleconference to give EPA as much time as possible to process your request.

Dated: December 15, 2015.

**Thomas H. Brennan,**

*Deputy Director, EPA Science Advisory Staff Office.*

[FR Doc. 2015–31997 Filed 12–18–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPP–2015–0634; FRL–9940–02]**

### Cancellation of Pesticides for Non-Payment of Year 2015 Registration Maintenance Fees; Correction

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice; correction.

**SUMMARY:** EPA issued a notice in the **Federal Register** of November 13, 2015, concerning the cancellation of pesticides for non-payment of year 2015 registration maintenance fees. This document is being issued to correct Table 2 of the cancellation notice by removing one entry which was inadvertently included.

**FOR FURTHER INFORMATION CONTACT:** Mick Yanchulis, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–0237; email address: *yanchulis.michael@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this action apply to me?*

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action.

*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–2015–0634, 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 does this correction do?**

This notice is being issued to correct Table 2 of the cancellation notice. This correction removes 1 entry which was inadvertently included.

FR Doc. 2015–28765 published in the **Federal Register** of November 13, 2015 (80 FR 70206) (FRL–9934–46) is corrected as follows:

1. On page 70208, in Table 2, remove the complete entry for: ''070950–00003.''

**Authority:** 7 U.S.C. 136 *et seq.*

Dated: December 10, 2015.

**Michael Hardy,**

*Acting Director, Information Technology and Resource Management Division, Office of Pesticide Programs.*

[FR Doc. 2015–32025 Filed 12–18–15; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OGC–2015–0677; FRL–9940–39–OGC]**

## Proposed Consent Decree, Clean Air Act Citizen Suit

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed consent decree; request for public comment.

**SUMMARY:** In accordance with section 113(g) of the Clean Air Act, as amended (''CAA'' or the ''Act''), notice is hereby given of a proposed consent decree to address a lawsuit filed by Sierra Club and Physicians For Social Responsibility—Los Angeles (''Plaintiffs'') in the United States District Court for the Central District of California: *Sierra Club, et al.* v. *EPA,* No. 2:15–cv–3798–ODW (ASx) (C.D. CA.) (filed May 20, 2015). Plaintiffs filed a lawsuit alleging that Gina McCarthy, in her official capacity as Administrator of the United States Environmental Protection Agency (''EPA'') and Jared Blumenfeld, in his official capacity as Regional Administrator of the United States Environmental Protection Agency, Region IX (collectively, ''EPA''), failed to perform duties mandated by CAA to take final action to approve or disapprove, in whole or in part, the portions of the South Coast Air Quality Management District's Final 2012 Air Quality Management Plan that address attainment of the 2006 fine particulate matter (''$PM_{2.5}$'') NAAQS, which California submitted to EPA on February 13, 2013. The proposed consent decree would establish deadlines for EPA to take certain specified actions. This is the second notice provided for this proposed consent decree.

**DATES:** Written comments on the proposed consent decree must be received by *January 20, 2016.*

**ADDRESSES:** Submit your comments, identified by Docket ID number EPA–HQ–OGC–2015–0677, online at *www.regulations.gov* (EPA's preferred method); by email to *oei.docket@epa.gov;* by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

**FOR FURTHER INFORMATION CONTACT:** Geoffrey L. Wilcox, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone: (202) 564–5601; fax number: (202) 564–5603; email address: *wilcox.geoffrey@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

**I. Additional Information About the Proposed Consent Decree**

The proposed consent decree would resolve a lawsuit filed by the Plaintiffs seeking to compel EPA to take actions required under CAA section 110(k)(2)–(4). The Plaintiffs' lawsuit alleged that EPA has a mandatory duty to take final action to approve or disapprove, in whole or in part, the portions of the South Coast Air Quality Management District's Final 2012 Air Quality Management Plan that address attainment of the 2006 $PM_{2.5}$ NAAQS. California made this SIP submission on February 13, 2013. The submission was complete by operation of law on August 13, 2013. Section 110(k)(2) requires EPA to take action on a SIP submission within one year of the date it is complete. The Plaintiffs allege that EPA had a mandatory duty to take action on the submission by August 13, 2014. Under the terms of the proposed consent decree, EPA must take final action no later than March 15, 2016, with respect to this claim. See the proposed consent decree for the specific details.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who are not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this proposed consent decree should be withdrawn, the terms of the consent decree will be affirmed. EPA published a prior notice of this proposed consent decree on October 21, 2015. In order to assure that all parties have notice of the proposed consent decree, EPA is providing this additional notice and opportunity to comment upon the proposed consent decree pursuant to section 113(g).

**II. Additional Information About Commenting on the Proposed Consent Decree**

*A. How can I get a copy of the proposed consent decree?*

The official public docket for this action (identified by EPA–HQ–OGC–2015–0677) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental

Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center 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 OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *www.regulations.gov.* You may use *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search''.

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

*B. How and to whom do I submit comments?*

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment and with any disk or CD–ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

Use of the *www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (email) system is not an ''anonymous access'' system. If you send an email comment directly to the Docket without going through *www.regulations.gov,* your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: December 11, 2015.

**Lorie J. Schmidt,**

*Associate General Counsel.*

[FR Doc. 2015–31995 Filed 12–18–15; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice to All Interested Parties of the Termination of the Receivership of 10439, Security Bank, N.A., North Lauderdale, Florida

NOTICE IS HEREBY GIVEN that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for Security Bank, N.A., North Lauderdale, Florida (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of Security Bank, N.A. on May 4, 2012. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 32.1, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: December 16, 2015.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2015–31952 Filed 12–18–15; 8:45 am]

**BILLING CODE 6714–01–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 January 14, 2016.

A. Federal Reserve Bank of Boston (Prabal Chakrabarti, Senior Vice

President) 600 Atlantic Avenue, Boston, Massachusetts 02210–2204:

1. *Pentucket Bank Holdings, MHC, and Pentucket Bancorp, Inc.,* both in Haverhill, Massachusetts; to become bank holding companies by acquiring 100 percent of the voting shares of Pentucket Bank, Haverhill, Massachusetts.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Eastern Michigan Financial Corporation,* Croswell, Michigan; to merge with Ruth Bank Corporation, and thereby indirectly acquire voting shares of Ruth State Bank, both in Ruth, Michigan.

C. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *First Bancshares Corporation,* Gladstone, Michigan; to acquire 100 percent of the voting shares of Northern Michigan Bank & Trust, Escanaba, Michigan.

D. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *CSBO Holdings, Inc., Employee Stock Ownership Plan,* Ridgway, Colorado; to become a bank holding company by acquiring 51 percent of the voting shares of CSBO Holdings, Inc., Ridgway, Colorado, and thereby indirectly acquire voting shares of Citizens State Bank of Ouray, Ouray, Colorado.

Board of Governors of the Federal Reserve System, December 15, 2015.

**Michael J. Lewandowski,**

*Associate Secretary of the Board.*

[FR Doc. 2015–31889 Filed 12–18–15; 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 January 4, 2016.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Janet McCauslin, Chillicothe, Missouri; John Littrell, Brookfield, Missouri, as a group acting in concert, and Allen D. Powell Bank Share Trust, and Allen Powell, as trustee,* both of Linneus, Missouri; to acquire voting shares of Capital Bancshares, Inc., and thereby indirectly acquire voting shares of Bank of Brookfield-Purdin, N.A., both in Brookfield, Missouri.

Board of Governors of the Federal Reserve System, December 15, 2015.

**Michael J. Lewandowski,**

*Associate Secretary of the Board.*

[FR Doc. 2015–31888 Filed 12–18–15; 8:45 am]

**BILLING CODE 6210–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[Docket No. CDC–2015–0014]**

### Final Revised Vaccine Information Materials for Pneumococcal Conjugate Vaccine (PCV13)

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** Under the National Childhood Vaccine Injury Act (NCVIA)(42 U.S.C. 300aa–26), the CDC must develop vaccine information materials that all health care providers are required to give to patients/parents prior to administration of specific vaccines. On May 20, 2015, CDC published a notice in the **Federal Register** (80 FR 29009) seeking public comments on proposed updated vaccine information materials for pneumococcal conjugate vaccine (PCV13). Following review of comments submitted and consultation as required under the law, CDC has finalized the materials. Copies of the final vaccine information materials for pneumococcal conjugate vaccine (PCV13) are available to download from *http://www.cdc.gov/vaccines/hcp/vis/index.html* or *http://www.regulations.gov* (see Docket Number CDC–2015–0014).

**DATES:** Beginning no later than March 1, 2016, each health care provider who administers pneumococcal conjugate vaccine (PCV13) to any child or adult in the United States shall provide copies of the relevant vaccine information materials contained in this notice, in conformance with the November 5, 2015 CDC Instructions for the Use of Vaccine Information Statements prior to providing such vaccinations.

**FOR FURTHER INFORMATION CONTACT:** Suzanne Johnson-DeLeon (*msj1@cdc.gov*), National Center for Immunization and Respiratory Diseases, Centers for Disease Control and Prevention, Mailstop A–19, 1600 Clifton Road NE., Atlanta, Georgia 30329.

**SUPPLEMENTARY INFORMATION:** The National Childhood Vaccine Injury Act of 1986 (Pub. L. 99–660), as amended by section 708 of Public Law 103–183, added section 2126 to the Public Health Service Act. Section 2126, codified at 42 U.S.C. 300aa-26, requires the Secretary of Health and Human Services to develop and disseminate vaccine information materials for distribution by all health care providers in the United States to any patient (or to the parent or legal representative in the case of a child) receiving vaccines covered under the National Vaccine Injury Compensation Program (VICP).

Development and revision of the vaccine information materials, also known as Vaccine Information Statements (VIS), have been delegated by the Secretary to the Centers for Disease Control and Prevention (CDC). Section 2126 requires that the materials be developed, or revised, after notice to the public, with a 60-day comment period, and in consultation with the Advisory Commission on Childhood Vaccines, appropriate health care provider and parent organizations, and the Food and Drug Administration. The law also requires that the information contained in the materials be based on available data and information, be presented in understandable terms, and include:

(1) A concise description of the benefits of the vaccine,

(2) A concise description of the risks associated with the vaccine,

(3) A statement of the availability of the National Vaccine Injury Compensation Program, and

(4) Such other relevant information as may be determined by the Secretary.

The vaccines initially covered under the National Vaccine Injury Compensation Program were diphtheria, tetanus, pertussis, measles, mumps, rubella, and poliomyelitis vaccines. Since April 15, 1992, any health care

provider in the United States who intends to administer one of these covered vaccines is required to provide copies of the relevant vaccine information materials prior to administration of any of these vaccines. Since then, the following vaccines have been added to the National Vaccine Injury Compensation Program, requiring use of vaccine information materials for them as well: Hepatitis B, *Haemophilus influenzae* type b (Hib), varicella (chickenpox), pneumococcal conjugate, rotavirus, hepatitis A, meningococcal, human papillomavirus (HPV), and seasonal influenza vaccines. Instructions for use of the vaccine information materials are found on the CDC Web site at: *http://www.cdc.gov/vaccines/hcp/vis/index.html*.

**Revised Vaccine Information Materials**

The pneumococcal conjugate vaccine (PCV13) information materials referenced in this notice were developed in consultation with the Advisory Commission on Childhood Vaccines, the Food and Drug Administration, and parent and healthcare provider organizations. Following consultation and review of comments submitted, the vaccine information materials covering pneumococcal conjugate vaccine (PCV13) have been finalized and are available to download from *http://www.cdc.gov/vaccines/hcp/vis/index.html* or *http://www.regulations.gov* (see Docket Number CDC–2015–0014). The Vaccine Information Statement (VIS) is ''Pneumococcal Conjugate Vaccine (PCV13): What You Need to Know,'' publication date November 5, 2015.

With publication of this notice, as of March 1, 2016, all health care providers will be required to provide copies of these updated pneumococcal conjugate vaccine (PCV13) information materials prior to immunization in conformance with CDC's November 5, 2015 Instructions for the Use of Vaccine Information Statements.

Dated: December 16, 2015.

**Sandra Cashman,**

*Executive Secretary, Centers for Disease Control and Prevention.*

[FR Doc. 2015–31989 Filed 12–18–15; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–16–0841; Docket No. CDC–2015–0115]**

### Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on the *Management Information System for Comprehensive Cancer Control Programs* data collection. CDC uses the electronic MIS to collect information about cancer prevention and control activities conducted by states, territories, and tribal organizations.

**DATES:** Written comments must be received on or before February 19, 2016.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2015–0115 by any of the following methods:

*Federal eRulemaking Portal: Regulation.gov.* Follow the instructions for submitting comments.

*Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to Regulations.gov, including any personal information provided. For access to the docket to read background documents or comments received, go to Regulations.gov.

**Please note:** All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

**Proposed Project**

Management Information System for Comprehensive Cancer Control Programs (OMB No. 0920–0841, exp. 3/31/2016)—Revision—National Center for Chronic Disease Prevention and

Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

From 2007–2012, the Centers for Disease Control and Prevention (CDC) provided funding to all 50 states, the District of Columbia, seven tribes/tribal organizations, and seven territories/U.S. Pacific Island Jurisdictions through the National Cancer Prevention and Control Program (CDC Funding Opportunity Announcement [FOA] DP07–703). New five-year cooperative agreements were established in June 2012 under FOA DP12–1205 (''Cancer Prevention and Control Program for State, Territorial and Tribal Organizations''). From 2012–2015, a subset of 13 awardees received additional funding for demonstration programs to advance cancer control using policy, systems, and environmental change strategies.

Since 2010, cancer prevention and control (CPC) awardees have used an electronic management information system (MIS) to submit semi-annual progress reports to CDC (''Management Information System for Comprehensive Cancer Control Programs,'' OMB No. 0920–0841, exp. 3/31/2016). The progress reports satisfy federal reporting requirements and allow CDC to provide targeted technical assistance to awardees while monitoring their activities and progress. The MIS also provides CDC with the capacity to respond in a timely manner to requests for information from the Department of Health and Human Services (HHS), Congress, and other sources.

CDC plans to request a revision of the current MIS-based reporting system. Minor modifications will be made to standardize and streamline data entry; for example, the open-ended text boxes previously used to develop objectives will be replaced with a drop-down menu of evidence-based indicators. The modifications will also make MIS entries and output more user-friendly for CDC staff who use the MIS to monitor and evaluate specific program outcomes. The search function will also be modified to search for these indicators.

All 65 DP12–1205 cancer prevention and control awardees will continue to submit semi-annual reports to CDC through the end of the cooperative agreement period. These reports include information about personnel, resources, finances, planning, action plans, and progress. Information will be submitted by the program director for the state, territory, or tribal cancer control program. Awardees will be responsible for verifying their current information and entering new objectives and progress. To minimize respondent burden, information that has not changed does not need to be re-entered into the MIS. The estimated burden for ongoing system maintenance and semi-annual reporting is being reduced from three hours per response to two hours per response.

CDC anticipates that DP12–1205 will be succeeded in 2017 by a new FOA based on similar objectives and a comparable monitoring and evaluation plan. The burden table includes an annualized, one-time allocation of two hours response per response for initial population of the MIS with information that is specific to the new FOA. Due to annualization, this activity is represented in the table as 22 awardees instead of 65 awardees. CDC is considering a change in the frequency of progress reporting, effective with the new FOA. Routine progress reporting is likely to occur once per year instead of twice per year.

OMB approval will be requested for three years. The total estimated annualized burden for this reporting period will decrease due to a reduction in the estimated burden per response for semi-annual reporting; a reduction in the estimated burden per response for populating the MIS with information specific to the new FOA; and discontinuation of semi-annual reporting for demonstration program activities.

Awardees are required to submit the requested information to CDC as a condition of funding. CDC will use the information submitted by awardees to identify training and technical assistance needs, monitor compliance with cooperative agreement requirements, evaluate progress made in achieving program-specific goals, and obtain information needed to respond to Congressional and other inquiries regarding program activities and effectiveness. All information will be collected electronically. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Avg. burden per response (in hrs.) | Total burden (in hrs.) |
|---|---|---|---|---|---|
| Program Director for State-, Tribal-, or Territorial-based Cancer Prevention and Control Program. | Data Elements for All CPC Programs: Semi-annual Reporting. | 65 | 2 | 2 | 260 |
| | Data Elements for All CPC Programs: Initial MIS Population for New FOA. | 22 | 1 | 2 | 44 |
| Total | | | | | 304 |

**Leroy A. Richardson,**

*Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.*

[FR Doc. 2015–31961 Filed 12–18–15; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[Docket No. CDC–2015–0001]**

### Final Revised Vaccine Information Materials for Multiple Pediatric Vaccines (''Your Child's First Vaccines'')

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS)

**ACTION:** Notice

**SUMMARY:** Under the National Childhood Vaccine Injury Act (NCVIA)(42 U.S.C. 300aa–26), the CDC must develop vaccine information materials that all health care providers are required to give to patients/parents prior to administration of specific vaccines. On January 9, 2015, CDC published a notice in the **Federal Register** (80 FR 1416) seeking public comments on proposed updated vaccine information materials for multiple pediatric vaccines (''Your Baby's First Vaccines''). Following review of comments submitted and consultation as required under the law, CDC has finalized the materials. A copy of the final vaccine information materials for multiple pediatric vaccines (''Your Child's First Vaccines'') is available to download from *http://www.cdc.gov/vaccines/hcp/vis/index.html* or *http://www.regulations.gov* (see Docket Number CDC–2015–0001).

**DATES:** Beginning no later than March 1, 2016, each health care provider who chooses to use the multiple pediatric vaccines Vaccine Information Statement (''Your Child's First Vaccines'') when administering multiple pediatric vaccines to any child in the United States shall provide copies of the relevant vaccine information materials contained in this notice rather than the previous edition (dated October 22, 2014) in conformance with the November 5, 2015 CDC Instructions for the Use of Vaccine Information Statements prior to providing such vaccinations.

**FOR FURTHER INFORMATION CONTACT:** Suzanne Johnson-DeLeon (*msj1@cdc.gov*), National Center for Immunization and Respiratory Diseases, Centers for Disease Control and Prevention, Mailstop A–19, 1600 Clifton Road NE., Atlanta, Georgia 30329.

**SUPPLEMENTARY INFORMATION:** The National Childhood Vaccine Injury Act of 1986 (Pub. L. 99–660), as amended by section 708 of Public Law 103–183, added section 2126 to the Public Health Service Act. Section 2126, codified at 42 U.S.C. 300aa–26, requires the Secretary of Health and Human Services to develop and disseminate vaccine information materials for distribution by all health care providers in the United States to any patient (or to the parent or legal representative in the case of a child) receiving vaccines covered under the National Vaccine Injury Compensation Program (VICP).

Development and revision of the vaccine information materials, also known as Vaccine Information Statements (VIS), have been delegated by the Secretary to the Centers for Disease Control and Prevention (CDC). Section 2126 requires that the materials be developed, or revised, after notice to the public, with a 60-day comment period, and in consultation with the Advisory Commission on Childhood Vaccines, appropriate health care provider and parent organizations, and the Food and Drug Administration. The law also requires that the information contained in the materials be based on available data and information, be presented in understandable terms, and include:

(1) A concise description of the benefits of the vaccine,

(2) A concise description of the risks associated with the vaccine,

(3) A statement of the availability of the National Vaccine Injury Compensation Program, and

(4) Such other relevant information as may be determined by the Secretary.

The vaccines initially covered under the National Vaccine Injury Compensation Program were diphtheria, tetanus, pertussis, measles, mumps, rubella and poliomyelitis vaccines. Since April 15, 1992, any health care provider in the United States who intends to administer one of these covered vaccines is required to provide copies of the relevant vaccine information materials prior to administration of any of these vaccines. Since then, the following vaccines have been added to the National Vaccine Injury Compensation Program, requiring use of vaccine information materials for them as well: Hepatitis B, *Haemophilus influenzae* type b (Hib), varicella (chickenpox), pneumococcal conjugate, rotavirus, hepatitis A, meningococcal, human papillomavirus (HPV), and seasonal influenza vaccines. Instructions for use of the vaccine information materials are found on the CDC Web site at: *http://www.cdc.gov/vaccines/hcp/vis/index.html.*

**Revised Vaccine Information Materials**

The multiple pediatric vaccines information materials referenced in this notice were developed in consultation with the Advisory Commission on Childhood Vaccines, the Food and Drug Administration, and parent and healthcare provider organizations. Following consultation and review of comments submitted, the vaccine information materials covering multiple pediatric vaccines (''Your Child's First Vaccines'') have been finalized and are available to download from *http://www.cdc.gov/vaccines/hcp/vis/index.html* or *http://www.regulations.gov* (see Docket Number CDC–2015–0001). The Vaccine Information Statement (VIS) is ''Your Child's First Vaccines: What You Need to Know'' (publication date November 5, 2015).

With publication of this notice, as of March 1, 2016, all health care providers who choose to use the multiple pediatric vaccines Vaccine Information Statement (''Your Child's First Vaccines'') when administering multiple pediatric vaccines to any child in the United States shall provide copies of the relevant vaccine information materials contained in this notice rather than the previous edition (dated October 22, 2014) in conformance with CDC's November 5, 2015 Instructions for the Use of Vaccine Information Statements.

Dated: December 16, 2015.

**Sandra Cashman,**

*Executive Secretary, Centers for Disease Control and Prevention.*

[FR Doc. 2015–31990 Filed 12–18–15; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[CMS–1653–NC]**

### Medicare Program; Request for Information Regarding the Awarding and the Administration of Medicare Administrative Contractor Contracts

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Request for information.

**SUMMARY:** This request for information solicits public comment on the processes and procedures that we could use to leverage new legal authorities to— incentivize and reward exceptional Medicare Administrative Contractor (MAC) contract performance; publish performance information on each MAC,

to the extent permitted by law; and make MAC jurisdictional changes.

**DATES:** To be assured consideration, written or electronic comments must be received at one of the addresses provided below, no later than 5 p.m. on February 19, 2016.

**ADDRESSES:** In commenting, refer to file code CMS–1653–NC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1653–NC, P.O. Box 8013, Baltimore, MD 21244–8013.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1653–NC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* Alternatively, you may deliver (by hand or courier) your written comments ONLY to the following addresses: a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, call telephone number (410) 786–9994 in advance to schedule your arrival with one of our staff members.

Comments erroneously mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

FOR FURTHER INFORMATION CONTACT: Debra Bowman, (410) 786–4941. Phyllis Atkins-Mackey, (410) 786–9362. Megan Martino, (215) 861–4425. Sue Pelella, (215) 861–4245.

**SUPPLEMENTARY INFORMATION:**

*Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

## I. Background

For several decades after Medicare's inception in 1966, private health care insurers, known as Part A Fiscal Intermediaries (FI) and Part B carriers, processed medical claims for Medicare beneficiaries. Section 911 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173) added section 1874A to the Social Security Act (the Act) to require the Secretary of Health and Human Services (the Secretary) to replace Part A FIs and Part B carriers with Medicare Administrative Contractors (MACs). This contracting reform was intended to improve Medicare's administrative services to beneficiaries and health care providers through the use of new contracting tools, including competition and performance incentives.

Currently, we award MAC contracts through use of competitive procedures in accordance with the Federal Acquisition Regulation (FAR). As authorized by the MMA, we established MACs as multistate, regional contractors responsible for administering both Medicare Part A and Medicare Part B claims. The transition from the Part A FIs and Part B carriers to MACs began in 2006, and the last FI and carrier contractor operations ended by September 2013.

We rely on a network of 16 MACs to process Medicare claims, including 12 MACs that administer both Part A and Part B claims and 4 MACs that specialize in administering Part B claims for durable medical equipment, prosthetics, orthotics, and supplies. MACs serve as the primary operational contact between the Medicare Fee-For-Service (FFS) program and approximately 1.5 million health care providers and suppliers enrolled in the program. MACs process Medicare claims, enroll health care providers and suppliers in the Medicare program, educate providers and suppliers on Medicare billing requirements, and answer provider and supplier inquiries. Collectively, the MACs process nearly 4.9 million Medicare claims each business day and disburse more than $365 billion annually in program payments.

Section 509(a) of the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) (Pub. L. 114–10) extended the maximum length of a MAC contract, inclusive of all option and renewal periods, from 5 years to 10 years. Section 509(c) of MACRA added a clause to section 1874A(b)(3)(A) of the Act that requires the Secretary, to the extent possible without compromising the process for entering into and renewing contracts with MACs, to make available to the public the performance of each MAC with respect to such performance requirements and measurement standards.

## II. Provisions of the Request for Information

The Government Accountability Office (GAO) has recently noted that, now that we have accomplished the major milestone of fully implementing and transitioning to the MAC environment, we have the opportunity to consider whether some additional contracting mechanisms could be utilized to further improve MAC performance. Consistent with the new authority provided under MACRA and the recommendation provided by GAO, we are evaluating numerous elements of our MAC acquisition strategy, including potential adjustments to our MAC contract terms and conditions. The scope of our evaluation includes the processes and procedures that we use for awarding the MAC contracts and administering the MAC contracts after award.

We currently use a cost-plus-award-fee contract type for the MAC contracts, meaning that MACs are financially incentivized and rewarded with

additional fee/profit for exceptional performance in areas critical to the success of the Medicare FFS program. For example, and specific to provider satisfaction, we currently measure, evaluate, and reward MACs for the quality (accuracy, completeness, customer skills, and adherence to the Privacy Act of 1974) of their customer service representatives' responses to provider telephone calls and the providers' level of satisfaction with the MAC's Web site. The amount of award fee earned by the MAC is based on our comprehensive evaluation of the MAC's performance against specific, written quality measures and evaluation criteria.

Prior to the enactment of MACRA, the law required that MAC contracts be recompeted no less frequently than once every 5 years, which created the potential for frequent turnover in these critical contracts and disruption for Medicare providers and suppliers. With the enactment of MACRA, we are now able to renew a MAC contract for up to 10 years and reduce the potential for frequent turnover if the MAC meets or exceeds our performance objectives; conversely, we may still utilize competitive procedures sooner than 10 years in the event that a MAC does not meet our performance objectives. In concert with or in (partial or full) replacement of our award fee process, we are considering incorporating an ''award term'' concept into MAC contracting, meaning that we may incentivize and reward consistently, well-performing MACs with a longer-term contract (but not longer than 10 years). For example, MACs that consistently exceed our performance standards may be rewarded with a longer-term contract (up to 10 years); whereas, MACs that do not consistently exceed our performance standards may be limited to a shorter-term contract (more or less than 5 years). Therefore, we are soliciting public comment on the following questions regarding MAC incentives for exceptional performance:

- Do you have any concerns or suggestions related to development of a potential ''award term'' strategy and plan?
- Do you have any other suggestions for incentivizing and rewarding exceptional MAC performance?
- Are there any specific metrics or evaluation criteria that would be valuable in measuring the level and quality of the service provided by a MAC?
- Are there any specific metrics or evaluation criteria that would be valuable in measuring the level and quality of the MAC's relationships (including education and outreach) with providers?

Section 509(c) of MACRA directs us to make some MAC performance metrics available to the public, to the extent that doing so can be done in a manner that does not compromise the competitive procurement process. Therefore, we are requesting comment on the following questions regarding MAC performance transparency:

- With regard to the MAC's quality and level of service and performance, what types or kinds of information should be published for public release?
- If we were to publish the results of the evaluation of a MAC's performance on our Web site, which types of metrics or information should be made available for public release?

We are also soliciting public comment on potential MAC jurisdictional changes. Currently, there are 12 A/B MAC jurisdictions; in 2010, we announced a plan to consolidate FFS claims operations to 10 A/B MAC jurisdictions over the course of several years. However, in 2014, we announced that we were postponing the consolidation of Jurisdictions 8 (which encompasses the states of Indiana and Michigan) and 15 (which encompasses Kentucky and Ohio) to form ''Jurisdiction I'' and the consolidation of Jurisdictions 5 (Iowa, Kansas, Missouri and Nebraska) and 6 (Illinois, Minnesota, and Wisconsin) to form ''Jurisdiction G.'' For more information on our 2010 strategy for consolidating A/B MAC jurisdictions, as well as our 2014 decision to postpone the final 2 jurisdictional consolidations, see *https://www.cms.gov/Medicare/Medicare-Contracting/Medicare-Administrative-Contractors/Downloads/RFI-Announcement-AB–MAC-March-2014.pdf*

Accordingly, we are requesting comment on the following question:

- What would the advantages and disadvantages be if CMS completed the last two MAC consolidations?

## III. Collection of Information Requirements

This request for information document does not impose any information collection requirements. In accordance with the implementing regulations of the Paperwork Reduction Act of 1995 (PRA) at 5 CFR 1320.3(h)(4), we believe it is a general solicitation of comments from the public. Therefore, it is exempt from the requirements of the PRA (44 U.S.C. 3501 *et seq.*).

## IV. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we issue a subsequent document, we will respond to the comments in the preamble to that document.

Dated: November 23, 2015.

**Andrew M. Slavitt,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

[FR Doc. 2015–32027 Filed 12–18–15; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2015–N–0001]**

### Allergenic Products 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:* Allergenic Products 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 January 21, 2016, from 8:30 a.m. to 4 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:* Janie Kim or Denise Royster, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Silver Spring, MD 20993–0002, 301–796–9016 or 240–402–8158, email: *Janie.kim@fda.hhs.gov* or *Denise.royster@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting

cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

*Agenda:* On January 21, 2016, the Committee will meet in an open session to discuss safety and effectiveness data, including challenge study endpoints, for licensure of food allergy immunotherapy products, and the clinical development of aeroallergen immunotherapy products for the prevention of respiratory allergic disease.

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 January 6, 2016. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 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 December 29, 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 December 31, 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 Janie Kim 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: December 15, 2015.

**Jill Hartzler Warner,**

*Associate Commissioner for Special Medical Programs.*

[FR Doc. 2015–31894 Filed 12–18–15; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2015–N–0001]**

### Risk Communication 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:* Risk Communication 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 February 16, 2016, from 9 a.m. to 5 p.m. and February 17, 2016, from 9 a.m. to 4 p.m.

*Location:* FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993. 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:* Lee L. Zwanziger, Risk Communication Staff, Office of Planning, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 3354, Silver Spring, MD 20993, 301–796–9151, FAX: 301–847–3540, email: *RCAC@FDA.HHS.GOV,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

*Agenda:* On February 16 and 17, 2016, the Committee will discuss recent developments in risk communications and related sciences, and possible approaches and applications in the context of FDA communications.

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 February 9, 2016. Oral presentations from the public will be scheduled between approximately 1 p.m. and 1:30 p.m. on February 16, 2016, and 1 p.m. and 1:30 p.m. on February 17, 2016. 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 January 25, 2016. 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 February 2, 2016.

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 Lee L. Zwanziger 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: December 15, 2015.

**Jill Hartzler Warner,**

*Associate Commissioner for Special Medical Programs.*

[FR Doc. 2015–31893 Filed 12–18–15; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Health Resources and Services Administration (HRSA) has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

**DATES:** Comments on this ICR should be received no later than January 20, 2016.

**ADDRESSES:** Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

**FOR FURTHER INFORMATION CONTACT:** To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 594–4306.

**SUPPLEMENTARY INFORMATION:**

*Information Collection Request Title:* The Maternal, Infant, and Early Childhood Home Visiting Program Performance Measurement Information System.

*OMB No.:* 0906–xxxx—NEW.

*Abstract:* The Maternal, Infant, and Early Childhood Home Visiting Program (MIECHV), administered by HRSA in partnership with the Administration for Children and Families (ACF), supports voluntary, evidence-based home visiting services during pregnancy and to parents with young children up to kindergarten entry. States and territories (as well as nonprofit organizations selected to provide services in non-participating states and territories) are eligible to receive funding from the Home Visiting Program and have flexibility to tailor the program to serve the specific needs of their communities.

*Need and Proposed Use of the Information:* HRSA will use the proposed information to demonstrate program accountability and continuously monitor and provide oversight to state and territory Home Visiting Program grantees. The information will also be used to provide quality improvement guidance and technical assistance to grantees and help inform the development of early childhood systems at the national, state, and local level. HRSA is seeking to collect demographic, service utilization, and select clinical indicators for participants enrolled in home visiting services. In addition, HRSA will collect a set of standardized performance and system outcome indicators that correspond with the statutorily identified benchmark areas.

*Demographic, Service Utilization, and Clinical Indicators Data:* These data will describe the population served by the Home Visiting Program, including the unduplicated count of the number of participants and participant groups by race and ethnicity. These data will provide other socio-demographic characteristics of program participants and their utilization of services, such as program retention. Additionally, these data will describe several select clinical indicators of program participants, such as a child's usual source of medical care. This information will be collected from participants at enrollment in home visiting services and aggregated and reported to HRSA by state/territory grantees once annually.

*Performance and System Outcome Benchmark Data:* These data constitute a discrete set of standardized performance and system outcome indicators that correspond with the statutorily identified benchmark areas. These data will provide aggregate totals, percentages, and rates for performance and system outcome indicators that are salient to the Home Visiting Program, home visiting services more generally, and the at-risk populations served. These data will be collected from participants based on the appropriate measurement period defined for each measure and aggregated and reported to HRSA by state/territory grantees once annually.

This information will be used to demonstrate accountability with legislative and programmatic requirements. It will also be used to monitor and provide continued oversight for grantee performance and to target technical assistance resources to grantees. In the future, it is anticipated that Home Visiting Program funding decisions may be allocated based on grantee performance, including on benchmark performance areas.

*Likely Respondents:* Home Visiting Program grantees.

*Burden Statement:* Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

| Form name | Number of respondents | Number of responses per respondent | Total responses | Average burden per response (in hours) | Total burden hours |
|---|---|---|---|---|---|
| Form 1: Demographic, Service Utilization, and Clinical Indicators Data | 56 | 1 | 56 | 425 | 23,800 |
| Form 2: Performance and System Outcome Benchmark Data | 56 | 1 | 56 | 425 | 23,800 |
| Total | 56 | | 56 | | 47,600 |

**Jackie Painter,**

*Director, Division of the Executive Secretariat.*

[FR Doc. 2015–31936 Filed 12–18–15; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Government-Owned Inventions; Availability for Licensing

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

**FOR FURTHER INFORMATION CONTACT:** Licensing information and copies of the U.S. patent applications listed below may be obtained by emailing the indicated licensing contact at the National Heart, Lung, and Blood, Office of Technology Transfer and Development Office of Technology Transfer, 31 Center Drive Room 4A29, MSC2479, Bethesda, MD 20892–2479; telephone: 301–402–5579. A signed Confidential Disclosure Agreement may be required to receive copies of the patent applications.

**SUPPLEMENTARY INFORMATION:** Technology description follows.

**Fluorescent Nanodiamonds as Fiducial Markers for Microscopy**

*Description of Technology*

The invention relates to fluorescent nanodiamonds (FNDs) and their uses as fiducial markers for microscopy. FNDs are bright fluorescent probes that do not blink or bleach and have broad fluorescence excitation and emission peaks. The fluorescence intensity can be readily controlled by the size of the FND, the number of fluorescent centers produced in the nanodiamonds, or *in situ* through the application of a weak magnetic field. The particular advantage of the FND compositions of this invention are that they are particularly useful for extended imaging of a single sample over time periods that can be as long as a week or more. In an exemplary embodiment, FNDs are immobilized in a substrate that are coated with an inert top coating, like silicon dioxide, or transparent polymer (*e.g.* poly-L-lysine, poly-L-arginine, or siloxanes). Generally, any suitable methods known for surface functionalization of the substrate can be used to make the composition. In another aspect of this invention, the inventors designed software for super-resolution imaging correction method is employed to precisely determine the position coordinates of each of a set of FNDs in a plurality of images by using Gaussian fitting of the point spread function comprises each of the FNDs in the plurality of images. The calculated correction is then used to displace each image to align the coordinates of the FNDs. The positions of the FNDs can be tracked with sub-nanometer precision and residual drift can be reduced to the nanometer scale over hundreds of hours of tracking.

*Potential Commercial Applications*

- Fluorescent Microscopy
- Super-resolution microscopy
- Correlative imaging techniques combing fluorescence microscopy with electron, x-ray, or atomic force microscopy imaging modalities

*Competitive Advantages*

- Non-blinking, Non-bleaching
- Chemically inert
- Chemically and physically stable
- Broad excitation
- Longevity

*Development Stage*

- In vitro data

*Inventors*

- Keir Neuman, Ambika Bumb, Han Wen, Jennifer Hong and Susanta Sarkar (all of NHLBI)
- Chang Yi, Lawrence Samelson, Asit Manna (all of NCI)

Intellectual Property: HHS Reference No. E–217–2015/0–US–01

- US Provisional Patent Application 62/262,058 filed December 2, 2015.

Licensing Contact: Michael Shmilovich, Esq, CLP; 301–435–5019; *shmilovm@mail.nih.gov.*

Collaborative Research Opportunity: The National Heart, Lung and Blood Institute seeks statements of capability or interest from parties interested in collaborative research to further develop and evaluate metallic nanoparticle vesicles for cancer phototherapy. For collaboration opportunities, please contact Vincent Kolesnitchenko, Ph.D. at *kolesniv@nhlbi.nih.gov*.

Dated: December 15, 2015.

**Michael Shmilovich,**

*Senior Licensing and Patenting Manager, National Heart, Lung, and Blood Institute, Office of Technology Transfer and Development.*

[FR Doc. 2015–31890 Filed 12–18–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Submission for OMB Review; 30-Day Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (NIAID)

**SUMMARY:** Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health, has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on October 1, 2015, 80 FR 59168 and allowed 60-days for

public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institute of Allergy and Infectious Diseases (NIAID), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

**DATES:** Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

**FOR FURTHER INFORMATION CONTACT:** To obtain a copy of the data collection plans and instruments, or request more information on the proposed project, contact: Ms. Dione Washington, Health Science Policy Analyst, Office of Strategic Planning, Initiative Development and Analysis, 5601 Fishers Lane, Rockville, Maryland 20892, or call a non-toll-free number 240 669 2100 or Email your request, including your address to *washingtondi@niaid.nih.gov*. Formal requests for additional plans and instruments must be requested in writing. Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (NIAID), 0925–0668, Expiration Date 1/31/2016, EXTENSION, National Institute of Allergy and Infectious Diseases (NIAID).

*Need and Use of Information Collection:* There are no changes being requested for this submission. The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide information about the NIAID's customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the NIAID and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 16,100.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of collection | Number of respondents | Annual frequency per response | Hours per response | Total hours |
|---|---|---|---|---|
| **Estimated Annual Reporting Burden** | | | | |
| Customer satisfaction surveys | 25,000 | 1 | 30/60 | 12,500 |
| In-Depth Interviews (IDIs) or Small Discussion Groups | 500 | 1 | 90/60 | 750 |
| Individual Brief Interviews | 200 | 1 | 15/60 | 50 |
| Focus Groups | 1,000 | 1 | 2 | 2,000 |
| Pilot testing surveys | 200 | 1 | 30/60 | 100 |
| Conferences and Training Pre- and Post-surveys | 1,000 | 1 | 30/60 | 500 |
| Website or Software Usability Tests | 100 | 1 | 2 | 200 |
| Total | 28,000 | | | 16,100 |

Dated: December 15, 2015.

**Brandie Taylor Bumgardner,**

*Project Clearance Liaison, NIAID, NIH.*

[FR Doc. 2015–31986 Filed 12–18–15; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

**Proposed Project: Community Support Evaluation (CSE)—New**

The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services (CMHS), is requesting clearance for the new data collection associated with the CSE. The CSE is a multicomponent evaluation of two SAMHSA programs—Behavioral Health Treatment Court Collaborative (BHTCC) and Transforming Lives through Supported Employment (SE). SE intends to promote recovery for individuals with serious mental illness, substance

use, and co-occurring mental and substance use disorders. The programs are rooted in the belief that recovery is a holistic process bolstered by trauma-informed care and individual- and community-level support.

The purpose of the CSE is to (1) describe and assess BHTCC and SE grantee activities and procedures, including the intermediate or direct effects of the programs on participants; (2) document the application and sanctioned adaptations of BHTCC programs in the justice system and of the SE Program; and (3) design and implement plans to disseminate knowledge about how to replicate effective projects in other States, territories, tribal nations, and communities. Findings will inform current grantees, policymakers, and the field about ways to transform the behavioral health system to cultivate resiliency and recovery, actively collaborate with and engage, and improve service delivery for individuals with serious mental, substance, and co-occurring disorders who are in recovery.

Eight data collection activities compose the CSE—five for administration with BHTCC program grantees and three to be conducted with SE program grantees.

*BHTCC Study Instruments*

*Biannual Program Inventory (BPI)–BHTCC:* The BPI–BHTCC is a Web-based survey that will capture infrastructure development and direct services that are part of the BHTCC programs. Data include the types of planning, infrastructure, and collaboration grantees are implementing; trainings conducted; and direct services offered as part of the program. The BPI will be completed by grantee evaluation staff twice yearly (April and October) over the grant period.

*System-Level Assessment (SLA) Key Informant Interviews (KIIs):* The SLA KIIs will be conducted with five stakeholders from each BHTCC grantee to assess collaboration strategies to expand or better serve participants; processes for recruiting, screening, and retaining participants; practices to ensure treatment adherence and criminal justice compliance; and involvement of consumers in program planning and implementation. Data include implementation processes/outcomes; service infrastructure, capacity, entry, and delivery processes; management structure; reward and sanction models; trauma-informed practices; collaboration among BHTCC participants; and facilitators and barriers to collaboration. There are three versions of the SLA KIIs: (1) Court personnel (administrators, coordinators, judges, attorneys), (2) service provider (case managers, BHTCC peer specialists), and (3) consumer (clients, family members). Grantee staff will assist with respondent recruitment by collecting consent to contact from potential participants and forwarding the forms to the CSE team. The SLA KIIs will be conducted in grant years two and four via telephone or Skype. The SLA KIIs will cover the same information across years; however, the Year 4 SLA KIIs also will ask for specific plans for future implementation.

*Concept Mapping:* A total of four concept mapping exercises will be conducted—one local and three cross-site concept maps will be created. All concept mapping exercises will be coordinated at the local level with assistance from the CSE team. Beginning in Year two, each grantee will identify and recruit up to 20 stakeholders (BHTCC peers, consumers, family members of consumers, and court personnel) to participate in the first exercise. Concept mapping will be conducted via a Web-based program; accommodations will be made for respondents who do not have access to computers via telephone or paper/pencil.

- *Exercise 1—Local Concept Maps:* Between Years two and three, each BHTCC grantee will generate a local concept map identifying the priority supports for recovery. The exercise will take place in two parts. First, participants will be asked to brainstorm as many responses as they wish to a focus prompt about system-level change (*e.g., one way that this BHTCC collaborative provides support to consumers is . . .*). At a later date, local staff will ask participants to sort and rate the full list of responses from the brainstorming activity in ''any way that makes sense'' to them. Respondents will sort/rate the responses—once for importance and once for frequency—into groups and name them. The resulting information will be entered into Concept System software to generate a local map identifying the most important aspects of the grantee program that support recovery.
- *Exercise 2—Keys to Recovery (KTR) Map 1:* In Year four, up to 20 stakeholders from each BHTCC grantees will participate in a second sorting/rating of local concept mapping information. Grantee staff will develop a list of the most common brainstormed responses to the original local concept mapping exercise. The information will be used to generate a cross-site map on the basis of input from the 17 BHTCC sites.
- *Exercises 3 and 4—Keys to Recovery Maps 2 and 3:* In Year four, two groups of up to five BHTCC grantees with a particular court structure or program focus (*e.g.,* veterans' court and other BHTCC types of court models, such as key recovery supports addressing a specific aspect or type of severe mental illness) will participate in two concept mapping exercises to generate KTR maps. The program focus will be determined after the initial site-specific maps have been analyzed. Up to 20 stakeholders from each participating grantee will engage in brainstorming and sorting/rating activities. Respondents will participate via Web, telephone, or paper/pencil.

*18-Month Client Level Abstraction Tool:* The 18-Month Tool is an Excel-based tool that collects existing data on long-term client outcomes on recidivism. Data include (1) rearrest dates (from the National Crime Information Center database), (2) recommitment dates (from State departments of corrections and local/county jails and corrections), (3) revocation dates (from State and local corrections), and (4) risk assessment quantitative score. Grantee staff will complete the tool at 18 months from the baseline period for any client enrolled in the BHTCC program. Beginning in year two, grantees will upload all extracted data on a quarterly basis. In their final upload (last month of grant activity), grantees will include data for all clients not currently submitted including those enrolled less than 18 months. The 18-Month Tool will be completed by BHTCC grantee evaluation staff using existing sources. In addition, court staff (*e.g.,* court clerks) from two BHTCC comparison courts will complete the tool for non-BHTCC participants as part of a comparison study.

*Comparison Study Client Level Abstraction Tool:* The Comparison Study Tool is an Excel-based tool that collects existing data on comparison cases (individuals who are not participating in the BHTCC program but are comparable in program eligibility) at baseline and six months. Baseline data include demographics and status of screening for co-occurring disorders, employment, and probation/parole. Data abstracted through the six-month tool include employment status, probation/parole status, services received (*e.g.,* case management, treatment, medical care, after care, peer-to-peer recovery support, and education) and number of days services were received. Respondents will include court staff

(*e.g.,* court clerks) at comparison courts who have regular interaction with clients during their involvement in the justice system. Respondents will complete the tool on the basis of (1) court paperwork and (2) information discussed during regular court-related interactions.

*SE Study Instruments*

*Biannual Program Inventory–SE:* The BPI–SE is a Web-based survey that captures the infrastructure development and direct services that are part of the SE programs. Data include the types of planning that SE grantees and local implementation sites are implementing and activities and infrastructure developed as part of the project. The BPI is administered twice yearly (April and October) over the grant period and will be completed by SE grantee program staff.

*Scalability/Sustainability Assessment (SSA) KIIs:* The SSA KIIs will be conducted with various stakeholders to assess local SE program resources, infrastructure, outcomes, sustainability, and scalability from stakeholders. Data include changes in outcomes, workforce development, State-level collaboration, partnerships and policies, and scalability and sustainability. There are two versions of the SSA KIIs—each is tailored to the intended audience: (1) State-level administrator (project directors, agency directors, SECC members) and (2) local, pilot-level service provider (local service provider). The SSA KIIs will be conducted remotely by telephone and/or Skype technology in years two and four of the evaluation with five stakeholders from each SE grantee. The KIIs cover the same information across years; however, Year four KIIs will follow up on how the infrastructure and activities taking place in Year two come to fruition.

*Employment Needs Focus Groups (FGs):* The employment needs FGs will be conducted to gather information about the needs and experiences of employment specialists, consumers, and employers as they relate to supported employment principles and program goals. Data include local program implementation, the adoption of policies and practices for sustainability and scalability, and recommendations for program improvement and implementation best practices. Employment Needs FGs will be conducted with employment specialists and employers (who have and have not participated in the program) virtually using a Web-based platform (such as JoinMe) in years two and four of grant funding. Specific topics are tailored to respondent type.

- *Employment specialists* will discuss training received and techniques used to engage employers, the needs and experiences of clients and employers, facilitators and barriers to program implementation, and program scalability and sustainability. The employment specialist FG will take 90 minutes.
- *Employers* (*e.g.,* hiring managers, supervisors) will discuss experiences and satisfaction with the program, factors that facilitate and pose barriers to their participation, and program scalability and sustainability. The employer FG will take 60 minutes.

The estimated response burden to collect this information associated with the CSE is as follows, annualized over the requested three-year clearance period, as presented below:

TOTAL AND ANNUALIZED AVERAGES: RESPONDENTS, RESPONSES, AND HOURS

| Instrument | Number of respondents | Responses per respondent | Total Number of responses | Burden per response (hours) | Annual burden (hours) * |
|---|---|---|---|---|---|
| **BHTCC Study Instruments** | | | | | |
| Biannual Program Inventory–BHTCC | 17 | 2 | 34 | 0.75 | 26 |
| System Level Assessment KIIs | 58 | 1 | 58 | 1 | 58 |
| 18-Month Abstraction Tool | 19 | 1 | 19 | 5.40 | 102.6 |
| Comparison Study Abstraction Tool (BL) | 2 | 1 | 2 | 7 | 14 |
| Comparison Study Tool (6 Mo) | 2 | 1 | 2 | 7 | 14 |
| Concept Mapping Brainstorm/Sort/Rate | 180 | 1 | 180 | 1 | 180 |
| Concept Mapping Sort/Rate | 115 | 1 | 115 | 0.5 | 58 |
| **SE Study Instruments** | | | | | |
| Biannual Program Inventory–SE | 7 | 2 | 14 | 0.75 | 11 |
| Sustainability/Scalability KIIs | 28 | 1 | 28 | 1 | 28 |
| Employer FG | 28 | 1 | 28 | 1 | 28 |
| Employment Specialist FG | 28 | 1 | 28 | 1.5 | 42 |
| Total | 467 | | 508 | | 562 |

* Rounded to the nearest whole number.

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 2–1057, One Choke Cherry Road, Rockville, MD 20857 *OR* email a copy to *summer.king@samhsa.hhs.gov.* Written comments should be received by February 19, 2016.

**Summer King,**

*Statistician.*

[FR Doc. 2015–31951 Filed 12–18–15; 8:45 am]

**BILLING CODE 4162–20–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

**[1651–0138]**

### Agency Information Collection Activities: Biometric Identity

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** 30-Day notice and request for comments; extension of an existing collection of information.

**SUMMARY:** U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Biometric Identity. This is a proposed extension of an

information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours but no change to the information collected. This document is published to obtain comments from the public and affected agencies.

**DATES:** Written comments should be received on or before January 20, 2016 to be assured of consideration.

**ADDRESSES:** Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

**SUPPLEMENTARY INFORMATION:** This proposed information collection was previously published in the **Federal Register** (80 FR 25313) on May 4, 2015, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden, including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

*Title:* Biometric Identity

*OMB Number:* 1651–0138

*Abstract:* In order to enhance national security, the Department of Homeland Security developed a biometric based entry and exit system capable of improving the information resources available to immigration and border management decision-makers. These biometrics include: digital fingerprint scans, photographs, facial images and iris images, or other biometric identifiers. Biometrics are collected from those aliens specified in 8 CFR 215.8 and 8 CFR 235.1(f). Non-exempt, non-U.S. citizens will have their facial and iris images captured upon entry to and exit from the United States. The information collected is used to provide assurance of identity and determine admissibility of those seeking entry into the United States.

The federal statutes that mandate DHS to create a biometric entry and exit system include: Section 2(a) of the Immigration and Naturalization Service Data Management Improvement Act of 2000 (DMIA), Public Law 106–215, 114 Stat. 337 (2000); Section 205 of the Visa Waiver Permanent Program Act of 2000, Public Law 106–396, 114 Stat. 1637, 1641 (2000); Section 414 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), Public Law 107–56, 115 Stat. 272, 353 (2001); Section 302 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Border Security Act), Public Law 107–173, 116 Stat. 543, 552, (2002); Section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), Public Law 108–458, 118 Stat. 3638, 3817 (2004); and Section 711 of the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110–52, 121 Stat. 266 (2007).

*Current Actions:* This submission is being made to extend the expiration date with a change to the burden hours based on most recent estimates for the annual number of responses. There are no changes to the information being collected.

*Type of Review:* Extension (with change).

*Affected Public:* Individuals.

*Estimated Number of Respondents:* 113,200,000.

*Estimated Time per Respondent:* .0097 hours.

*Estimated Total Annual Burden Hours:* 1,098,040.

Dated: December 14, 2015.

**Tracey Denning,**

*Agency Clearance Officer, U.S. Customs and Border Protection.*

[FR Doc. 2015–32019 Filed 12–18–15; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5831–N–64]**

## 60-Day Notice of Proposed Information Collection: Generic Customer Satisfaction Surveys

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** *Comments Due Date:* February 19, 2016.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

**FOR FURTHER INFORMATION CONTACT:** Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone (202) 402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is

seeking approval from OMB for the information collection described in Section A.

**A. Overview of Information Collection**

*Title of Information Collection:* Generic Customer Satisfaction Surveys.

*OMB Approval Number:* 2535–0116.

*Type of Request:* Extension on a currently approved.

*Description of the need for the information and proposed use:* Executive Order 12862, ''Setting Customer Service Standards'' requires that Federal agencies provide the highest quality service to our customers by identifying them and determining what they think about our services. The surveys covered in the request for a generic clearance will provide HUD a means to gather this data directly from our customers. HUD will conduct various customer satisfaction surveys to gather feedback and data directly from our customers to determine the kind and quality of services and products they want and expect to receive.

*OMB Control Number, if applicable:* N/A.

*Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* The number of burden hours is 13,229. The number of respondents is 117,248, the number of responses is 117,248, the frequency of response is on occasion, and the burden hour per response is .80.

**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.

**C. Authority**

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: December 15, 2015.

**Colette Pollard,**

*Department Paperwork Reduction Act Officer, Office of the Chief Information Officer.*

[FR Doc. 2015–31988 Filed 12–18–15; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R3–R–2015–N197]; [FXRS1261030000–167–FF03R02000]**

### Whittlesey Creek National Wildlife Refuge, Bayfield County, Wisconsin; Final Comprehensive Conservation Plan and Finding of No Significant Impact for Environmental Assessment

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the availability of a final comprehensive conservation plan (CCP) and finding of no significant impact (FONSI) for the environmental assessment (EA) for the Whittlesey Creek National Wildlife Refuge (Refuge, NWR). In this final CCP, we describe how we intend to manage the refuge for the next 15 years.

**ADDRESSES:** You will find the final CCP, a summary of the final CCP, and the EA/FONSI on the planning Web site at *http://www.fws.gov/midwest/planning/whittleseycreek/index.html.* A limited number of hard copies and CD–ROMs are available. You may request one by any of the following methods:

- *Email: r3planning@fws.gov.* Include ''Whittlesey Creek Final CCP'' in the subject line of the message.
- *U.S. Mail:* Whittlesey Creek NWR, c/o Northern Great Lakes Visitor Center, 29270 County Highway G, Ashland, WI 54806.

**FOR FURTHER INFORMATION CONTACT:** Tom Kerr, 715–246–7784.

**SUPPLEMENTARY INFORMATION:**

**Introduction**

With this notice, we complete the CCP process for Whittlesey Creek National Wildlife Refuge, which we began by publishing a notice of intent in the **Federal Register** (78 FR 3909) on January 17, 2013. For more about the initial process and the history of this refuge, see that notice. We released the draft CCP and EA to the public, announcing and requesting comments in a notice of availability (80 FR 15249) on March 23, 2015. The 30-day comment period ended on April 22, 2015. A summary of public comments and the agency responses is included in the final CCP.

**Background**

The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee) (Administration Act), requires us to develop a CCP for each national wildlife refuge. The purpose in developing a CCP is to provide refuge managers with a 15-year strategy for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System (NWRS), consistent with sound principles of fish and wildlife management, conservation, legal mandates, and Service policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Administration Act.

Each unit of the NWRS was established for specific purposes. We use these purposes as the foundation for developing and prioritizing the management goals and objectives for each refuge within the NWRS mission, and to determine how the public can use each refuge. The planning process is a way for us and the public to evaluate management goals and objectives that will ensure the best possible approach to wildlife, plant, and habitat conservation, while providing for wildlife-dependent recreation opportunities that are compatible with each refuge's establishing purposes and the mission of the NWRS.

**Additional Information**

The final CCP may be found at *http://www.fws.gov/midwest/planning/whittleseycreek/index.html.* The final CCP includes detailed information about the planning process, refuge, issues, and management alternative selected. The Web site also includes an EA and FONSI, prepared in accordance with the National Environmental Policy Act (NEPA) (43 U.S.C. 4321 *et seq.*). The EA/FONSI includes discussion of four alternative Refuge management options.

The Service's selected alternative is reflected in the final CCP.

The selected alternative focuses on continued participation in the interagency coaster brook trout restoration program in Whittlesey Creek. The quantity and quality of coldwater stream, forest, and coastal wetland habitat for native fish, migratory birds, and other wildlife will increase. Floodplain and watershed hydrology will better emulate natural seasonal and long-term variability. Service participation in the Northern Great Lakes Visitor Center (NGLVC) partnership will continue. Refuge staff will participate in NGLVC programs that align with the NWRS mission and Refuge purposes. A detailed description of objectives and actions included in this selected alternative is found in chapter 4 of the final CCP.

**Charles M. Wooley,**

*Acting Regional Director.*

[FR Doc. 2015–31987 Filed 12–18–15; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Geological Survey

**[GX16EN05ESB0500]**

### Agency Information Collection Activities: Request for Comments

**AGENCY:** U.S. Geological Survey (USGS), Interior.

**ACTION:** Notice of a new information collection, Are literature searches finding your publications?

**SUMMARY:** We (the U.S. Geological Survey) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act (PRA) of 1995, and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC.

**DATES:** To ensure that your comments are considered, we must receive them on or before February 19, 2016.

**ADDRESSES:** You may submit comments on this information collection to the Information Collection Clearance Officer, U.S. Geological Survey, 12201 Sunrise Valley Drive MS 807, Reston, VA 20192 (mail); (703) 648–7197 (fax); or *gs-info_collections@usgs.gov* (email). Please reference 'Information Collection 1028–NEW, Are literature searches finding your publications? in all correspondence.

**FOR FURTHER INFORMATION CONTACT:** Abigail Lynch, Research Fish Biologist, at (703) 648–4097 or *ajlynch@usgs.gov.*

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

Inland fisheries are especially vulnerable to the impacts of climate change at a global scale; although inland fish are vital to ecosystem health and function and provide invaluable ecosystem services to communities worldwide, much research remains to be done. Researchers have been projecting and documenting impacts of climate change on fisheries since the 1980s; thus, there is a large body of literature available online. Traditional search engines provide large outputs of studies and reports that must be individually screened for relevance when searching for climate change effects on fisheries. This large output could result in the exclusion of some studies in analyses of the effects of climate change on inland fisheries. Our goal is to compare traditional literature search methods with using a network of fisheries professionals to identify relevant climate change and fisheries studies to determine if both methods yield similar or dissimilar results.

We plan to query research scientists belonging to major professional fisheries societies via electronic correspondence and request a list of their already published references to include in the collection. We are specifically looking for published studies addressing projected and documented effects of climate change on fisheries. The information will be used to generate a scientific manuscript. The only Personal Identifiable Information we will collect is the scientist's name. Our information collection request directly aligns to the mission of the USGS National Climate Change and Wildlife Science Center (NCCWSC). One of NCCWSC's goals is to deliver products, information, and tools to scientists and stakeholders on climate change and wildlife science, and the resulting manuscript aligns with these goals.

#### II. Data

*OMB Control Number:* 1028–NEW.

*Title:* Are literature searches finding your publications?

*Type of Request:* New information collection.

*Affected Public:* English-speaking research scientists.

*Respondent's Obligation:* None. Participation is strictly voluntary.

*Frequency of Collection:* One time.

*Estimated Annual Number of Respondents:* 100. Respondents will be made up of mostly academics (*i.e.,* university professors). Some will have federal affiliations.

*Estimated Total Number of Annual Responses:* 100.

*Estimated Time per Response:* 5 minutes per response.

*Estimated Annual Burden Hours:* 8.3 hours.

*Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden:* None.

#### III. Request for Comments

We are soliciting comments as to: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (d) how to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your personal mailing address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment, including your personally identifiable information, may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public view, we cannot guarantee that we will be able to do so.

**Shawn Carter,**

*Senior Scientist, National Climate Change and Wildlife Science Center.*

[FR Doc. 2015–31983 Filed 12–18–15; 8:45 am]

**BILLING CODE 4338–11–P**

## DEPARTMENT OF THE INTERIOR

**[ Geological Survey**
**[GX16EN05ESB0500]**

### Agency Information Collection Activities: Request for Comments

**AGENCY:** U.S. Geological Survey (USGS), Department of the Interior.

**ACTION:** Notice of a new information collection, Climate Change Effects on Wildlife Virtual Library

**SUMMARY:** We, U.S. Geological Survey, will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork

Reduction Act (PRA) of 1995, and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC.

**DATES:** To ensure that your comments are considered, we must receive them on or before February 19, 2016.

**ADDRESSES:** You may submit comments on this information collection to the Information Collection Clearance Officer, U.S. Geological Survey, 12201 Sunrise Valley Drive MS 807, Reston, VA 20192 (mail); (703) 648–7197 (fax); or *gs-info_collections@usgs.gov* (email). Please reference 'Information Collection 1028–NEW, [Climate Change Effects on Wildlife Virtual Library] in all correspondence.

**FOR FURTHER INFORMATION CONTACT:** Abigail Lynch, Research Fish Biologist, at (703) 648–4097 or *ajlynch@usgs.gov*.

**SUPPLEMENTARY INFORMATION:**

## I. Abstract

Wildlife is an essential recreational, commercial, and cultural resource to communities worldwide, while also being vital to ecosystem health and function. For our purposes, the term wildlife encompasses mammals, fish, amphibians, reptiles and birds. As climate change and other anthropogenic activities continue to threaten wildlife at a global scale, continued research and increased understanding of the effects of climate change on organisms is imperative for future wildlife management and conservation. Researchers have been studying and speculating on the effects of climate change on wildlife for decades; thus, there is a large body of climate change and wildlife literature available. Traditional search engines provide large outputs of studies and reports that must be individually screened for relevance when searching for climate change effects on specific taxonomic groups. This large output can be burdensome and could result in the exclusion of some studies in analyses. Our goal is to streamline this process for researchers and the public by having a virtual collection of studies highlighting climate change effects (both projected and documented) on wildlife at a global scale. This collection would provide researchers with quicker and easier access to get the information they need in less time and with less effort.

We plan to query research scientists belonging to professional societies and list servers via electronic correspondence and request a list of their already published references to include in the collection. We are specifically looking for published studies addressing projected and documented effects of climate change on wildlife. None of the information contains personal identifiable information. We plan to store all this information in a virtual bibliography that can be updated by a USGS point of contact as more studies are published and included in the database. Furthermore, some of this information may be used to generate external reports (*i.e.,* scientific manuscripts), used in research data input, and in statistical analysis. Our information collection request directly aligns to the mission of the USGS National Climate Change and Wildlife Science Center (NCCWSC). One of NCCWSC's goals is to deliver products, information, and tools to scientists and stakeholders on climate change and wildlife science, and this collection would do just that.

## II. Data

*OMB Control Number:* 1028–NEW.

*Title:* Climate Change Effects on Wildlife Virtual Library.

*Type of Request:* New information collection.

*Affected Public:* English-speaking wildlife research scientists.

*Respondent's Obligation:* None. Participation is strictly voluntary.

*Frequency of Collection:* One time to occasionally. Scientists have the option to submit papers one time after the initial request and then periodically as they publish additional relevant papers.

*Estimated Annual Number of Respondents:* 500. Breakdown: Approximately 350 will be from academic institutions and 150 will be from state or federal agencies.

*Estimated Total Number of Annual Responses:* 500.

*Estimated Time per Response:* 5 minutes per response.

*Estimated Annual Burden Hours:* 41.7 hours.

*Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden:* None.

*Public Disclosure Statement:* The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number and current expiration date.

## III. Request for Comments

We are soliciting comments as to: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (d) how to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your personal mailing address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment, including your personally identifiable information, may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public view, we cannot guarantee that we will be able to do so.

**Shawn Carter,**

*Senior Scientist.*

[FR Doc. 2015–31984 Filed 12–18–15; 8:45 am]

**BILLING CODE 4338–11–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

**[167 A2100DD/AAKC001030/A0A501010.999900]**

### Notice of Deadline for Submitting Completed Applications To Begin Participation in the Tribal Self-Governance Program in Fiscal Year 2017 or Calendar Year 2017

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** In this notice, the Office of Self-Governance (OSG) establishes a deadline of March 1, 2016, for Indian tribes/consortia to submit completed applications to begin participation in the tribal self-governance program in Fiscal Year 2017 or Calendar Year 2017.

**DATES:** Completed application packages must be received by the Director, Office of Self-Governance, by March 1, 2016.

**ADDRESSES:** Application packages for inclusion in the applicant pool should be sent to Ms. Sharee M. Freeman, Director, Office of Self-Governance, Department of the Interior, Mail Stop 355–G–SIB, 1951 Constitution Avenue NW., Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Dr. Kenneth D. Reinfeld, Office of Self-Governance, telephone (703) 390–6551.

**SUPPLEMENTARY INFORMATION:** Under the Tribal Self-Governance Act of 1994 (Pub. L. 103–413), as amended by the

Fiscal Year 1997 Omnibus Appropriations Bill (Pub. L. 104–208), the Director, Office of Self-Governance may select up to 50 additional participating tribes/consortia per year for the tribal self-governance program, and negotiate and enter into a written funding agreement with each participating tribe. The Act mandates that the Secretary submit copies of the funding agreements at least 90 days before the proposed effective date to the appropriate committees of the Congress and to each tribe that is served by the Bureau of Indian Affairs (BIA) agency that is serving the tribe that is a party to the funding agreement. Initial negotiations with a tribe/consortium located in a region and/or agency which has not previously been involved with self-governance negotiations, will take approximately two months from start to finish. Agreements for an October 1 to September 30 funding year need to be signed and submitted by July 1. Agreements for a January 1 to December 31 funding year need to be signed and submitted by October 1.

**Purpose of Notice**

The regulations at 25 CFRs 1000.10 to 1000.31 will be used to govern the application and selection process for tribes/consortia to begin their participation in the tribal self-governance program in Fiscal Year 2017 and Calendar Year 2017. Applicants should be guided by the requirements in these subparts in preparing their applications. Copies of these subparts may be obtained from the information contact person identified in this notice.

Tribes/consortia wishing to be considered for participation in the tribal self-governance program for fiscal year 2017 or calendar year 2017 must respond to this notice, except for those tribes/consortia which are: (1) Currently involved in negotiations with the Department; or (2) one of the 115 tribal entities with signed agreements.

**Paperwork Reduction Act Statement**

Under the Paperwork Reduction Act of 1995 (PRA), as implemented by the Office of Management and Budget (OMB) in 5 CFR 1320, a person is not required to respond to a collection of information by a Federal Agency unless the collection displays a valid OMB control number. The application and reporting requirements related to this program are considered to be a collection of information subject to the requirements of the PRA. These submissions are required to obtain and/or retain a benefit. The OMB has approved the information collections related to this program and has assigned control number 1076–0143, Tribal Self-Governance Program, which expires January 31, 2016. We estimate the annual burden associated with this collection to average 55 hours per respondent. This includes the time for reviewing instructions and gathering and submitting the information to the Department. Comments regarding this collection may be directed to: Information Collection Clearance Officer, Office of Regulatory Affairs & Collaborative Action—Indian Affairs, 1849 C Street NW., MS–3642–MIB, Washington, DC 20240.

Dated: December 14, 2015.

**Kevin K. Washburn,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 2015–31891 Filed 12–18–15; 8:45 am]

**BILLING CODE 4337–15–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLNML0000 L16100000.DR0000 15XL1109AF]**

### Notice of Availability of the Record of Decision for the Prehistoric Trackways National Monument Resource Management Plan

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** The Bureau of Land Management (BLM) announces the availability of the Record of Decision (ROD) for the Approved Resource Management Plan (RMP) for the Prehistoric Trackways National Monument (Monument) located in southern New Mexico. The New Mexico Acting State Director signed the ROD on November 5, 2015, which constitutes the final decision of the BLM and makes the Approved RMP effective immediately.

**ADDRESSES:** Copies of the ROD/Approved RMP are available upon request from the District Manager, Las Cruces District Office, Bureau of Land Management, 1800 Marquess Street, Las Cruces, NM 88005 or via *http://www.blm.gov/nm/trackwaysrmp.* Copies of the ROD/Approved RMP are available for public inspection at the Las Cruces District Office.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Montoya, Planning and Environmental Specialist, telephone 575–525–4316; address 1800 Marquess Street, Las Cruces, NM 88005; email *jamontoy@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The Approved RMP provides a comprehensive management plan for the long-term protection and management of the Monument, totaling 5,255 acres of surface estate in southern New Mexico. The RMP prescribes appropriate uses and management of the Monument, consistent with the provisions of its designating legislation (Omnibus Public Land Management Act of 2009), and replaces the 1993 Mimbres RMP within the Monument boundaries. Major issues associated with the Monument include Paleontological Research and Protection, Interpretation and Education, Trails and Travel Management, Recreation and Visitor Services, Wildlife, Livestock, Vegetation, wilderness characteristics, recreational target shooting closures, Visual Resources, and Socioeconomics.

The Approved RMP is very similar to the one set forth in the Preferred Alternative for the Prehistoric Trackways National Monument Proposed RMP/Final Environmental (EIS) published in December 2014. Modifications to the proposed plan corrected errors that were noted during review of the Proposed RMP/Final EIS and provide further clarification for decisions in travel management planning and visitor services.

The RMP process began with a Notice of Intent (NOI) published in the **Federal Register** on January 5, 2010. This announced a 30-day public comment period. During that time, a public meeting was held in Las Cruces in order to introduce the planning process to the public and solicit comments. On September 22, 2010, a public workshop was held to re-engage the public for the RMP and to verify that the BLM had a sufficient range of alternatives. Availability of the Draft RMP/EIS was published July 20, 2012, in the **Federal Register** (77 FR 42758) to announce a 90-day public review and comment period of the draft document. During this period, the BLM held one public open-house meeting in Las Cruces for the purpose of assisting the public in their review and to solicit their comments. The Draft RMP/EIS was sent to multiple Federal, tribal, State, and local government agencies and interested parties and was made available for viewing at the Las Cruces District Office, the New Mexico State

Office, and on the internet. During the comment period, the Las Cruces District Office received about 45 comment letters, emails, or comment forms. Each submission was carefully reviewed to identify substantive comments in accordance with regulations on the implementation of National Environmental Policy Act (40 CFR 1503.4). Comments on the Draft RMP/EIS received from the public and internal BLM reviews were considered and incorporated as appropriate into the Proposed RMP/Final EIS. Public comments resulted in the addition of data and clarifying text, however, they did not significantly change the proposed land use plan decisions. Availabliity of the Proposed RMP/Final EIS was published on December 24, 2014, in the **Federal Register** (79 FR 78104), initiating a protest period and Governor's Consistency Review Period. Five protests were recived during the protest period, and all protests have been resolved. Minor editorial modifications were made to the RMP based on questions raised during the protest period. No inconsistencies with State and local plans, policies, or programs were identified during the Governor's Consistency Review process.

Certain decisions in the Approved RMP are implementation decisions and are appealable to the Interior Board of Land Appeals. These implementation level decisions include the approval of the Comprehensive Trails and Travel Management Plan. The decisions are included within Chapter 2 of the Approved RMP and Appendix C of the Proposed RMP/Final EIS, and implementation decisions are denoted with asterisks where appropriate. Any party adversely affected by the proposed route designations may appeal within 30 days of publication of this Notice of Availability pursuant to 43 CFR, part 4, subpart E. The appeal should state the specific route(s), as identified in Appendix C of the Proposed RMP/Final EIS, on which the decision is being appealed. The appeal must be filed with the Las Cruces District Manager at the above listed address. Please consult the appropriate regulations (43 CFR, part 4, subpart E) for further appeal requirements.

**Authority:** 40 CFR 1506.6

**Amy Lueders,**

*State Director.*

[FR Doc. 2015–32038 Filed 12–18–15; 8:45 am]

**BILLING CODE 4310–FB–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLCAC07000 L12200000.FV0000.16XL1109AF]**

### Notice of Intent to Change Fees in Campgrounds on Public Land in the Bishop Field Office, Inyo and Mono Counties, California

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** Pursuant to applicable provisions of the Federal Recreation Enhancement Act (REA), the Bureau of Land Management (BLM) Bishop Field Office proposes to change the fee structure at all five of its developed campgrounds in Inyo and Mono counties, California, and by this notice is announcing the opening of the comment period. The fee proposal results from analysis and planning direction provided by the Bishop Campground Business Plan, which outlines operational goals of the area and the purpose of the fee program.

**DATES:** To ensure that comments will be considered, the BLM must receive written comments on its proposal to change the fee structure at campgrounds in the Bishop Field Office by January 20, 2016. Effective 4 months after publication of this notice, the BLM Bishop Field Office would initiate changes in fee collection at its five developed campgrounds unless the BLM publishes a **Federal Register** notice to the contrary.

**ADDRESSES:** You may submit comments on this fee collection proposal by any of the following methods:

- Email: *blm_ca_bishop_public_comment@blm.gov* Please include ''Fee Proposal'' in the subject line of your email.
- Mail: Bureau of Land Management, Bishop Field Office, Attn: Rebecca Brooke, 351 Pacu Lane, Suite 100, Bishop, CA 93514

Copies of the fee proposal are available at the Bishop Field Office at the above address and online at *http://www.blm.gov/ca/st/en/fo/bishop.html*.

**FOR FURTHER INFORMATION CONTACT:** Steven Nelson, Field Manager, telephone: (760) 872–5011 or at the address above. Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1 (800) 877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Federal Lands and Recreation Enhancement Act (REA) (16 U.S.C. 6801 *et seq.*), the Secretary may establish, modify, charge, and collect recreation fees on Federal recreation lands and waters. The Bishop Field Office currently manages five developed campgrounds: Tuttle Creek, Goodale Creek, Horton Creek, Pleasant Valley Pit, and Crowley Lake campgrounds. Together these campgrounds hold approximately 300 tent and recreational vehicle sites, all located in world-class settings along the Highway 395 corridor in close proximity to recreation destinations. The campgrounds are a good alternative to dispersed camping, which has been known to occur in environmentally sensitive areas.

Fees for the campgrounds were established in 2005 and have not changed since then. Long-term camping permits are currently available for four of the five campgrounds for either 30 days or the entire summer season (approximately 8 months). Tuttle Creek, Goodale Creek, Horton Creek, and Crowley Lake campgrounds underwent significant upgrades from 2010 to 2012, including installation of new toilets, fire rings, picnic tables, information boards, and other amenities. In addition, potable water was installed at three campgrounds and a horse corral and group campsite at one campground. The total cost of upgrades was $3.6 million.

The current and proposed fee schedule for the BLM Bishop Field Office campgrounds is:

CURRENT AND PROPOSED DAILY CAMPGROUND AND SPECIAL AMENITY FEES

| Campground | Current | Proposed fee beginning in 2016 | Proposed future fee |
|---|---|---|---|
| Tuttle Creek | $5 | $8 | $5 to $10 |
| Goodale Creek | $5 | $5 (no potable water) | $5 to $10 |
| Horton Creek | $5 | $8 | $5 to $10 |
| Pleasant Valley Pit | $2/car | $5/site (no potable water) | $5 to $10 |

CURRENT AND PROPOSED DAILY CAMPGROUND AND SPECIAL AMENITY FEES—Continued

| Campground | Current | Proposed fee beginning in 2016 | Proposed future fee |
|---|---|---|---|
| Crowley Lake | $5 | $8 | $5 to $10 |
| Tuttle Creek Group Site | $30 | $30 | $30 to $50 |
| Tuttle Creek Horse Corral | $5 | $10 | $5 to $12 |
| Dump Stations (Tuttle, Horton and Crowley) | $5 | $5 | $5 to $8 |

The goal of the proposed fee structure is to retain visitors in BLM campgrounds while providing a small amount of additional revenue for campground maintenance and improvements. By allowing the Field Manager discretion to set future fees within a range, there is flexibility as visitor use patterns and campground operating costs change over time.

The current and proposed fee structure for long-term camping permits are:

CURRENT AND PROPOSED LONG TERM PERMIT DURATION AND FEE

| Permit duration | Current | Proposed |
|---|---|---|
| 30-Day Permit | Currently available for Tuttle, Horton, Goodale, and Crowley. | Proposed availability for Tuttle, Goodale, Horton, Pleasant Valley Pit, and Crowley. |
| | $100 ($3.22/day) | $120 ($4/day). |
| 90-Day Permit | Currently available for Tuttle, Horton, Goodale, and Crowley. | Proposed availability for Tuttle, Horton, Goodale and Crowley. |
| | $300 for 8 months | $300 for 90 consecutive days. |
| | ($1.25/day) | ($3.33/day). |

The objective of the proposed changes to long-term camping permits is to limit costs associated with long-term occupancy of campsites, thereby reducing the overall campground operation costs.

The BLM Bishop Field Office has outlined the rationale for this fee proposal in the Bishop Campground Business Plan. In order to inform the public, the Bishop Field Office conducted three open house events in July 2013. The Business Plan includes information on visitation to and operational expenses associated with the five campgrounds along with a market analysis of local campsites. The plan is available on line at: *http://www.blm.gov/ca/st/en/fo/bishop.html*.

This and future adjustments in the fees charged at these five campgrounds would be made in accordance with the plan and with notification and input from the Central California Resource Advisory Committee and the public. Fee amounts will be posted onsite and online at the Bishop Field Office Web site at: *http://www.blm.gov/ca/st/en/fo/bishop.html*.

The BLM welcomes public comments on this proposal. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Authority:** 16 U.S.C. 6803 (b) and 43 CFR 2932.13

**Danielle Chi,**

*Acting Deputy State Director.*

[FR Doc. 2015–32039 Filed 12–18–15; 8:45 am]

**BILLING CODE 4310–40–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 731–TA–1082–1083 (Second Review)]**

### Chlorinated Isocyanurates From China and Spain; Notice of Commission Determinations To Conduct Full Five-Year Reviews

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice that it will proceed with full reviews pursuant to the Tariff Act of 1930 to determine whether revocation of the antidumping duty orders on chlorinated isocyanurates from China and Spain would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date.

**DATES:** *Effective Date:* December 7, 2015.

**FOR FURTHER INFORMATION CONTACT:** Joanna Lo (202–205–1888), 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*. 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 through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**SUPPLEMENTARY INFORMATION:** On December 7, 2015, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)). With respect to both investigations, the Commission found that the domestic respondent interested party group response to its notice of institution (80 FR 52789, September 1, 2015) was adequate and the respondent interested

party group responses to its notice of institution were inadequate. The Commission also found that other circumstances warranted conducting full reviews.[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

**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: December 16, 2015.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2015–31979 Filed 12–18–15; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

### Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain RF Capable Integrated Circuits and Products Containing the Same, DN 3106*; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

**FOR FURTHER INFORMATION CONTACT:** Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at EDIS,[1] and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at USITC.[2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at EDIS.[3] Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of ParkerVision, Inc. on December 15, 2015. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain RF capable integrated circuits and products containing the same. The complaint names as respondents Apple Inc. of Cupertino, CA; LG Electronics, Inc. of South Korea; LG Electronics U.S.A., Inc. of Englewood Cliffs, NJ; LG Electronics Mobilecomm U.S.A., Inc. of San Diego, CA; Samsung Electronics Co., Ltd. of South Korea; Samsung Electronics America, Inc. of Ridgefield Park, NJ; Samsung Telecommunications America, LLC of Richardson, TX; Samsung Semiconductor, Inc. of San Jose, CA; and QUALCOMM Incorporated of San Diego, CA. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3106'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures[4]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for

[1] Vice Chairman Pinkert, Commissioner Williamson, and Commissioner Schmidtlein voted to conduct expedited reviews.

[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

public inspection at the Office of the Secretary and on EDIS.[5]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: December 15, 2015.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2015–31919 Filed 12–18–15; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Notice of a Virtual Public Meeting of the Advisory Committee on Apprenticeship (ACA)

**AGENCY:** Employment and Training Administration (ETA), Labor.

**ACTION:** Notice of a virtual public meeting.

**SUMMARY:** Pursuant to section 10 of the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2 section 10), notice is hereby given to announce an open virtual meeting of the Advisory Committee on Apprenticeship (ACA) on Thursday, January 28, 2016. The meeting will convene virtually at *https://dol.webex.com/dol;* information on how to access this meeting will also be posted on the Office of Apprenticeship's homepage: *http://www.dol.gov/apprenticeship.* The ACA is a discretionary committee established by the Secretary of Labor, in accordance with FACA, as amended in 5 U.S.C. App. 2, and its implementing regulations (41 CFR 101–6 and 102–3). All meetings of the ACA are open to the public. A virtual meeting of the ACA provides a cost savings to the government while still offering a venue that allows for public participation and transparency, as required by FACA.

**DATES:** The meeting will begin at approximately 1:00 p.m. Eastern Standard Time on Thursday, January 28, 2016, at *https://dol.webex.com/dol,* and will adjourn at approximately 5:00 p.m. Any updates to the agenda and meeting logistics will be posted on the Office of Apprenticeship's homepage: *http://www.dol.gov/apprenticeship.*

**FOR FURTHER INFORMATION CONTACT:** The Designated Federal Official, Mr. John V. Ladd, Administrator, Office of Apprenticeship, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room C–5321, Washington, DC 20210, Telephone: (202) 693–2796 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** In order to promote openness, and increase public participation, webinar and audio conference technology will be used throughout the meeting. Webinar and audio instructions will be prominently posted on the Office of Apprenticeship homepage: *http://www.dol.gov/apprenticeship.* Members of the public can attend the meeting virtually at *https://dol.webex.com/dol;* the meeting number is: 647581011 and meeting password is: M33ting#. Members of the public that will participate are encouraged to dial into the web link above 30 minutes prior to the start of the meeting.

**Notice of Intent To Attend the Meeting**

All meeting participants are being asked to submit a notice of intent to attend by Thursday, January 14, 2016, via email to Mr. John V. Ladd at: *oa.administrator@dol.gov,* with the subject line ''January 2016 Virtual ACA Meeting.''

1. If individuals have special needs and/or disabilities that will require special accommodations, please contact Kenya Huckaby on (202) 693–3795 or via email at *huckaby.kenya@dol.gov* no later than Thursday, January 14, 2016.

2. Any member of the public who wishes to file written data or comments pertaining to the agenda may do so by sending the data or comments to Mr. John V. Ladd via email at *oa.administrator@dol.gov,* subject line ''January 2016 Virtual ACA Meeting,'' or to the Office of Apprenticeship, Employment and Training Administration, U.S. Department of Labor, Room C–5321, 200 Constitution Avenue NW., Washington, DC 20210. Such submissions will be included in the record for the meeting if received by Thursday, January 14, 2016.

3. See below regarding members of the public wishing to speak at the ACA meeting.

**Purpose of the Meeting and Topics To Be Discussed**

The purpose of the meeting is to focus on apprenticeship awareness, and current partnerships and outreach campaigns in order to seek advice from the ACA on industry issues and how best to increase Registered Apprenticeships across the country and beyond. The agenda will cover the following topics:

- Report on National Apprenticeship Week (NAW)
- Ratio Workgroup Update and Feedback
- International Activities
- State Apprenticeship Agency (SAA) Presentation
- Other Matters of Interest to the Apprenticeship Community
- Public Comment
- Adjourn

The agenda and meeting logistics may be updated should priority items come before the ACA between the time of this publication and the scheduled date of the ACA meeting. All meeting updates will be posted to the Office of Apprenticeship's homepage: *http://www.dol.gov/apprenticeship.* Any member of the public who wishes to speak at the meeting should indicate the nature of the intended presentation and the amount of time needed by furnishing a written statement to the Designated Federal Official, Mr. John V. Ladd, by Thursday, January 14, 2016. The Chairperson will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

**Portia Wu,**

*Assistant Secretary for the Employment and Training Administration.*

[FR Doc. 2015–31942 Filed 12–18–15; 8:45 am]

**BILLING CODE 4510–FR–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2015–0001]**

### Sunshine Act Meeting

**DATE:** December 21, 28, 2015, January 4, 11, 18, 25, 2016.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

**Week of December 21, 2015**

There are no meetings scheduled for the week of December 21, 2015.

**Week of December 28, 2015—Tentative**

There are no meetings scheduled for the week of December 28, 2015.

**Week of January 4, 2016—Tentative**

There are no meetings scheduled for the week of January 4, 2016.

**Week of January 11, 2016—Tentative**

There are no meetings scheduled for the week of January 11, 2016.

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

**Week of January 18, 2016—Tentative**

There are no meetings scheduled for the week of January 18, 2016.

**Week of January 25, 2016—Tentative**

There are no meetings scheduled for the week of January 25, 2016.

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.*

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: December 16, 2015.

**Denise L. McGovern,**

*Policy Coordinator, Office of the Secretary.*

[FR Doc. 2015–32042 Filed 12–17–15; 11:15 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2015–0001]**

### Sunshine Act Meeting

**DATE:** Week of December 14, 2015.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public.

**Week of December 14, 2015**

*Thursday, December 17, 2015*

12:55 p.m. Affirmation Session (Public Meeting) (Tentative)

Florida Power and Light Co. (Turkey Point Nuclear Generating Units 3 and 4)—Appeal of LPB–15–13 (Tentative)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.*

**Additional Information**

By a vote of 4–0 on December 17, 2015, the Commission determined pursuant to U.S.C. 552b(e) and '9.107(a) of the Commission's rules that the above referenced Affirmation Session be held with less than one week notice to the public. The meeting is scheduled on December 17, 2015.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: December 17, 2015.

**Denise McGovern,**

*Policy Coordinator, Office of the Secretary.*

[FR Doc. 2015–32138 Filed 12–17–15; 4:15 pm]

**BILLING CODE 7590–01–P**

## POSTAL REGULATORY COMMISSION

**[Docket No. CP2016–43; Order No. 2877]**

### New Postal Product

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing concerning an additional Global Expedited Package Services 3 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* December 22, 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**

II. Introduction
III. Notice of Commission Action
IIII. Ordering Paragraphs

**I. Introduction**

On December 14, 2015, the Postal Service filed notice that it has entered into an additional Global Expedited Package Services 3 (GEPS 3) negotiated service agreement (Agreement).[1]

To support its Notice, the Postal Service filed a copy of the Agreement, a copy of the Governors' Decision authorizing the product, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

**II. Notice of Commission Action**

The Commission establishes Docket No. CP2016–43 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than December 22, 2015. The public portions of the filing 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 this docket.

**III. Ordering Paragraphs**

*It is ordered:*

1. The Commission establishes Docket No. CP2016–43 for consideration of the matters raised by the Postal Service's Notice.

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, December 14, 2015 (Notice).

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 this proceeding (Public Representative).

3. Comments are due no later than December 22, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Stacy L. Ruble,**

*Secretary.*

[FR Doc. 2015–31896 Filed 12–18–15; 8:45 am]

**BILLING CODE 7710–FW–P**

## POSTAL REGULATORY COMMISSION

**[Docket No. CP2016–44; Order No. 2874]**

### New Postal Product

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing concerning an additional Global Reseller Expedited Package Contracts 2 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* December 22, 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

II. Introduction
III. Notice of Commission Action
IIII. Ordering Paragraphs

### I. Introduction

On December 14, 2015, the Postal Service filed notice that it has entered into an additional Global Reseller Expedited Package Contracts 2 (GREP 2) negotiated service agreement (Agreement).[1]

To support its Notice, the Postal Service filed a copy of the Agreement, a copy of the Governors' Decision authorizing the product, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

### II. Notice of Commission Action

The Commission establishes Docket No. CP2016–44 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than December 22, 2015. The public portions of the filing 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 this docket.

### III. Ordering Paragraphs

*It is ordered:*

1. The Commission establishes Docket No. CP2016–44 for consideration of the matters raised by the Postal Service's Notice.

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 this proceeding (Public Representative).

3. Comments are due no later than December 22, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Stacy L. Ruble,**

*Secretary.*

[FR Doc. 2015–31895 Filed 12–18–15; 8:45 am]

**BILLING CODE 7710–FW–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76658; File No. SR–BX–2015–071]**

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Withdrawal of Proposed Rule Change To Amend the Fees Schedule

December 15, 2015.

On November 12, 2015, the NASDAQ OMX BX, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Exchange's fees schedule. The proposed rule change was published for comment in the **Federal Register** on December 1, 2015.[3] The Commission received no comment letters on the proposal. On December 11, 2015, the Exchange withdrew the proposed rule change (SR–BX–2015–071).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[4]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–31929 Filed 12–18–15; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76650; File No. SR–FINRA–2015–052]**

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend NASD Rules 1022 (Categories of Principal Registration) and 1032 (Categories of Representative Registration)

December 15, 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 December 4, 2015, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

FINRA is proposing to amend NASD Rule 1022 (Categories of Principal Registration) and NASD Rule 1032 (Categories of Representative Registration) to remove the deadline by

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 2 Negotiated Service Agreement, December 14, 2015 (Notice).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 76520 (November 24, 2015), 80 FR 75157.

[4] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

which eligible registrants must complete a firm-element continuing education requirement to engage in a security futures business, and to remove reference to a revised examination.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

In 2002, FINRA modified the following registration categories to include the activities of engaging in and supervising securities futures: (1) Registered Options Principal (Series 4); (2) Limited Principal—General Securities Sales Supervisor (Series 9/10); (3) General Securities Representative (Series 7); and (4) Registered Options Representative (Series 42).[4] FINRA also required that persons currently registered or becoming registered in these categories complete a firm-element continuing education requirement addressing security futures before they conducted any security futures business. FINRA instituted this continuing education requirement to ensure that registered personnel, who may not be familiar with risks, trading characteristics, terms and nomenclature of these products, or the fact that they are subject to the joint jurisdiction of the SEC and CFTC, receive the necessary training. Notably, FINRA specified the content of the continuing education program pursuant to NASD Rule 1120(b)(4) (now FINRA Rule 1250(b)(4)).[5]

Consequently, in 2002, FINRA, the National Futures Association (''NFA''), and the Institute for Financial Markets collaborated to develop a free web-based training program consisting of a series of modules intended to satisfy FINRA's firm-element continuing education requirement and NFA's training requirement (''Security Futures Training Modules''). Although the Security Futures Training Modules are not the only program that FINRA and NFA Members can use to satisfy their security futures training requirements, FINRA is not aware of any alternative training programs used by firms. Moreover, even if a firm were to use an alternative training program, the program must cover all applicable subjects specified in the content outline provided by FINRA. Since inception in 2002 through May 2015, just over 15,000 individuals have completed the Security Futures Training Modules. In 2014, only 180 registered individuals completed the Security Futures Training Modules (18 FINRA registrants and 162 NFA-only registrants).

At the time trading in security futures commenced, FINRA considered replacing the firm-element continuing education requirement with revised qualification examinations for the registration categories that address security futures; however, due to low trading volume in security futures and limited interest for registered representatives to engage in security futures business, such qualification examinations have not been implemented. Accordingly, on three prior occasions, FINRA has extended the deadline for completing a firm-element continuing education requirement.[6]

Current data on trading volume has shown there to be very limited trading activity in security futures.[7] Given the continued low trading volume in security futures, the limited interest for registered representatives to engage in security futures business, and the comprehensiveness of the required firm-element continuing education training, FINRA has determined not to impose qualification examinations for security futures. Rather, FINRA will continue to require eligible registrants to complete the mandated security futures firm-element continuing education training before engaging in any security futures business. Moreover, FINRA, in coordination with NFA, will continue to monitor security futures volume and the number of persons taking the Security Futures Training Modules, as well as the number of disciplinary matters and complaints involving security futures, in considering whether a qualification examination should be developed at a later date. Accordingly, the proposed rule change amends NASD Rule 1022 and NASD Rule 1032 to remove the deadline by which eligible registrants must complete the firm-element continuing education requirement to engage in a security futures business, and to remove the references to a revised qualification examination.

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so that FINRA can implement the proposed rule change on December 31, 2015.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[8] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The proposed rule change is necessary to continue to allow eligible registrants to complete a firm-element continuing education program that will qualify them to engage in a security futures business in lieu of a qualification examination.

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[4] *See* Securities Exchange Act Release No. 46663 (October 15, 2002), 67 FR 64944 (October 22, 2002) (Order Approving File No. SR–NASD–2002–40).

[5] Because the introduction of security futures in the United States presented extraordinary circumstances, FINRA (then NASD) determined to use its authority under NASD Rule 1120(b)(4) to specify the content of firm-element continuing education. *See* Securities Exchange Act Release No. 46186 (July 11, 2002), 67 FR 47412, 47422 (July 18, 2002) (Notice of Filing File No. SR–NASD–2002–40); *see also* NASD Notice to Members 02–73, at 747–748 (November 2002).

[6] *See* Securities Exchange Act Release No. 54617 (October 17, 2006), 71 FR 62498 (October 25, 2006) (Notice of Filing and Immediate Effectiveness of File No. SR–NASD–2006–118) (extending the deadline to December 31, 2009); Securities Exchange Act Release No. 61231 (December 23, 2009), 74 FR 69173 (December 30, 2009) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2009–092) (extending the deadline to December 31, 2012); and Securities Exchange Act Release No. 68468 (December 19, 2012), 77 FR 76112 (December 26, 2012) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2012–055) (extending the deadline to December 31, 2015).

[7] Between January 2015 and September 2015, security futures had an average daily trading volume of approximately 47,640 contracts. *See* OneChicago, PR2015, *http://www.onechicago.com/?page_id=20539* (last visited Oct. 28, 2015). In comparison, over the same time period option contracts clearing through the Options Clearing Corporation (''OCC'') had an average daily trading volume of approximately 16.9 million contracts. *See* OCC, Market Data, Daily Volume Statistics, *http://www.optionsclearing.com/webapps/daily-volume-statistics* (last visited Nov. 2, 2015).

[8] 15 U.S.C. 78*o*–3(b)(6).

*B. Self-Regulatory Organization's Statement on Burden on Competition*

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will allow eligible registrants to complete a firm-element continuing education program that will qualify them to engage in a security futures business in lieu of a qualification examination.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A)(iii) of the Act [9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing.[11] Rule 19b–4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.[12] The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange has stated that waiver of the operative delay is necessary in order to implement the proposed rule change by December 31, 2015. The Commission notes that very few individuals are involved in the sale of security futures products and the regulators have decided that continuing education sufficiently mitigates the risk of trading these products. FINRA, in coordination with NFA, will continue to monitor security futures volume and the number of persons taking the Security Futures Training Modules, as well as the number of disciplinary matters and complaints involving security futures, in considering whether a qualification examination should be developed at a later date. For these reasons, the Commission believes waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2015–052 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2015–052. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2015–052, and should be submitted on or before January 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–31921 Filed 12–18–15; 8:45 am]

**BILLING CODE 8011–01–P**

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] *Id.*

[13] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[SEC File No. 270–297, OMB Control No. 3235–0336]**

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:
Form N–14.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''Paperwork Reduction Act''), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Form N–14 (17 CFR 239.23) is the form for registration under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) (''Securities Act'') of securities issued by management investment companies registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (''Investment Company Act'') and business development companies as defined by

Section 2(a)(48) of the Investment Company Act in: (1) A transaction of the type specified in rule 145(a) under the Securities Act (17 CFR 230.145(a)); (2) a merger in which a vote or consent of the security holders of the company being acquired is not required pursuant to applicable state law; (3) an exchange offer for securities of the issuer or another person; (4) a public reoffering or resale of any securities acquired in an offering registered on Form N–14; or (5) two or more of the transactions listed in (1) through (4) registered on one registration statement. The principal purpose of Form N–14 is to make material information regarding securities to be issued in connection with business combination transactions available to investors. The information required to be filed with the Commission permits verification of compliance with securities law requirements and assures the public availability and dissemination of such information. Without the registration statement requirement, material information may not necessarily be available to investors.

We estimate that approximately 124 funds each file one new registration statement on Form N–14 annually, and that 68 funds each file one amendment to a registration statement on Form N–14 annually. Based on conversations with fund representatives, we estimate that the reporting burden is approximately 620 hours per respondent for a new Form N–14 registration statement and 300 hours per respondent for amending the Form N–14 registration statement. This time is spent, for example, preparing and reviewing the registration statements. Accordingly, we calculate the total estimated annual internal burden of responding to Form N–14 to be approximately 97,280 hours. In addition to the burden hours, based on conversations with fund representatives, we estimate that the total cost burden of compliance with the information collection requirements of Form N–14 is approximately $27,500 for preparing and filing an initial registration statement on Form N–14 and approximately $16,000 for preparing and filing an amendment to a registration statement on Form N–14. This includes, for example, the cost of goods and services purchased to prepare and update registration statements on Form N–14, such as for the services of outside counsel. Accordingly, we calculate the total estimated annual cost burden of responding to Form N–14 to be approximately $4,498,000.

Estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms. The collection of information under Form N–14 is mandatory. The information provided under Form N–14 will not be kept confidential. 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.

Written 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 will have practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: December 15, 2015.

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–31930 Filed 12–18–15; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76649; File No. SR–NYSE–2015–60]**

## Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 13 To Eliminate Good til Cancelled (''GTC'') Orders and Stop Orders, and Make Conforming Changes to Rules 49, 61, 70, 104, 109, 115A, 116, 118, 123, 123A, 123C, 123D, 1000, 1004 and 6140

December 15, 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 December 4, 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 and II 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 to (1) amend Rule 13 to eliminate Good til Cancelled (''GTC'') Orders and Stop Orders, and (2) make conforming changes to Rules 49, 61, 70, 104, 109, 115A, 116, 118, 123, 123A, 123C, 123D, 1000, 1004 and 6140. 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 Rule 13 to eliminate GTC Orders (which are also defined as ''Open'' Orders) and Stop Orders, and make conforming changes to Rules 49, 61, 70, 104, 109, 115A, 116, 118, 123, 123A, 123C, 123D, 1000, 1004, and 6140. The Exchange proposes to eliminate these order types in order to streamline its rules and reduce complexity among its order type offerings.[4]

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See, e.g.,* Mary Jo White, Chair, Securities and Exchange Commission, Speech at the Sandler

Continued

Because of the technology changes associated with the proposed rule change, the Exchange proposes to announce the implementation date of the elimination of the order types via Trader Update.

Elimination of GTC Orders and Stop Orders (Rule 13)

The Exchange proposes to eliminate, and thus delete from its rules, the GTC Order defined in Rule 13(b)(2). A GTC Order is a limit order that remains in effect until it is either executed or cancelled.[5] To reflect this elimination, the Exchange proposes to delete all references to GTC or Open Orders and any related modifiers in Rule 13 as follows:

- Delete Rule 13(b)(2), which defines the GTC Order;
- delete Rule 13(d)(1)(B)(iv), which provides that interest designated as GTC may not be designated as a Mid-Point Passive Liquidity (''MPL'') Order;[6]
- delete Rules 13(f)(1) and (2), which describes the Do Not Reduce (''DNR'') and Do Not Increase (''DNI'') modifiers, which are modifiers that are used only in connection with GTC Orders. In addition to being used for GTC Orders, these modifiers are also used for Stop Orders, which the Exchange is also proposing to eliminate;[7] and
- amend Rule 13(f)(5)(B), which provides that the Exchange shall reject GTC Orders with an Self-Trade Prevention (''STP'') Modifier.

Second, the Exchange proposes to eliminate Stop Orders. A Stop Order is an order to buy or sell a stock at the market once the price of the stock reaches a specified price known as the ''stop price.'' Specifically, a Stop Order to buy becomes a market order when a transaction in the security occurs at or above the stop price after the order is received into Exchange systems or is manually represented by a Floor broker. A Stop Order to sell becomes a market order when a transaction in the security occurs at or below the stop price after the order is received into Exchange systems or manually represented by a Floor broker.[8] To effectuate this elimination, the Exchange proposes to amend Rule 13 as follows:

- Delete Rule 13(e)(7) [sic], which defines a Stop Order;
- delete Rule 13(f)(1) and (2), which describes the DNR and DNI modifiers as noted above;
- amend Rule 13(f)(5), which provides that the STP modifier is available for Stop Orders; and
- delete Supplementary Material .30, which governs the election of Stop Orders for certain enumerated securities.[9]

Conforming Amendments

The Exchange proposes certain conforming amendments to Rules 49, 61, 70, 104, 109, 115A, 116, 118, 123, 123A, 123C, 123D, 1000, 1004, and 6140 to reflect the elimination of GTC Orders and Stop Orders as described above as follows:

- The Exchange proposes to amend Rule 49 (Emergency Powers), which addresses the Exchange's emergency powers, to delete subsection (b)(1)(B), which permits the Exchange to accept cancellations of GTC orders during an emergency condition.
- The Exchange proposes to amend Rule 61 (Recognized Quotations), which governs bids and offers in securities. Under Rule 61(a)(ii), transactions in part of a round lot are published to the Consolidated Tape and may elect Stop Orders. The Exchange proposes to eliminate the reference to electing Stop Orders.
- The Exchange proposes to amend Rule 70 (Execution of Floor Broker Interest), governing execution of Floor broker interest known as e-Quotes. Under Rule 70(a)(1), e-Quotes cannot include, among others, unelected Stop Orders or a GTC, DNR and DNI modifier. The Exchange proposes to delete these references.
- The Exchange proposes to amend 104 (Dealings and Responsibilities of DMMs), which prohibits DMM units from entering, among others, GTC Modifiers, DNR Modifiers, DNI Modifiers, and Stop Orders. The Exchange proposes to delete these references to GTC, DNR and DNI modifiers and Stop Orders in subsection (b)(vi).
- Rule 109 (Limitation on ''Stopping'' Stock) was rescinded in 1983. The Exchange proposes to delete the heading and replace it with ''Reserved.'' The Exchange also proposes to delete ''See Rule 112.10 *for ''Interpretations and Instructions''* as no longer necessary.
- The Exchange proposes to amend Rule 115A (''Orders at Opening''), which governs orders at the opening, to remove subsection (a), which prohibits DMMs, trading assistants and anyone acting on their behalf from using the Exchange Display Book system in a manner designed to discover inappropriately information about unelected stop orders when arranging the open or to otherwise attempt to obtain information regarding unelected stop orders and to renumber the rule accordingly.
- The Exchange proposes to delete Supplementary Material .40(A) and .50 of Rule 116 ('''Stop' Constitutes Guarantee''), which provides that an agreement by a member to ''stop'' stock at a specified price constitutes a guarantee of a purchase or sale by the member of the security at that price. Supplementary Material .40(A) provides that Stop Orders elected based on the closing price are automatically and systemically converted to market orders and included in the total number of market-at-the-close orders executed at the close. Supplementary Material .50, similar to Rule 104(b)(vi), prohibits DMMs, trading assistants and anyone acting on their behalf from using the Display Book system in a manner designed to discover inappropriately information about unelected stop orders when arranging the close or to otherwise attempt to obtain information regarding unelected stop orders.
- The Exchange proposes to delete Rule 118 (Orders To Be Reduced and Increased on Ex-Date), which governs the adjustment of GTC buy orders[10] and open Stop Orders, *i.e.,* GTC Stop Orders, to sell when a security is quoted ex-

O'Neill & Partners, L.P. Global Exchange and Brokerage Conference (June 5, 2014) (available at *www.sec.gov/News/Speech/Detail/Speech/1370542004312#.U5HI-fmwJiw*).

[5] GTC orders are not eligible to be executed in any Off-Hours Trading Facility and may not be transmitted to Floor broker hand-held devices or Floor broker systems. *See* Rule 13(b)(2).

[6] A MPL Order is an undisplayed limit order that automatically executes at the mid-point of the protected best bid or offer. *See* Rule 13(d)(1)(A). The Exchange also proposes to re-number Rule 13(d)(1)(B)(v) & (vi) to reflect the deletion of subsection (iv).

[7] In connection with the deletion of Rule 13(f)(1) & (2), the Exchange proposes to renumber the Rule as follows: Rule 13(f)(3) (Pegging Interest) would become Rule 13(f)(1); Rule 13(f)(4) (Retail Modifier) would become Rule 13(f)(2); Rule 13(f)(5) (Self-Trade Prevention Modifier) would become Rule 13(f)(3); and Rule 13(f)(6) (Sell ''Plus''—Buy ''Minus'' Instruction) would become Rule 13(f)(4). As discussed below, the Exchange proposes to delete Rule 13(f)(7) which defines Stop Orders.

[8] *See* Rule 13(a)(7)(A) & (B). [sic] Elected Stop Orders also become Market Orders and are eligible for automatic execution in accordance with Rules 116.40, 123C and 1000–1004. Stop Orders that would be elected by the price of the opening transaction on the Exchange are included in the opening transaction as Market Orders. *See id.* at (C). Odd-lot size transactions are not considered transactions eligible to elect Stop Orders on the Exchange. *See id.* at (D).

[9] The securities identified in Supplementary Material .30 are: Investment Company Units (as defined in section 703.16 of the Exchange's Listed Company Manual); Trust Issued Receipts (as defined in Rule 1200); streetTRACKS® Gold Shares (as defined in Rule 1300 *et seq.*); Currency Trust Shares (as defined in Rule 1300A *et seq.*); Commodity Trust Shares (as defined in Rule 1300B *et seq.*); and any security governed by Rule series 1100, 1200, 1300, 1300A or 1300B.

[10] Rule 118 uses the term ''Open buying orders.'' An Open Order is another term for a GTC Order. *See* Rule 13(a)(2). Since Rule 118 applies only to GTC Orders and Stop Orders, the Exchange proposes to delete the rule in its entirety.

dividend, ex-distribution, ex-rights or ex-interest.

• The Exchange proposes to amend Rule 123 (Record of Orders), which imposes certain recordkeeping and order entry requirements, to eliminate the reference to Stop Orders in subsection (e)(iii)(7) and stop price in paragraph (e)(iii)(8) of Rule 123. The Exchange also proposes to delete outdated references to auction market and auction limit orders in Rule 123(e)(iii)(7), which the Exchange either eliminated or did not implement.[11]

• The Exchange proposes to amend Supplementary Material .20 of Rule 123A (Miscellaneous Requirements), which governs changes in day orders, to remove the final clause of the first paragraph requiring members to request that customers and correspondents file GTC Orders wherever possible rather than repeating the same order each morning. The Exchange also proposes to delete the second paragraph of Supplementary Material .20 in its entirety, which provides that a Day Order changed to an Open Order is considered a new order and must be added to the Exchange's Book after other orders previously received at the same price. As noted above, an Open Order is another term for a GTC Order.[12] Finally, the Exchange proposes to rename Supplementary Material .20 ''Day Orders'' by deleting the preceding words ''Changes In''.

• The Exchange proposes to amend Rule 123C (The Closing Procedures), which specifies the procedures to be followed at the close of trading on the Exchange, to delete references to Stop Orders in paragraphs 6(a)(i)(C) and 6(a)(i)(D)(ii) of Rule 123C. The Exchange also proposes to delete paragraph 8(a)(iv) of Rule 123C, which describes election of Stop Orders as part of the Closing Print.

• The Exchange proposes to amend Rule 123D (Openings and Halts in Trading), which specifies that Exchange systems may open one or more securities electronically if a DMM cannot facilitate the opening of trading as required by Exchange rules. First, the Exchange proposes to replace the references to Rule 115A(b) with references to Rule 115A(a). Second, the Exchange proposes to delete subsection (a)(3)(C)(ii), which provides that Stop Orders elected based on the opening price would trade second in time priority when interest that is otherwise guaranteed to participate in an opening trade would cause an opening price to be outside the Opening Price Range (as defined therein). Third, to reflect the deletion of subsection (a)(3)(C)(ii) and the removal of Stop Orders from second in time priority, the Exchange proposes to re-number subsections (a)(3)(C)(iii) through (v) and re-order priority for Limit Orders (current subsection (a)(3)(C)(iii)) from third to second, for G-quotes (current subsection (a)(3)(C)(iv)) from fourth to third, and for all other limit interest priced equal to the open (current subsection (a)(3)(v)) from fifth to fourth.

• The Exchange proposes to amend Rule 1000 (Automatic Executions), which provides for automatic executions by Exchange systems. Rule 1000(c) provides that incoming market orders, including an elected stop order, or marketable limit order to buy (sell) will not execute or route to another market center at a price above (below) the Trading Collar applicable when automatic executions are in effect and calculated pursuant to Rule 1000(c)(i). The Exchange proposes to delete the reference to elected stop order in paragraph (c) of Rule 1000.

• The Exchange proposes to amend Rule 1004 (Election of Buy Minus, Sell Plus and Stop Orders), which provides that automatic executions of transactions reported to the Consolidated Tape shall elect, among others, stop orders electable at the price of such executions and that any stop order so elected shall be automatically executed as market orders pursuant to Exchange rules. The Exchange proposes to delete the references to Stop Orders, including in the heading.

Finally, the Exchange proposes to amend Rule 6140 (Other Trading Practices), which governs a number of prohibited trading practices. First, the Exchange proposes to delete Rule 6140(h)(1), which provides that a member or member organization may, but is not obligated to, accept a stop order in designated securities, and defines buy stop orders (Rule 6140(h)(1)(A)) and sell stop orders (Rule 6140(h)(1)(B)). Second, the Exchange proposes to delete Rule 6140(h)(2), which provides that a member or member organization may, but is not obligated to, accept stop limit orders in designated securities and that when a transaction occurs at a stop price, the stop limit order to buy or sell becomes a limit order at the limit price. Current subsection (i) of Rule 6140 would become new subsection (h).

2. Statutory Basis

The proposed rule change is consistent with section 6(b)[13] of the Act, in general, and furthers the objectives of section 6(b)(5),[14] in particular, in that it is 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, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

Specifically, the Exchange believes that eliminating GTC Orders and Stop Orders removes impediments to and perfects a national market system by simplifying functionality and complexity of its order types. The Exchange believes that eliminating these order types would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from the removal of complex functionality. Because Stop Orders, when elected, can exacerbate market volatility and result in executions in declining markets at prices significantly different than the quoted price, the Exchange believes that eliminating them would reduce the potential for orders on the Exchange to cause significant price dislocation. The Exchange also believes that eliminating GTC Orders would benefit investors because it shifts the responsibility to monitor best execution obligations on behalf of a customer to the member organization entering the order, rather than leaving a GTC order at the Exchange until it gets executed.

The Exchange further believes that deleting corresponding references in Exchange rules to deleted order types also removes impediments to and perfects the mechanism of a free and open market by ensuring that members, regulators and the public can more easily navigate the Exchange's rulebook and better understand the orders types available for trading on the Exchange. Removing obsolete cross references also furthers the goal of transparency and adds clarity to the Exchange's rules.

*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 change is not designed to address any competitive issue but

[11] *See* Securities Exchange Act Release No. 67686 (August 17, 2012), 77 FR 51596 (August 24, 2012) (SR–NYSE–2012–19) (deleting the auction market order). Auction limit orders do not appear to have been implemented.

[12] *See* note 10, *supra*.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

would rather remove complex functionality and obsolete cross-references, thereby reducing confusion and making the Exchange's rules easier to understand and navigate.

*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 Exchange has filed the proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act [15] and Rule 19b–4(f)(6) thereunder.[16] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [17] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[18] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

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) [19] 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–2015–60 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–NYSE–2015–60. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2015–60, and should be submitted on or before January 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

**Robert W. Errett,**

*Deputy Secretary.*

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**BILLING CODE 8011–01–P**

[15] 15 U.S.C. 78s(b)(3)(A)(iii).

[16] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] 15 U.S.C. 78s(b)(2)(B).

[20] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76652; File No. SR–NSCC–2015–007]**

## Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving Proposed Rule Change To Provide Mechanism for Sub-Account Settlement With Respect to the Alternative Investment Product Services

December 15, 2015.

On October 30, 2015, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–NSCC–2015–007 pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] to amend NSCC's Rules and Procedures (''Rules'') [3] to allow certain users of NSCC's Alternative Investment Product Services (''AIP'') to settle at the sub-account level and to make related technical changes and corrections to the Rules, as more fully described below. The proposed rule change was published for comment in the **Federal Register** on November 10, 2015.[4] The Commission did not receive any comment letters on the proposed rule change. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

**I. Description of the Proposed Rule Change**

The following is a description of the proposed rule change, as provided by NSCC:

*Background.* In 2008, the Commission approved NSCC's proposed rule change to establish AIP, a non-guaranteed processing platform for alternative investment products such as hedge funds, funds of hedge funds, commodities pools, managed futures,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *Available at http://www.dtcc.com/legal/rules-and-procedures.*

[4] *See* Securities Exchange Act Release No. 76348 (November 4, 2015), 80 FR 69728 (November 10, 2015) (SR–NSCC–2015–007).

and real estate investment trusts.[5] AIP facilitates, among other things, processing activities such as subscriptions and redemptions, distributions, position reporting, and account maintenance relating to alternative investment products and settles related payments (''AIP Payments'').

Settlement of AIP Payments is done on a prefunded basis. On each date for which settlement will occur (''Settlement Date''), an AIP participant (''AIP Member'') that is in a debit position for such day must satisfy its full debit balance before NSCC will settle any contra-side credit positions with respect to such AIP Member. NSCC simply passes AIP Payments from one AIP Member to the contra-side AIP Member without netting and without guaranteeing payment, and settlement of AIP Payments is segregated from all other money settlement at NSCC.

Participation in AIP is governed by Rule 53 of NSCC's Rules. A party seeking to be an AIP Member is required to enter into a separate AIP membership agreement with NSCC, even if it is otherwise a participant of other NSCC services.

AIP Members are divided into two categories—''AIP Manufacturers'' and ''AIP Distributors''. AIP Manufacturers act on behalf of, or under authority of, the sponsor, general partner, or other party responsible for the creation or manufacturing of an eligible alternative investment product (''Eligible AIP Product''). AIP Manufacturers are generally the fund entities themselves (''Funds''). AIP Distributors act on behalf of, or under authority of, a customer or other investor in an Eligible AIP Product. AIP Distributors are generally the broker/dealers whose clients invest in Eligible AIP Products.

*Fund Administrators.* Within the alternative investments industry, there are parties on the creation/manufacturing side of transactions known as ''fund administrators''. Fund administrators are not the Funds themselves, but rather, agents for the Funds. Where a Fund engages a fund administrator to act on the Fund's behalf, it is typically the fund administrator that handles all of the transaction processing for that Fund.

Within AIP, a fund administrator is a party engaged under contract to provide administrative services with respect to one or more Eligible AIP Products and is eligible to be an AIP Member as an AIP Manufacturer (''AIP Fund Administrator''). In general, AIP Fund Administrators process AIP transactions with respect to their various Fund clients by creating separate sub-accounts within AIP, each of which is attributable to a specific Fund client. In this structure, the Fund client generally would not be an AIP Member.

Under the current AIP Rules, AIP Fund Administrators are responsible for all activities related to their sub-accounts. These activities include, for example, submitting, reviewing, and confirming order instructions, reviewing and confirming settlement statements, and making AIP Payments. With respect to making AIP Payments, the Rules provide that on Settlement Date all sub-account obligations roll up to the AIP Fund Administrator's primary AIP account. These obligations are then presented to the AIP Fund Administrator's settlement bank for gross debit settlement and gross credit settlement.

Because AIP Fund Administrators are responsible for settlement of AIP Payments, an AIP Fund Administrator in a debit position on Settlement Date must assure that each applicable Fund client has timely delivered payment to such AIP Fund Administrator's settlement bank. To the extent that a single Fund client fails to deliver its payment on Settlement Date (and the AIP Fund Administrator is not otherwise able to cover such Fund's shortfall), NSCC is required to reverse all of the AIP Fund Administrator's contra-side credit positions for the day, including the contra-side credit positions attributable to Funds that actually did pay.

In recent months, NSCC has learned from several fund administrators interested in becoming AIP Members that the responsibility to make AIP Payments at NSCC is a responsibility that fund administrators generally do not undertake outside of AIP. In the current processing environment outside of AIP, fund administrators perform all transaction processing functions for their Funds, but they generally do not control money settlement.

As explained by certain fund administrators to NSCC, the current AIP Payment structure as applied to AIP Fund Administrators has slowed adoption of AIP by the fund administrator community.

*Proposed Rule Change.* To address this matter, NSCC has proposed to permit AIP Fund Administrators, at their discretion, to create sub-accounts that settle separately from their primary AIP accounts, as well as from their other AIP sub-accounts, (''AIP Settling Sub-Accounts'').

An AIP Fund Administrator choosing to create an AIP Settling Sub-Account will designate to NSCC the applicable Fund client with responsibility for settlement of AIP Payments with respect to such AIP Settling Sub-Account. Such designated Fund will not be an AIP Member (''AIP Non-Member Fund''). Each such AIP Non-Member Fund will enter into a standard agreement pursuant to which an NSCC-approved AIP Settling Bank will perform settlement services directly for the AIP Non-Member Fund (''Appointment of AIP Settling Bank and AIP Settling Bank Agreement'').

Under the proposal, AIP Fund Administrators will remain responsible for all activities with respect to their AIP Settling Sub-Accounts, except that AIP Fund Administrators will not be responsible for settling AIP Payments. For example, AIP Fund Administrators will remain responsible for order processing applicable to their AIP Settling Sub-Accounts, including submitting, reviewing, and confirming order instructions. In addition, AIP Fund Administrators will be responsible for informing their AIP Non-Member Funds of their respective daily AIP Payment obligations. All reporting, liability, and indemnification obligations to NSCC under NSCC's Rules will remain with the AIP Fund Administrator.

As is the case today, settlement of all AIP Payments will be done on a prefunded basis. NSCC will not net or guarantee any AIP Payments with respect to AIP Settling Sub-Accounts, and all settlement of AIP Payments (including those of AIP Non-Member Funds) will continue to be segregated from all other money settlement at NSCC.

Prior to NSCC approving any AIP Settling Sub-Account, NSCC will require the applicable AIP Fund Administrator to enter into documentation and/or agreements, or otherwise procure documentation and/or agreements, in such form as required by NSCC from time to time, which will contain:

- The AIP Fund Administrator's acknowledgement and agreement that it will be responsible for all matters, activities, liabilities, and obligations applicable to AIP Members under the Rules with respect to such AIP Settling Sub-Account, except for settlement of AIP Payments;
- the AIP Fund Administrator's agreement to indemnify NSCC for any loss, liability, or expense sustained by NSCC in connection with, arising from, or related to such AIP Settling Sub-Account, including with respect to the

[5] Securities Exchange Act Release No. 57813 (May 12, 2008), 73 FR 28539 (May 16, 2008) (SR–NSCC–2007–12).

Foreign Account Tax Compliance Act (''FATCA''); [6]

• the AIP Fund Administrator's agreement that it will be responsible for (A) all charges incurred and payments due under Rule 26 (Bills Rendered) for the processing of AIP Settling Sub-Account transactions through AIP and (B) any other charges that may be incurred with respect to such AIP Settling Sub-Account under Rule 24 (Charges for Services Rendered);

• the AIP Fund Administrator's designation of the AIP Non-Member Fund with responsibility for making AIP Payments with respect to such AIP Settling Sub-Account;

• the AIP Non-Member Fund's consent and approval with respect to such designation;

• the AIP Fund Administrator's agreement of its obligation to notify NSCC of changes in condition to the AIP Non-Member Fund that would otherwise require notice to NSCC under Rule 2B (Ongoing Membership Requirements and Monitoring) or Rule 20 (Insolvency);

• the AIP Fund Administrator's agreement of its obligation to notify the applicable AIP Non-Member Fund of such AIP Non-Member Fund's daily AIP Payment balance; and

• the AIP Non-Member Fund's appointment of an AIP Settling Bank, and such AIP Settling Bank's agreement to act as AIP Settling Bank for such AIP Non-Member Fund.

In addition, the applicable AIP Fund Administrator will need to obtain from the applicable AIP Non-Member Fund tax documentation in such form as required by NSCC from time to time, and with respect to any AIP Non-Member Fund that is treated as a non-U.S. entity for U.S. federal income tax purposes, the AIP Fund Administrator will need to provide NSCC with an executed FATCA certification from such AIP Non-Member Fund in the form approved by NSCC.

On a going-forward basis with respect to FATCA, AIP Fund Administrators will need to obtain from their AIP Non-Member Funds periodic tax documentation, including FATCA certifications to the extent applicable, and provide such documentation to NSCC. Failure to provide such tax documentation, including FATCA certifications, in the manner and timeframes set forth by NSCC from time to time will result in revocation of NSCC's approval, in NSCC's sole and absolute discretion, of such AIP Settling Sub-Account.

Under the proposal, AIP Fund Administrators will be required to indemnify NSCC for any loss, liability, or expense sustained by NSCC in connection with, arising from, or related to FATCA in respect of their AIP Settling Sub-Accounts. The FATCA-related provisions in this proposed rule change are substantially similar to the current provisions in the Rules governing how NSCC monitors and treats its non-U.S. members with respect to FATCA.

In connection with this proposal, NSCC will amend the following Rules:

• *Rule 1. Definitions*

• The following new defined terms will be created: ''AIP Fund Administrator'', ''AIP Non-Member Fund'', and ''AIP Settling Sub-Account'', each of which will be defined or further described in Rule 53 (Alternative Investment Product Services and Members).

• The defined term ''AIP Settling Bank'' will be amended to: Provide that AIP Settling Banks undertake to perform settlement services for AIP Members, as well as for AIP Non-Member Funds; and correct an incorrect Rule citation within the defined term.

• *Rule 2. Members and Limited Members*

The description of ''AIP Settling Bank Only Member'' as a type of NSCC Limited Member will be amended to provide that AIP Settling Bank Only Members undertake to perform settlement services with respect to AIP on behalf of AIP Members, as well as AIP Non-Member Funds.

• *Rule 53. Alternative Investment Product Services and Members*

The Rule will be amended to: Permit AIP Fund Administrators to create AIP Settling Sub-Accounts and address the agreements and documents that NSCC will require prior to approving any such AIP Settling Sub-Account; describe the tax and FATCA-related requirements in connection with creating and maintaining such AIP Settling Sub-Accounts; describe the settlement process with respect to AIP Settling Sub-Accounts; state that NSCC will not notify any AIP Non-Member Fund of any debit or credit balance and identify that it is the AIP Fund Administrator's obligation to notify each such AIP Non-Member Fund of its applicable debit or credit balance; state that NSCC will not guarantee AIP Payments to any AIP Non-Member Fund; specify that NSCC will not be liable for the acts, delays, omissions, bankruptcy, or insolvency of any AIP Non-Member Fund unless the Corporation was grossly negligent, engaged in willful misconduct, or in violation of federal securities laws for which there is a private right of action; and address applicable technical changes in connection with the foregoing.

• *Rule 55. Settling Banks and AIP Settling Banks*

The Rule will be amended to provide that AIP Settling Banks may undertake to: Perform settlement services on behalf of AIP Non-Member Funds; describe the settlement process with respect to AIP Settling Sub-Accounts; and make certain technical corrections.

• *Rule 58. Limitation on Liability*

The Rule will be amended to specify that NSCC will not be liable for the acts, delays, omissions, bankruptcy, or insolvency of any AIP Non-Member Fund unless the Corporation was grossly negligent, engaged in willful misconduct, or in violation of federal securities laws for which there is a private right of action; and make clear that NSCC will not be responsible for the completeness or accuracy of any AIP data received from or transmitted to an AIP Member (including an AIP Fund Administrator with respect to any AIP Settling Sub-Account thereof), nor for any errors, omissions, or delays which may occur in the transmission of such AIP data to or from an AIP Member (including an AIP Fund Administrator with respect to any AIP Settling Sub-Account thereof).

• *Addendum D (Statement of Policy; Envelope Settlement Service, Mutual Fund Services, Insurance and Retirement Processing Services and other Services Offered by the Corporation)*

The Rule will be amended to make clear that settlement with respect to AIP Settling Sub-Accounts is not guaranteed and that NSCC will reverse any credit previously given to any AIP Member (including any AIP Settling Sub-Account) that is the contra-side to an AIP Member (including a contra-side AIP Settling Sub-Account) whose payment was not received by NSCC.

## II. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act [7] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to

[6] 26 U.S.C. 1471 *et seq.*

[7] 15 U.S.C. 78s(b)(2)(C).

such organization. The Commission believes the proposal is consistent with section 17A(b)(3)(F) of the Act[8] and Rule 17Ad–22(d)(12),[9] as described in detail below.

*Consistency with Section 17A(b)(3)(F) of the Act.* Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed (i) to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions, and (ii) to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.[10] As described above, under NSCC's current Rules regarding AIP, settlement of AIP Payments is the responsibility of AIP Members, including AIP Fund Administrators. However, NSCC has learned from fund administrators interested in becoming AIP Members that fund administrators generally do not control money settlement for their Fund clients. This disconnect has impeded the adoption of AIP by the fund administrator community. To address this issue, NSCC will now allow AIP Fund Administrators to establish AIP sub-accounts and permit AIP Payments to settle at the sub-account level. Doing so will redirect responsibility for settlement of AIP Payments from AIP Fund Administrators to the AIP Fund Administrator's designated Fund clients.

In allowing settlement at the sub-account level, NSCC (i) will be fostering cooperation and coordination with fund administrators and Funds that are involved in the processing of alternative investment securities transactions, and (ii) will be removing an impediment to the prompt and accurate clearance and settlement of alternative investment securities transactions at the sub-account level. As such, the Commission believes that the proposal is consistent with section 17A(b)(3)(F) of the Act.[11]

*Consistency with Rule 17Ad–22(d)(12).* Rule 17Ad–22(d)(12) under the Act requires a central counterparty, such as NSCC, to ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . [e]nsure that final settlement occurs no later than the end of the settlement day . . . .'' [12] As described above, under the current Rules regarding AIP, if just one of an AIP Fund Administrators' designated Fund clients fails to make its AIP Payment on Settlement Date, and the AIP Fund Administrator does not cover the shortfall, NSCC is required to reverse all of the AIP Fund Administrator's contra-side credit positions, including the contra-side credit positions of Funds that did pay. With this proposed rule change, AIP Fund Administrators can create AIP sub-accounts that settle separately from their primary AIP accounts, as well as from other AIP sub-accounts. Allowing AIP settlement at the sub-account level will enable funded AIP sub-accounts to settle no later than the end of the settlement day, while unfunded sub-accounts can be reversed, separately. As such, the Commission believes that the proposal is consistent with Rule 17Ad–22(d)(12).[13]

## III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of section 17A of the Act[14] and the rules and regulations thereunder.

*It is therefore ordered,* pursuant to section 19(b)(2) of the Act, that proposed rule change SR–NSCC–2015–007 be, and hereby is, *approved.*[15]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–31923 Filed 12–18–15; 8:45 am]

**BILLING CODE 8011–01–P**

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 17 CFR 240.17Ad–22(d)(12).

[10] 15 U.S.C. 78q–1(b)(3)(F).

[11] *Id.*

[12] 17 CFR 240.17Ad–22(d)(12).

[13] *Id.*

[14] 15 U.S.C. 78q–1.

[15] 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).

[16] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76646; File No. SR–NYSEArca–2015–113)**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to the Index Underlying the WisdomTree Put Write Strategy Fund

December 15, 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 December 2, 2015, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

### I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to change a representation relating to the number of components in the CBOE S&P 500 Put Write Index, the index underlying the WisdomTree Put Write Strategy Fund (''Fund''). The Securities and Exchange Commission (''Commission'') has approved listing and trading of shares of the Fund on the Exchange under Commentary .01 to NYSE Arca Equities Rule 5.2(j)(3) (''Investment Company Units'').[4] Shares of the Fund have not commenced listing and trading on the Exchange. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Commission has approved a proposed rule change relating to listing and trading on the Exchange of shares (''Shares'') of the Fund on the Exchange under Commentary .01 to NYSE Arca Equities Rule 5.2(j)(3)[5] (''Investment

[4] *See* note 6, *infra.*

[5] NYSE Arca Equities Rule 5.2(j)(3)(A) provides that an Investment Company Unit is a security that represents an interest in a registered investment

Continued

Company Units'').[6] Shares of the Fund have not commenced listing and trading on the Exchange.

The Shares will be offered by the WisdomTree Trust (''Trust''), which was established as a Delaware statutory trust on December 15, 2005. The Trust is registered with the Commission as an investment company and has filed a registration statement on Form N–1A (''Registration Statement'') with the Commission on behalf of the Fund.[7]

The Exchange proposes to change a representation made in the Prior Release relating to the number of components in the CBOE S&P 500 Put Write Index (''Index''), the index underlying the Fund.

As described in the Prior Release, the Fund's investment objective will be to seek investment results that, before fees and expenses, closely correspond to the price and yield performance of the Index. The Index was developed and is maintained by the Chicago Board Options Exchange, Inc. (''CBOE'' or the ''Index Provider''). The Fund's investment objective is to seek investment results that, before fees and expenses, closely correspond to the price and yield performance of the Index. The Index tracks the value of a passive investment strategy, which consists of overlaying of S&P 500 Index put options (''SPX Puts'') over a money market account, invested in one and three-month Treasury bills (''PUT Strategy''). The SPX Puts are struck at-the-money and are sold on a monthly basis, usually the third Friday of the month (*i.e.,* the ''Roll Date''), which matches the expiration date of the SPX Puts. All SPX Puts are standardized options traded on the CBOE.

As stated in the Prior Release, the Exchange submitted a proposed rule change (*i.e.,* File No. SR–NYSEArca–2015–05) to permit listing and trading of Shares of the Fund because the Index for the Fund does not meet all of the ''generic'' listing requirements of Commentary .01(a)(A) to NYSE Arca Equities Rule 5.2(j)(3), applicable to the listing of Investment Company Units based upon an index of ''US Component Stocks.'' [8] Specifically, Commentary .01(a)(A) to NYSE Arca Equities Rule 5.2(j)(3) sets forth the requirements to be met by components of an index or portfolio of US Component Stocks. Because the Index consists primarily of SPX Puts, rather than ''US Component Stocks'' as defined in NYSE Arca Equities Rule 5.2(j)(3), the Index does not satisfy the requirements of Commentary .01(a)(A).

As stated in the Prior Release, the Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rules 5.2(j)(3) and 5.5(g)(2), except that the Index will not meet the requirements of NYSE Arca Equities Rule 5.2(j)(3), Commentary .01(a)(A)(1–5) in that the Index will consist of one series of options based on US Component Stocks (*i.e.,* SPX Puts), rather than US Component Stocks. However, the Prior Release also stated that the Index will include a minimum of 20 components and therefore, would meet the numerical requirements of NYSE Arca Equities Rule 5.2(j)(3), Commentary .01(a)(A)(4) (a minimum of 13 index or portfolio components). The representation in the preceding sentence is incorrect in that NYSE Arca Equities Rule 5.2(j)(3), Commentary .01 is inapplicable to an index consisting of options. NYSE Arca Equities Rule 5.2(j)(3), Commentary .01(a)(A)(4) requires that an underlying index include a minimum of 13 ''component stocks'', *i.e.,* US Component Stocks or Non-US Component Stocks (as defined in NYSE Arca Equities Rule 5.2(j)(3)), not options components.[9] In addition, the Index does not include 20 components, but rather consists of one component, which will be one series of SPX Puts struck at-the-money and sold on a monthly basis.

The Exchange believes it is appropriate to strike from the Prior Release the representation that the Index will include a minimum of 20 components and would meet the numerical requirements of NYSE Arca Equities Rule 5.2(j)(3), Commentary .01(a)(A)(4) because such Commentary is inapplicable to an index containing options components and because the Index does not include a minimum of 20 components. The Exchange believes that such deletion will not adversely impact investors or the public interest in that the Index is based on CBOE-traded puts on one of the most widely-followed broad-based market indexes—the S&P 500.

S&P 500 Index options traded on CBOE are highly liquid, with average daily trading volume in 2014 of 888,089 contracts, with a notional size per contract of $200,000.[10] The Exchange represents that the average daily trading volume of at-the-money 30-day SPX Puts as of approximately 12:00 noon on each of the three recent Roll Dates was as follows: For Roll Date of April 17, 2015 (expiry May 15, 2015), strike price of 2080, 4,069 contracts on Roll Date, 2,273 average contracts per day through expiration; for Roll Date of May 15, 2015 (expiry June 19, 2015), strike price of 2120, 9,521 contracts on Roll Date, 2,427 average contracts per day through expiration; and for Roll Date of June 19, 2015 (expiry July 17, 2015), strike price of 2110, 126 contracts on Roll Date, 859 average contracts per day through expiration.[11] Moreover, the proceeds of the sales of the SPX Puts will be invested in one and three-month Treasury bills, which are also highly liquid instruments.

The trading volume of the at-the-money SPX Puts as of approximately 12:00 noon on Roll Dates compares favorably with at-the-money (as of approximately 12:00 noon) put options on other major indexes on Roll Dates. For example, the trading volume of comparable 30-day put options trading at-the-money as of 12:00 noon on each of the Roll Dates above on the Russell 2000 Index (''RUT'') was as follows: For

company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities (or holds securities in another registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities).

[6] *See* Securities Exchange Act Release Nos. 74290 (February 18, 2015), 80 FR 9818 (February 24, 2015) (SR–NYSEArca–2015–05) (notice of filing of proposed rule change relating to listing and trading of shares of WisdomTree Put Write Strategy Fund under Commentary .01 to NYSE Arca Equities Rule 5.2(j)(3)) (''Prior Notice''); 74675 (April 8, 2015), 80 FR 20038 (April 14, 2015) (SR–NYSEArca–2015–05) (order approving proposed rule change to list and trade shares of WisdomTree Put Write Strategy Fund under Commentary .01 to NYSE Arca Equities Rule 5.2(j)(3)) (''Prior Order'' and, together with the Prior Notice, the ''Prior Release'').

[7] The Trust is registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act''). *See* Post-Effective Amendment No. 381 to Registration Statement on Form N–1A for the Trust, dated December 15, 2014 (File Nos. 333–132380 and 811–21864). The descriptions of the Fund and the Shares contained herein are based on information in the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 28171 (October 27, 2008) (File No. 812–13458).

[8] NYSE Arca Equities Rule 5.2(j)(3) provides that the term ''US Component Stock'' shall mean an equity security that is registered under sections 12(b) or 12(g) of the Act and an American Depositary Receipt, the underlying equity securities of which is registered under Sections 12(b) or 12(g) of the Act.

[9] NYSE Arca Equities Rule 5.2(j)(3), Commentary .01(a)(A)(5) provides that all securities in the applicable index or portfolio shall be US Component Stocks listed on a national securities exchange and shall be NMS Stocks as defined in Rule 600 under Regulation NMS of the Act. Each component stock of the S&P 500 Index is a US Component Stock that is listed on a national securities exchange and is an NMS Stock. Options are excluded from the definition of NMS Stock. As stated in the Prior Release, the Fund and the Index meet all of the requirements of the listing standards for Investment Company Units in NYSE Arca Equities Rule 5.2(j)(3) and the requirements of Commentary .01, except the requirements in Commentary .01(a)(A)(1)–(5), as the Index consists of options on US Component Stocks.

[10] *See www.CBOE.com.*

[11] Source: Bloomberg.

Roll Date of April 17, 2015 (expiry May 15, 2015), strike price of 1250, 1,137 contracts on Roll Date, 554 average contracts per day through expiration; for Roll Date of May 15, 2015 (expiry June 19, 2015), strike price of 1240, 356 contracts on Roll Date, 624 average contracts per day through expiration; and Roll Date of June 19, 2015 (expiry July 17, 2015), strike price of 1280, 2,240 contracts on Roll Date, 670 average contracts per day through expiration.[12]

The daily high, low and last reported sales prices on each of the Roll Dates for SPX Puts at-the-money as of approximately 12:00 noon were as follows: Roll Date of April 17, 2015 (expiry May 15, 2015), strike price of 2080, daily high: $34.65, low: $23.45, last: $28.70; Roll Date of May 15, 2015 (expiry June 19, 2015), strike price of 2120, daily high: $32.70, low: $29.00, last: $29.00; and Roll Date of June 19, 2015 (expiry July 17, 2015), strike price of 2110, daily high: $30.40, low: $24.20, last: $30.40.[13]

The Exchange estimates that on launch date, the Fund would hold approximately $2.5–$5.0 million in cash and cash equivalents (*e.g.* one-month and three-month Treasury bills). This estimate is based on a minimum of 100,000–200,000 Shares being created at an estimated initial offering price of $25 per Share.

The Exchange believes that sufficient protections are in place to protect against market manipulation of the Fund's Shares and SPX Puts for several reasons: (i) Surveillances administered by each of the Exchange, CBOE and FINRA designed to detect violations of the federal securities laws and self-regulatory organization (''SRO'') rules; (ii) the large number of financial instruments tied to the specified securities; and (iii) the exchange-traded fund (''ETF'') creation/redemption arbitrage mechanism tied to the large pool of liquidity of each of the Fund's underlying investments, as more fully described below.

Trading in the Shares and the underlying Fund instruments will be subject to the federal securities laws and Exchange, CBOE and the Financial Industry Regulatory Authority (''FINRA'') rules and surveillance programs.[14] In this regard, the Exchange has in place a surveillance program for transactions in ETFs to ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the Shares less readily susceptible to manipulation. The Exchange notes that the Fund's portfolio is not readily susceptible to manipulation as assets in the portfolio—comprised primarily of short-term U.S. Treasury bills[15] and SPX Puts—will be acquired in extremely liquid and highly regulated markets.

SPX options are among the most liquid index options in the U.S. and derive their value from the actively traded S&P 500 Index components. SPX options are cash-settled with no delivery of stocks or ETFs, and trade in competitive auction markets with price and quote transparency. The Exchange believes the highly regulated S&P 500 options markets and the broad base and scope of the S&P 500 Index make securities that derive their value from that index, including S&P 500 options, less susceptible to potential market manipulation in view of market capitalization and liquidity of the S&P 500 Index components, price and quote transparency, and arbitrage opportunities.

Because the pricing of the Shares is tied to the Fund's underlying assets (cash, Treasuries and SPX Puts), all of which are traded in efficient, diversified and liquid markets, the Exchange also expects the liquidity in the congruent creation/redemption arbitrage mechanism to keep the Shares' market pricing in line such that the Shares' pricing would not materially differ from their net asset value. The Exchange believes that the efficiency and liquidity of the markets for SPX Puts, related derivatives, and S&P 500 Index components are sufficiently great as to deter fraudulent or manipulative acts associated with the Fund's Share price. Coupled with the extensive surveillance programs of the SROs described above, the Exchange does not believe that trading in the Fund's Shares, as proposed, would present manipulation concerns.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by regulatory staff of the Exchange or the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[16] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, or the regulatory staff of the Exchange, will communicate as needed regarding trading in the Shares and SPX Index options with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG''), and FINRA, on behalf of the Exchange, or the regulatory staff of the Exchange, may obtain trading information regarding trading such securities from such markets and other entities. In addition, the regulatory staff of the Exchange may obtain information regarding trading in such securities from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[17]

In addition, the Exchange also has a general policy prohibiting the

[12] *Id.*

[13] Source: CBOE.

[14] The Exchange notes that CBOE is a member for the Options Regulatory Surveillance Authority, which was established in 2006, to provide efficiencies in looking for insider trading and serves as a central organization to facilitate collaboration in insider trading and investigations for the U.S. options exchanges. For more information, *see http://www.cboe.com/aboutcboe/legal/departments/orsareg.aspx.*

[15] The Treasury bill market is highly liquid; Treasury bills are often considered a cash-equivalent given the ability of investors to quickly convert them into cash. According to Federal Reserve Bank of New York data as of September 2015, average daily trading volume for U.S. Treasury bills totaled $67.8 billion. In addition, the Treasury market and its participants are subject to a wide range of oversight and regulations, including requirements designed to prevent market manipulation and other abuses. For example, Treasury market participants and the Treasury market, itself, are subject to significant oversight by a number of regulatory authorities, including the Treasury, the Commission, federal bank regulators, and the Financial Industry Regulatory Authority. The Exchange contends that the short-term Treasury securities that the Fund will acquire as part of its strategy are not readily susceptible to market manipulation due to the liquidity and extensive oversight associated with the short-term U.S. Treasury market.

[16] FINRA surveils certain trading activity on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[17] For a list of the current members of ISG, see *www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio for a Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

distribution of material, non-public information by its employees.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under section 6(b)(5) [18] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 5.2(j)(3). The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by regulatory staff of the Exchange or FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. FINRA, on behalf of the Exchange, or the regulatory staff of the Exchange, will communicate as needed regarding trading in the Shares and SPX Index options with other markets and other entities that are members of ISG, and FINRA, on behalf of the Exchange, or the regulatory staff of the Exchange, may obtain trading information regarding trading such securities from such markets and other entities. In addition, the regulatory staff of the Exchange may obtain information regarding trading in such securities from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange believes it is appropriate to strike from the Prior Release the representation that the Index will include a minimum of 20 components and would meet the numerical requirements of NYSE Arca Equities Rule 5.2(j)(3), Commentary .01(a)(A)(4), as described above. The Exchange believes that such deletion will not adversely impact investors or the public interest in that the Index is based on CBOE-traded puts on the S&P 500, which are highly liquid and actively traded. The Exchange represents that S&P 500 Index options traded on CBOE are highly liquid, with average daily trading volume in 2014 of 888,089 contracts, with a notional size per contract of $200,000.[19] The Exchange represents that the average daily trading volume of at-the-money 30-day SPX Puts as of approximately 12:00 noon on each of the three previously referenced Roll Dates. Moreover, the proceeds of the sales of the SPX Puts will be invested in one and three-month Treasury bills, which are also highly liquid instruments. The trading volume of the at-the-money SPX Puts as of approximately 12:00 noon on Roll Dates compares favorably with at-the-money (as of approximately 12:00 noon) put options on other major indexes on Roll Dates. Trading in the Shares and the underlying Fund instruments will be subject to the federal securities laws and Exchange, CBOE and FINRA rules and surveillance programs. In this regard, the Exchange has in place a surveillance program for transactions in ETFs to ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the Shares less readily susceptible to manipulation. The Exchange notes that the Fund's portfolio is not readily susceptible to manipulation as assets in the portfolio—comprised primarily of short-term U.S. Treasury bills and SPX Puts—will be acquired in extremely liquid and highly regulated markets.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that trading in the Shares is subject to all requirements of NYSE Arca Equities Rule 5.2(j)(3). The Index is based on CBOE-traded puts on the S&P 500, which are highly liquid and actively traded. The Web site for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. In addition, as stated in the Prior Notice, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as stated in the Prior Release, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, and quotation and last sale information for the Shares.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The proposed rule change will enhance competition by permitting listing and trading of an additional type of index-based exchange-traded fund whose underlying index includes an options component.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or such longer time 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.

**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–2015–113 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities

[18] 15 U.S.C. 78f(b)(5).

[19] *See www.CBOE.com.*

and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2015–113. 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–2015–113 and should be submitted on or before January 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–31933 Filed 12–18–15; 8:45 am]

**BILLING CODE 8011–01–P**

[20] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76647; File No. SR–NASDAQ–2015–148]**

## Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NASDAQ Options Market—Fees and Rebates

December 15, 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 December 1, 2015, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's transaction fees at Chapter XV, Section 2 entitled ''NASDAQ Options Market—Fees and Rebates,'' which governs pricing for Nasdaq members using the NASDAQ Options Market (''NOM''), Nasdaq's facility for executing and routing standardized equity and index options.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes various changes to the NOM transaction fees and rebates set forth at Chapter XV, Section 2 for executing and routing standardized equity and index options under the Non-Penny Pilot Options program, as well as other changes.

The proposed changes are as follows:

*Fees for Removing Liquidity in Non-Penny Pilot Options:* The Exchange proposes to:

1. Increase fees from $0.94 to $1.10 per contract for all Participant categories other than Customer, which remains at $0.85 per contract.

2. Offer Participants that send Professional, Firm, Non-NOM Market Maker, NOM Market Maker and/or Broker-Dealer order flow an opportunity to lower the Fees for Removing Liquidity in Non-Penny Pilot Options from $1.10 to $1.03 per contract provided they qualify for Customer or Professional Penny Pilot [3] Options Rebates to Add Liquidity Tiers 7 or 8.

3. Offer Participants that send NOM Market Maker order flow an opportunity to lower the Fee for Removing Liquidity in Non-Penny Pilot Options from $1.10 to $1.08 per contract provided they qualify for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 2, 3, 4, 5 or 6.

[3] The Penny Pilot was established in March 2008 and has since been expanded and extended through June 30, 2016. *See* Securities Exchange Act Release Nos. 57579 (March 28, 2008), 73 FR 18587 (April 4, 2008) (SR–NASDAQ–2008–026) (notice of filing and immediate effectiveness establishing Penny Pilot); 60874 (October 23, 2009), 74 FR 56682 (November 2, 2009)(SR–NASDAQ–2009–091) (notice of filing and immediate effectiveness expanding and extending Penny Pilot); 60965 (November 9, 2009), 74 FR 59292 (November 17, 2009)(SR–NASDAQ–2009–097) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 61455 (February 1, 2010), 75 FR 6239 (February 8, 2010) (SR–NASDAQ–2010–013) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 62029 (May 4, 2010), 75 FR 25895 (May 10, 2010) (SR–NASDAQ–2010–053) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 65969 (December 15, 2011), 76 FR 79268 (December 21, 2011) (SR–NASDAQ–2011–169) (notice of filing and immediate effectiveness [sic] extension and replacement of Penny Pilot); 67325 (June 29, 2012), 77 FR 40127 (July 6, 2012) (SR–NASDAQ–2012–075) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2012); 68519 (December 21, 2012), 78 FR 136 (January 2, 2013) (SR–NASDAQ–2012–143) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2013); 69787 (June 18, 2013), 78 FR 37858 (June 24, 2013) (SR–NASDAQ–2013–082) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2013); 71105 (December 17, 2013), 78 FR 77530 (December 23, 2013) (SR–NASDAQ–2013–154) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2014); 79 FR 31151 (May 23, 2014), 79 FR 31151 (May 30, 2014) (SR–NASDAQ–2014–056) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2014); 73686 (November 25, 2014), 79 FR 71477 (December 2, 2014) (SR–NASDAQ–2014–115) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2015) and 75283 (June 24, 2015), 80 FR 37347 (June 30, 2015) (SR–NASDAQ–2015–063) (notice of filing and immediate effectiveness of a Proposed Rule Change Relating to Extension of the Exchange's Penny Pilot Program and Replacement of Penny Pilot Issues That Have Been Delisted.) *See also* NOM Rules, Chapter VI, Section 5.

*Rebate to Add Liquidity in Non-Penny Pilot Options:* the Exchange proposes to

1. Reduce the Customer Rebate to Add Liquidity in Non-Penny Pilot Options from $0.84 to $0.80 per contract.

2. Offer Participants that send Customer order flow an opportunity to increase the Non-Penny Pilot Options Rebate to Add Liquidity by $0.10 per contract by qualifying for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 2, 3, 4, 5 or 6 in a month for a total rebate of $.90 per contract.

3. Offer Participants that send Customer order flow an opportunity to increase the Non-Penny Pilot Options Rebate to Add Liquidity by qualifying for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 7 or 8 in a month, by increasing the current additional rebate from $0.01 to $0.20 per contract, in addition to the proposed $0.80 per contract Customer rebate for a total rebate of $1.00 per contract.

*Note ''c'' and note ''1'' of Chapter XV, Section 2(1):*

1. Amend note ''c'' criteria (3)(a) to decrease the percentage of total industry customer equity and ETF option ADV contract per day in a month from 0.85% to 0.75%.

2. Amend note ''c'' criteria 3(b) to increase the amount of Consolidated Volume by increasing the percentage from 1.00% to 1.10% or more of Consolidated Volume in a month.

3. Conform the language in the rule text in note ''1'' and note ''c.''

Each specific change is described in greater detail below.

Fees for Removing Liquidity in Non-Penny Pilot Options

The Exchange proposes, beginning December 1, 2015, to increase the Professional,[4] Firm,[5] Non-NOM Market Maker,[6] NOM Market Maker[7] and Broker Dealer[8] Non-Penny Pilot Options Fees for Removing Liquidity from $0.94 to $1.10 per contract.[9] While the Exchange is increasing these fees, it will also offer Participants an opportunity to lower these fees by adding liquidity to NOM. Participants that qualify for the Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tier 7 or 8 in a month will be assessed a lower Non-Penny Pilot Options Fee for Removing Liquidity of $1.03 per contract, reduced from $1.10 per contract, for each transaction which removes liquidity in Non-Penny Pilot Options in a month. Participants that add NOM Market Maker Liquidity may also reduce the Non-Penny Pilot Options Fee for Removing Liquidity from $1.10 to $1.08 per contract for each transaction which removes liquidity in Non-Penny Pilot Options in a month, if they qualify for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 2, 3, 4, 5 or 6. The Exchange believes that while the Non-Penny Pilot Options Fees for Removing Liquidity are being increased, the opportunity to earn a discounted fee by providing liquidity will incentivize Participants to select NOM as a venue and in turn benefit other market participants with the opportunity to interact with such liquidity.

Rebate To Add Liquidity in Non-Penny Pilot Options

The Exchange proposes, beginning December 1, 2015, to decrease the Non-Penny Pilot Options Customer Rebate to Add Liquidity from $0.84 to $0.80 per contract. While the Exchange is decreasing this Customer rebate, it will also offer Participants an opportunity to obtain a higher rebate by adding liquidity to NOM. Participants that send Customer order flow will have an opportunity to earn an additional Non-Penny Pilot Options Rebate to Add Liquidity of $0.10 per contract, in addition to the proposed $0.80 per contract rebate, for a total rebate of $0.90 per contract, by qualifying for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 2, 3, 4, 5 or 6 in a month. Also Participants that send Customer order flow will continue to be offered an opportunity to earn an increased additional Non-Penny Pilot Options Rebate to Add Liquidity by qualifying for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 7 or 8 in a month, but the additional rebate will increase from $0.01 to $0.20 per contract, above the proposed $0.80 per contract rebate, for a total rebate of $1.00 per contract in a month. The Exchange believes that, while the Non-Penny Pilot Options Customer Rebate to Add Liquidity is being decreased, the opportunity to earn a higher rebate by adding liquidity will incentivize Participants to select NOM as a venue and in turn benefit other market participants with the opportunity to interact with such liquidity.

Note ''c'' and Note ''1'' of Chapter XV, Section 2(1)

The Exchange proposes to amend current note ''c'' which permits Participants that qualify for the Tier 8 Customer and Professional Penny Pilot Options Rebate to Add Liquidity[10] to achieve a higher rebate. Currently, note ''c'' states: ''[P]articipants that (1) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non- Penny Pilot Options of 1.15% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional $0.02 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month; or (2) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional $0.05 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month; or (3) (a) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.85% of total industry customer equity and ETF option ADV contracts per day in a

[4] The term ''Professional'' means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) pursuant to Chapter I, Section 1(a)(48). All Professional orders shall be appropriately marked by Participants.

[5] The term ''Firm'' or (''F'') applies to any transaction that is identified by a Participant for clearing in the Firm range at OCC.

[6] The term ''Non-NOM Market Maker'' or (''O'') is a registered market maker on another options exchange that is not a NOM Market Maker. A Non-NOM Market Maker must append the proper Non-NOM Market Maker designation to orders routed to NOM.

[7] The term ''NOM Market Maker'' or (''M'') is a Participant that has registered as a Market Maker on NOM pursuant to Chapter VII, Section 2, and must also remain in good standing pursuant to Chapter VII, Section 4. In order to receive NOM Market Maker pricing in all securities, the Participant must be registered as a NOM Market Maker in at least one security.

[8] The term ''Broker-Dealer'' or (''B'') applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

[9] The Customer Non-Penny Pilot Options Fee for Removing Liquidity will remain at $0.85 per contract.

[10] Tier 8 of the Customer and Professional Rebate to Add Liquidity Tiers pays a $0.48 per contract rebate to Participants that add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.75% or more of total industry customer equity and ETF option ADV contracts per day in a month or Participants that add (1) Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 30,000 or more contracts per day in a month, (2) the Participant has certified for the Investor Support Program set forth in Rule 7014, and (3) the Participant qualifies for rebates under the Qualified Market Maker (''QMM'') Program set forth in Rule 7014.

month and (b) has added liquidity in all securities through one or more of its Nasdaq Market Center MPIDs that represent 1.00% or more of Consolidated Volume in a month will receive an additional $0.03 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options.'' [11]

First, the Exchange proposes to amend note ''c'' to amend criteria (3)(a) to decrease the percentage of total industry customer equity and ETF option ADV contract per day in a month from 0.85% to 0.75%. The Exchange believes that this decrease will offer Participants an opportunity to qualify for this incentive by amending the qualification to require less volume. Second, the Exchange proposes to amend criteria 3(b) to increase the amount of Consolidated Volume by increasing the percentage from 1.00% to 1.10% or more of Consolidated Volume in a month to achieve the additional $0.03 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options. While this note 3(b) incentive requirement is being increased, the other requirement in note 3(a) is being lowered. The Exchange believes that this incentive will continue to encourage Participants to add even more liquidity on NOM to earn a higher rebate. The Exchange is not amending the other criteria, (1) and (2), in note ''c'' to qualify for the additional rebate. Also, note ''c'' is being amended to add the phrase ''in a month'' for additional clarity.

Finally, the Exchange proposes to conform the language in the rule text in note ''1'' of Chapter XV, Section 2(1) by rewording the rule text for consistency and also referring to ''a month'' instead of a ''given month.''

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[12] in general, and with Section 6(b)(4) and 6(b)(5) of the Act,[13] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which Nasdaq operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Fees for Removing Liquidity in Non-Penny Pilot Options

The Exchange's proposal to increase the Professional, Firm, Non-NOM Market Maker, NOM Market Maker and Broker Dealer Non-Penny Pilot Options Fees for Removing Liquidity from $0.94 to $1.10 per contract is reasonable, because these fees serve to offset the Exchange's incentives to increase the Non-Penny Pilot Options Customer rebate up to $1.00 per contract. The Exchange is amending the Non-Penny Pilot Options Rebate to Add Liquidity to pay a proposed decreased rebate of $0.80 per contract, but with an opportunity to earn a higher rebate of $0.90 per contract or $1.00 per contract, depending on the Participant's qualifications for Customer or Professional Rebates to Add Liquidity in Penny Pilot Options. The Exchange seeks to encourage Participants to send more Customer or Professional Order flow to obtain an even higher Customer rebate than is offered today.[14] The Exchange believes that this benefits the Exchange in two ways: (1) The Exchange is encouraging Participants to qualify for Customer or Professional Penny Pilot Options rebate tiers, which requires Participants to send Penny and/or Non-Penny Pilot Options order flow to the Exchange; and (2) the Exchange is incentivizing Participants to transact more Customer Non-Penny Pilot Options on NOM. Additional order flow benefits all market participants, because they are afforded an opportunity to interact with the increased order flow. Customer order flow enhances liquidity on the Exchange for the benefit of all market participants and benefits all market participants by providing more trading opportunities, which attracts market makers.[15] An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Customers will continue to be assessed an $0.85 per contract Non-Penny Pilot Options Fee for Removing Liquidity, because Customer liquidity offers unique benefits to the market which benefits all market participants. Further, the Exchange believes the proposed fees for removing liquidity are consistent with fees assessed by other options exchanges.[16] Also, the Exchange believes that encouraging Participants to add Professional liquidity creates competition among options exchanges because the Exchange believes that the rebates may cause market participants to select NOM as a venue to send Professional order flow.

The Exchange's proposal to increase the Professional, Firm, Non-NOM Market Maker, NOM Market Maker and Broker Dealer Non-Penny Pilot Options Fees for Removing Liquidity from $0.94 to $1.10 per contract is equitable and not unfairly discriminatory, because all Participants, other than Customers, are being assessed the same Non-Penny Pilot Options Fees for Removing Liquidity. Customer order flow, unlike other order flow, enhances liquidity on the Exchange for the benefit of all market participants and benefits all market participants by providing more trading opportunities, which attracts market makers. Customers continue to be assessed the lowest Non-Penny Pilot Options Fee for Removing Liquidity of $0.85 per contract.

The Exchange's proposal to offer Participants an opportunity to reduce the Professional, Firm, Non-NOM Market Maker, NOM Market Maker and Broker Dealer Non-Penny Pilot Options Fees for Removing Liquidity from $1.10 to $1.03 per contract is reasonable, because the Exchange believes that offering Participants an opportunity to reduce fees by qualifying for Customer or Professional Rebates to Add Liquidity in Penny Pilot Options Tiers 7 or 8 will benefit all Participants from the increased liquidity such rebate tiers will attract to the Exchange, while reducing fees.

The Exchange's proposal to offer Participants an opportunity to reduce the Professional, Firm, Non-NOM Market Maker, NOM Market Maker and Broker Dealer Non-Penny Pilot Options Fees for Removing Liquidity from $1.10 to $1.03 per contract is equitable and not unfairly discriminatory, because all non-Customer Participants may qualify for this fee discount. Customers pay a lower fee of $0.85 per contract, because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants and benefits all market participants by providing more

[11] Consolidated Volume means the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of an equity member's trading activity, expressed as a percentage of or ratio to Consolidated Volume, the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member's trading activity.

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(4) and (5).

[14] Today, the Customer Rebate to Add Liquidity in Non-Penny Pilot Options is $0.84 per contract.

[15] Customers continue to be assessed the lowest Non-Penny Pilot Options Fee for Removing Liquidity of $0.85 per contract. This fee is not being amended with this proposal.

[16] Today, BOX Options Exchange LLC assesses a $1.07 Non-Penny Pilot take fee to Professional Customers and Broker-Dealers when removing customer liquidity. *See* BOX Options Exchange Fee Schedule.

trading opportunities, which attracts market makers.

The Exchange's proposal to offer Participants that send NOM Market Maker order flow an opportunity to reduce the Non-Penny Pilot Options Fee for Removing Liquidity from $1.10 to $1.08 per contract is reasonable, because the Exchange seeks to encourage Participants to send more Penny and/or Non-Penny Pilot Options order flow to NOM to obtain the discount. Offering to reduce NOM Market Maker fees for Participants that qualify for the lower Customer or Professional Penny Pilot Options Tiers 2, 3, 4, 5 or 6, as well as the higher Tiers 7 and 8,[17] should encourage Participants to send additional order flow to NOM to obtain a lower fee.

The Exchange's proposal to offer Participants that send NOM Market Maker order flow an opportunity to reduce the Non-Penny Pilot Options Fee for Removing Liquidity from $1.10 to $1.08 per contract is equitable and not unfairly discriminatory, because NOM Market Makers, unlike other market participants, add value through continuous quoting [18] and the commitment of capital. Further, encouraging NOM Market Makers to add greater liquidity benefits all Participants in the quality of order interaction. The Exchange believes that it is equitable and not unfairly discriminatory to only offer NOM Market Makers the opportunity to earn a discounted fee for qualifying for the lower Customer or Professional Penny Pilot Options Tiers 2, 3, 4, 5 or 6 because of the obligations borne by these market participants. Also, today Customers pay a lower fee of $0.85 per contract, as compared to NOM Market Makers. The Exchange believes it is equitable and not unfairly discriminatory to assess Customers a lower fee, because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants and benefits all market participants by providing more trading opportunities, which attracts market makers.

Rebate To Add Liquidity in Non-Penny Pilot Options

The Exchange's proposal to decrease the Non-Penny Pilot Options Customer Rebate to Add Liquidity from $0.84 to $0.80 per contract is reasonable, because although the rebate is being decreased by $0.04 per contract, the Exchange is also offering Participants an opportunity to earn a higher rebate by sending Customer or Professional order flow to NOM. The Exchange proposes to offer Participants the opportunity to increase the Non-Penny Pilot Options Customer Rebate to Add Liquidity to either $0.90 or $1.00 per contract, depending on the Participant's qualifications for Customer or Professional Rebates to Add Liquidity in Penny Pilot Options. Today, only Customers are entitled to receive a Non-Penny Pilot Options Customer Rebate to Add Liquidity of $0.84 per contract. The Exchange will continue to offer Participants the opportunity to receive a rebate for Customer orders, albeit a reduced rebate. Also, by offering an opportunity to earn a higher Customer rebate through the addition of certain order flow to NOM, the Exchange seeks to encourage Participants to send more Customer or Professional Order flow, which benefits all market participants because they are afforded an opportunity to interact with the increased order flow. Customer liquidity offers unique benefits to the market which benefits all market participants. Also, the Exchange believes that encouraging Participants to add Professional liquidity creates competition among options exchanges, because the Exchange believes that the rebates may cause market participants to select NOM as a venue to send Professional order flow.

The Exchange's proposal to decrease the Non-Penny Pilot Options Customer Rebate to Add Liquidity from $0.84 to $0.80 per contract is equitable and not unfairly discriminatory, because, today, only Customers are entitled to such a rebate, because Customer order flow brings unique benefits to the market through increased liquidity which benefits all market participants. Customers will continue to be offered a rebate, unlike other market participants.

The Exchange's proposal to offer Participants that send Customer order flow an opportunity to increase the proposed lower Customer Non-Penny Pilot Options Rebate to Add Liquidity from $0.80 to $0.90 per contract, provided the Participant qualifies for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 2, 3, 4, 5 or 6 is reasonable, because the Exchange will increase the $0.80 per contract rebate, thereby encouraging Participants to send more Customer or Professional Penny and/or Non-Penny Pilot Options order flow to the Exchange. This rebate incentive also incentivizes Participants to transact more Customer Non-Penny Pilot Options on NOM.

The Exchange's proposal to offer Participants that send Customer order flow an opportunity to increase the proposed lower Customer Non-Penny Pilot Options Rebate to Add Liquidity from $0.80 to $0.90 per contract, provided the Participant qualifies for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 2, 3, 4, 5 or 6 is equitable and not unfairly discriminatory, because Customer order flow, unlike other order flow, brings unique benefits to the market through increased liquidity which benefits all market participants. Customers will continue to be offered a rebate, unlike other market participants.

The Exchange's proposal to offer Participants that send Customer order flow an opportunity to increase the proposed lower Customer Non-Penny Pilot Options Rebate to Add Liquidity from $0.80 to $1.00 per contract, provided the Participant qualifies for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 7 or 8 is reasonable, because the Exchange will increase the $0.80 per contract rebate, thereby encouraging Participants to send more Customer or Professional Penny and/or Non-Penny Pilot Options order flow to the Exchange. This rebate incentive also incentivizes Participants to transact more Customer Non-Penny Pilot Options on NOM.

The Exchange's proposal to offer Participants that send Customer order flow an opportunity to increase the proposed lower Customer Non-Penny Pilot Options Rebate to Add Liquidity from $0.80 to $1.00 per contract, provided the Participant qualifies for Customer or Professional Penny Pilot Options Tiers 7 or 8 is equitable and not unfairly discriminatory, because Customer order flow, unlike other order flow, brings unique benefits to the market through increased liquidity which benefits all market participants. Customers will continue to be offered a rebate, unlike other market participants.

Note ''c'' and Note ''1'' of Chapter XV, Section 2(1)

The Exchange's proposal to amend one of the three criteria in note ''c'' to earn a higher rebate for Participants that qualify for the Tier 8 Customer and

[17] Participants may qualify for the reduction of the Non-Penny Pilot Options Fee for Removing Liquidity from $1.10 to $1.03 per contract for all non-Customer order flow, provided the Participant qualifies for Tiers 2, 3, 4, 5 or 6 [sic] of the Customer or Professional Penny Pilot Option Rebate to Add Liquidity.

[18] Pursuant to Chapter VII (Market Participants), Section 5 (Obligations of Market Makers), in registering as a market maker, an Options Participant commits himself to various obligations. Transactions of a Market Maker in its market making capacity must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. Further, all Market Makers are designated as specialists on NOM for all purposes under the Act or rules thereunder. *See* Chapter VII, Section 5.

Professional Penny Pilot Options Rebate to Add Liquidity is reasonable because the opportunity to earn a higher rebate of $0.51 per contract,[19] provided the qualifications are met, will continue to incentivize Participants to transact an even greater number of qualifying Customer and/or Professional volume, which liquidity will benefit other market participants by providing them the opportunity to interact with that liquidity. The Exchange's proposal to offer Participants an opportunity to obtain a higher Tier 8 rebate of $0.51 per contract, provided they qualify for the Tier 8 rebate criteria, which includes the addition of options and equity volume, is reasonable because the Exchange is encouraging market participants to send order flow to both the options and equity markets to receive the rebate. Incentivizing Participants to add options liquidity through the payment of an additional rebate is not novel and exists today. The concept of participating in the equities market as a means to qualify for an options rebate also exists today. The Exchange's proposal would amend one of three qualifications that Participants may qualify for in order to obtain an increased Tier 8 rebate.

Specifically, the Exchange believes that the proposal to amend the criteria in 3(a) to decrease the percentage of total industry customer equity and ETF option ADV contract per day in a month from 0.85% to 0.75% to achieve the additional $0.03 per contract Penny Pilot Options Customer Rebate to Add Liquidity is reasonable, because the decrease may offer Participants an opportunity to qualify for this incentive, which would require less volume. The amended incentive has the potential to make the applicable higher rebate available to a wider range of market participants. The Exchange also believes that the proposal to amend the criteria in 3(b) to increase the amount of Consolidated Volume by increasing the percentage from 1.00% to 1.10% or more of Consolidated Volume, in a month, to obtain the additional $0.03 per contract Penny Pilot Options Customer Rebate to Add Liquidity is reasonable because, despite the increase, the other requirement to obtain the rebate in note 3(a) is being lowered. Both the 3(a) and 3(b) requirements must be met in order to qualify for the additional Tier 8 rebate pursuant to the third prong in note ''c.'' Participants may still qualify for the Tier 8 additional rebate by qualifying pursuant to note ''c'' prongs (1) or (2) as well. The Exchange believes that this incentive will continue to encourage Participants to add even more liquidity on NOM to earn a higher rebate. Finally, this participation benefits the Nasdaq Market Center as well as the NOM market by incentivizing order flow to these markets. Because cash equities and options markets are linked, with liquidity and trading patterns on one market affecting those on the other, the Exchange believes that pricing incentives that encourage market participant activity in NOM also support price discovery and liquidity provision in the Nasdaq Market Center.

The Exchange's proposal to amend one of the three criteria in note ''c'' to earn a higher rebate for Participants that qualify for the Tier 8 Customer and Professional Penny Pilot Options Rebate to Add Liquidity is equitable and not unfairly discriminatory, because all Participants may qualify for the Tier 8 rebate and the additional incentive. Qualifying Participants will be uniformly paid the rebate provided the requirements are met in a month. The Exchange believes that the proposal to amend the criteria in 3(a) to decrease the percentage of total industry customer equity and ETF option ADV contract per day in a month from 0.85% to 0.75% to achieve the additional $0.03 per contract Penny Pilot Options Customer Rebate to Add Liquidity is equitable and not unfairly discriminatory, because the qualification will apply uniformly to all Participants. Similarly, the Exchange also believes that the proposal to amend the criteria in 3(b) to increase the amount of Consolidated Volume by increasing the percentage from 1.00% to 1.10% or more of Consolidated Volume, in a month, to obtain the additional $0.03 per contract Penny Pilot Options Customer Rebate to Add Liquidity is equitable and not unfairly discriminatory, because the qualification will apply uniformly to all Participants. All Participants would continue to be required to qualify for both 3(a) and 3(b) to achieve the additional Tier 8 rebate pursuant to the third prong in note ''c.''

The Exchange's proposal to conform the language in the rule text in note ''1'' of Chapter XV, Section 2(1) by rewording the rule text and also referring to ''a month'' instead of a ''given month'' and the proposal to amend note ''c'' to add the phrase ''in a month'' is reasonable, equitable and not unfairly discriminatory, because these amendments will bring consistency to the rule text.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any inter-market burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive market in which many sophisticated and knowledgeable market participants can readily and do send order flow to competing exchanges if they deem fee levels or rebate incentives at a particular exchange to be excessive or inadequate. Additionally, new competitors have entered the market and still others are reportedly entering the market shortly. These market forces ensure that the Exchange's fees and rebates remain competitive with the fee structures at other trading platforms. In that sense, the Exchange's proposal is actually pro-competitive because the Exchange is simply responding to competition by adjusting rebates and fees in order to remain competitive in the current environment.

Fees for Removing Liquidity in Non-Penny Pilot Options

The Exchange's proposal to increase the Professional, Firm, Non-NOM Market Maker, NOM Market Maker and Broker Dealer Non-Penny Pilot Options Fees for Removing Liquidity from $0.94 to $1.10 per contract does not impose an undue burden on intra-market competition, because all Participants, other than Customers, are being assessed the same Non-Penny Pilot Options Fees for Removing Liquidity. Also, Participants have an opportunity to reduce the Professional, Firm, Non-NOM Market Maker, NOM Market Maker and Broker Dealer Non-Penny Pilot Options Fees for Removing Liquidity from $1.10 to $1.03 per contract. All Participants may qualify for Tiers 7 or 8 of the Customer or Professional Rebates to Add Liquidity in Penny Pilot Options. All Participants benefit from the increased liquidity such rebate tiers will attract to the Exchange. Finally, Customers will continue to be assessed the lowest Non-Penny Pilot Options Fees for Removing Liquidity of $0.85 per contract, as is the case today because Customer order flow, unlike other order flow, brings unique benefits to the market through increased liquidity which benefits all market participants.

The Exchange's proposal to offer Participants an opportunity to reduce the Professional, Firm, Non-NOM Market Maker, NOM Market Maker and

[19] Tier 8 of the Customer and Professional Penny Pilot Options Rebate to Add Liquidity pays a $0.48 per contract rebate and note ''c'' prong 3 pays an additional $0.03 per contract incentive for a total rebate of $0.51 per contract.

Broker Dealer Non-Penny Pilot Options Fees for Removing Liquidity from $1.10 to $1.03 per contract does not impose an undue burden on intra-market competition, because all Participants may qualify for the Tier 7 or 8 Customer or Professional Rebates to Add Liquidity in Penny Pilot Options.

The Exchange's proposal to offer Participants an opportunity to reduce the NOM Market Maker Non-Penny Pilot Options Fees for Removing Liquidity from $1.10 to $1.08 per contract does not impose an undue burden on intra-market competition, because NOM Market Makers, unlike other market participants, add value through continuous quoting [20] and the commitment of capital. Also, today Customers are assessed a lower fee of $0.85 per contract because Customer order flow, unlike other order flow, brings unique benefits to the market through increased liquidity which benefits all market participants.

Rebate To Add Liquidity in Non-Penny Pilot Options

The Exchange's proposal to decrease the Non-Penny Pilot Options Customer Rebate to Add Liquidity from $0.84 to $0.80 per contract does not impose an undue burden on intra-market competition, because the Exchange continues to incentivize market participants by offering rebates to encourage Participants to send Customer order flow to the Exchange. This order flow benefits all market participants because they are afforded an opportunity to interact with the increased order flow. Customer liquidity offers unique benefits to the market which benefits all market participants. The Exchange continues to offer Customers this rebate, which is not offered to other market participants.

The Exchange's proposal to offer Participants an opportunity to increase the proposed lower Non-Penny Pilot Options Customer Rebate to Add Liquidity from $0.80 to $0.90 per contract or from $0.80 to $1.00 per contract does not impose an undue burden on intra-market competition, because the Exchange believes that Customers are entitled to higher rebates because Customer order flow brings unique benefits to the market through increased liquidity, which benefits all market participants. Also, the incentive encourages Participants to send additional order flow to NOM.

[20] *See supra* note 18.

Note ''c'' and Note ''1'' of Chapter XV, Section 2(1)

The Exchange's proposal to amend note ''c'' to continue to earn a $0.03 per contract higher rebate for Participants that qualify for the Tier 8 Customer and Professional Penny Pilot Options Rebate to Add Liquidity does not impose an undue burden on intra-market competition, because all Participants may qualify for Tier 8 as well as the additional incentive. Also, all qualifying Participants will be uniformly paid the rebate provided the requirements are met in a month.

The Exchange believes that the proposal to amend the criteria in 3(a) to decrease the percentage of total industry customer equity and ETF option ADV contract per day in a month from 0.85% to 0.75% and the proposal to amend the criteria in 3(b) to increase the amount of Consolidated Volume by increasing the percentage from 1.00% to 1.10% or more of Consolidated Volume in a month to achieve the additional $0.03 per contract Penny Pilot Options Customer Rebate to Add Liquidity does not impose an undue burden on intra-market competition, because the qualification will apply uniformly to all Participants. All Participants would continue to be required to qualify for both 3(a) and 3(b) to achieve the additional Tier 8 rebate pursuant to the third prong in note ''c.''

The Exchange's proposal to conform the language in the rule text in note ''1'' by rewording the rule text and also referring to ''a month'' instead of a ''given month'' and amending note ''c'' to add the phrase ''in a month'' does not create an undue burden on intra-market competition because the amendments are non-substantive in nature.

*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 Act.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

[21] 15 U.S.C. 78s(b)(3)(A)(ii).

**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–NASDAQ–2015–148 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–NASDAQ–2015–148. 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–NASDAQ–2015–148 and should be submitted on or before January 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

**Robert W. Errett,**

*Deputy Secretary.*

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**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76656; File No. SR–BX–2015–080]**

## Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Certificate of Incorporation and By-Laws

December 15, 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 December 9, 2015, NASDAQ OMX BX, Inc. (''BX'' or ''Exchange'') 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 the Substance of the Proposed Rule Change

The Exchange is filing this proposed rule change with respect to amendments of its Certificate of Incorporation (the ''Charter'') and By-Laws (the ''By-Laws'') to change its name to NASDAQ BX, Inc. The proposed amendments will be implemented on a date designated by the Exchange, which shall be at least 30 days from the date of this filing. The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

As part of an ongoing global rebranding initiative, the Exchange's parent company and sole stockholder (the ''Parent'') recently changed its legal name from The NASDAQ OMX Group, Inc. to Nasdaq, Inc.[3] For purposes of consistency, the Parent also has decided to change the legal names of certain of its subsidiaries to eliminate references to OMX. The Exchange therefore proposes to amend its Charter and By-Laws to change its legal name from NASDAQ OMX BX, Inc. to NASDAQ BX, Inc.

Specifically, the Exchange proposes to file a Certificate of Amendment to its Charter with the Secretary of State of the State of Delaware to amend Article First of the Charter to reflect the new name.[4] In addition, the Exchange proposes to amend the title and Article I(l) of the By-Laws to reflect the new name. The Exchange also proposes to amend Section 9.4(c) of the By-Laws to reflect the Parent's name change, which became effective on September 8, 2015.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange is proposing amendments to its Charter and By-Laws to effectuate its name change to NASDAQ BX, Inc. and to reflect the Parent's recent name change to Nasdaq, Inc. The Exchange believes that the changes will protect investors and the public interest by eliminating confusion that may exist because of differences between its corporate name and the current global branding of the Parent and its affiliated entities, including the Exchange.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

Because the proposed rule change relates to the governance and not to the operations of the Exchange, 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.

*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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

### 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:

[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 75421 (July 10, 2015), 80 FR 42136 (July 16, 2015) (SR–BSECC–2015–001, SR–BX–2015–030, SR–NASDAQ–2015–058, SR–Phlx–2015–46, SR–SCCP–2015–01).

[4] On the Exchange's Web site (*http://nasdaqomxbx.cchwallstreet.com*), the Certificate of Amendment and Certificate of Incorporation will appear as two separate documents (in addition to the prior Certificate of Amendment, dated December 30, 2008), which is consistent with how they will appear in the records of the Secretary of State of the State of Delaware.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6).

*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–BX–2015–080 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–BX–2015–080. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of 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–BX–2015–080, and should be submitted on or before January 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–31927 Filed 12–18–15; 8:45 am]

**BILLING CODE 8011–01–P**

[9] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76655; File No. SR–NYSEMKT–2015–103]**

## Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 13 Equities To Eliminate Good Til Cancelled Orders and Stop Orders, and Make Conforming Changes to Equities Rules 49, 61, 70, 104, 115A, 116, 118, 123, 123A, 123C, 123D, 501, 1000, 1004, and 6140

December 15, 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 December 7, 2015, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II 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 to amend Rule 13—Equities to eliminate Good til Cancelled (''GTC'') Orders and Stop Orders, and (2) make conforming changes to Rules 49—Equities, 61—Equities, 70—Equities, 104—Equities, 115A—Equities, 116—Equities, 118—Equities, 123—Equities, 123A—Equities, 123C—Equities, 123D—Equities, 501—Equities, 1000—Equities, 1004—Equities, and 6140—Equities. 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 Rule 13—Equities (''Rule 13'') to eliminate GTC Orders (which are also defined as ''Open'' Orders) and Stop Orders, and make conforming changes to Rules 49—Equities, 61—Equities, 70—Equities, 104—Equities, 115A—Equities, 116—Equities, 118—Equities, 123—Equities, 123A—Equities, 123C—Equities, 123D—Equities, 501—Equities, 1000—Equities, 1004—Equities, and 6140—Equities. The Exchange proposes to eliminate these order types in order to streamline its rules and reduce complexity among its order type offerings.[4]

Because of the technology changes associated with the proposed rule change, the Exchange proposes to announce the implementation date of the elimination of the order types via Trader Update.

Elimination of GTC Orders and Stop Orders (Rule 13)

The Exchange proposes to eliminate, and thus delete from its rules, the GTC Order defined in Rule 13(b)(2). A GTC Order is a limit order that remains in effect until it is either executed or cancelled.[5] To reflect this elimination, the Exchange proposes to delete all references to GTC or Open Orders and any related modifiers in Rule 13 as follows:

• Delete Rule 13(b)(2), which defines the GTC Order;

• delete Rule 13(d)(1)(B)(iv), which provides that interest designated as GTC may not be designated as a Mid-Point Passive Liquidity (''MPL'') Order; [6]

• delete Rules 13(f)(1) and (2), which describes the Do Not Reduce (''DNR'') and Do Not Increase (''DNI'') modifiers,

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See, e.g.,* Mary Jo White, Chair, Securities and Exchange Commission, Speech at the Sandler O'Neill & Partners, L.P. Global Exchange and Brokerage Conference (June 5, 2014) (available at *www.sec.gov/News/Speech/Detail/Speech/1370542004312#.U5HI-fmwJiw).*

[5] GTC orders are not eligible to be executed in any Off-Hours Trading Facility and may not be transmitted to Floor broker hand-held devices or Floor broker systems. *See* Rule 13(b)(2).

[6] A MPL Order is an undisplayed limit order that automatically executes at the mid-point of the protected best bid or offer. *See* Rule 13(d)(1)(A). The Exchange also proposes to re-number Rule 13(d)(1)(B)(v) to reflect the deletion of subsection (iv).

which are modifiers that are used only in connection with GTC Orders. In addition to being used for GTC Orders, these modifiers are also used for Stop Orders, which the Exchange is also proposing to eliminate; [7] and

• amend Rule 13(f)(5)(B), which provides that the Exchange shall reject GTC Orders with an Self-Trade Prevention (''STP'') modifier.

Second, the Exchange proposes to eliminate Stop Orders. A Stop Order is an order to buy or sell a stock at the market once the price of the stock reaches a specified price known as the ''stop price.'' Specifically, a Stop Order to buy becomes a market order when a transaction in the security occurs at or above the stop price after the order is received into Exchange systems or is manually represented by a Floor broker. A Stop Order to sell becomes a market order when a transaction in the security occurs at or below the stop price after the order is received into Exchange systems or manually represented by a Floor broker.[8] To effectuate this elimination, the Exchange proposes to amend Rule 13 as follows:

• Delete Rule 13(f)(7), which defines a Stop Order;

• delete Rule 13(f)(1) and (2), which describes the DNR and DNI modifiers as noted above; and

• amend Rule 13(f)(5), which provides that the STP modifier is available for Stop Orders.

Conforming Amendments

The Exchange proposes certain conforming amendments to Rules 49—Equities, 61—Equities, 70—Equities, 104—Equities, 115A—Equities, 116—Equities, 118—Equities, 123—Equities, 123A—Equities, 123C—Equities, 123D—Equities, 501—Equities, 1000—Equities, 1004—Equities, and 6140—Equities to reflect the elimination of GTC Orders and Stop Orders as described above as follows:

• The Exchange proposes to amend Rule 49—Equities (Emergency Powers), which addresses the Exchange's emergency powers, to delete subsection (b)(1)(B), which permits the Exchange to accept cancellations of GTC orders during an emergency condition.

• The Exchange proposes to amend Rule 61—Equities (Recognized Quotations), which governs bids and offers in securities. Under Rule 61(a)(ii)—Equities, transactions in part of a round lot are published to the Consolidated Tape and may elect Stop Orders. The Exchange proposes to eliminate the reference to electing Stop Orders.

• The Exchange proposes to amend Rule 70—Equities (Execution of Floor Broker Interest), governing execution of Floor broker interest known as e-Quotes. Under Rule 70(a)(1)—Equities, e-Quotes cannot include, among others, unelected Stop Orders or a GTC, DNR and DNI modifier. The Exchange proposes to delete these references.

• The Exchange proposes to amend 104—Equities (Dealings and Responsibilities of DMMs), which prohibits DMM units from entering, among others, GTC Modifiers, DNR Modifiers, DNI Modifiers, and Stop Orders. The Exchange proposes to delete these references to GTC, DNR and DNI modifiers and Stop Orders in subsection (b)(vi).

• The Exchange proposes to amend Rule 115A—Equities (Orders at Opening), which governs orders at the opening, to remove subsection (a), which prohibits DMMs, trading assistants and anyone acting on their behalf from using the Exchange Display Book system in a manner designed to discover inappropriately information about unelected stop orders when arranging the open or to otherwise attempt to obtain information regarding unelected stop orders and to renumber the rule accordingly.

• The Exchange proposes to delete Supplementary Material .40(A) and .50 of Rule 116—Equities ('Stop' Constitutes Guarantee), which provides that an agreement by a member to ''stop'' stock at a specified price constitutes a guarantee of a purchase or sale by the member of the security at that price. Supplementary Material .40(A) provides that Stop Orders elected based on the closing price are automatically and systemically converted to market orders and included in the total number of market-at-the-close orders executed at the close. Supplementary Material .50, similar to Rule 104(b)(vi)—Equities, prohibits DMMs, trading assistants and anyone acting on their behalf from using the Display Book system in a manner designed to discover inappropriately information about unelected stop orders when arranging the close or to otherwise attempt to obtain information regarding unelected stop orders.

• The Exchange proposes to delete Rule 118—Equities (Orders To Be Reduced and Increased on Ex-Date), which governs the adjustment of GTC buy orders [9] and open Stop Orders, *i.e.,* GTC Stop Orders, to sell when a security is quoted ex-dividend, ex-distribution, ex-rights or ex-interest.

• The Exchange proposes to amend Rule 123—Equities (Record of Orders), which imposes certain recordkeeping and order entry requirements, to eliminate the reference to Stop Orders in subsection (e)(iii)(7) and stop price in paragraph (e)(iii)(8) of Rule 123—Equities. The Exchange also proposes to delete outdated references to auction market and auction limit orders in Rule 123(e)(iii)(7)—Equities, which the Exchange either eliminated or did not implement.[10]

• The Exchange proposes to amend Supplementary Material .20 of Rule 123A—Equities (Miscellaneous Requirements), which governs changes in day orders, to remove the final clause of the first paragraph requiring members to request that customers and correspondents file GTC Orders wherever possible rather than repeating the same order each morning. The Exchange also proposes to delete the second paragraph of Supplementary Material .20 in its entirety, which provides that a Day Order changed to an Open Order is considered a new order and must be added to the Exchange's Book after other orders previously received at the same price. As noted above, an Open Order is another term for a GTC Order.[11] Finally, the Exchange proposes to rename Supplementary Material .20 ''Day Orders'' by deleting the preceding words ''Changes In''.

• The Exchange proposes to amend Rule 123C—Equities (The Closing Procedures), which specifies the procedures to be followed at the close of trading on the Exchange, to delete references to Stop Orders in paragraphs 6(a)(i)(C) and 6(a)(ii) of Rule 123C—Equities. The Exchange also proposes to delete paragraph 8(a)(iv) of Rule 123C—Equities, which describes election of Stop Orders as part of the Closing Print.

[7] In connection with the deletion of Rule 13(f)(1) & (2), the Exchange proposes to renumber the Rule as follows: Rule 13(f)(3) (Pegging Interest) would become Rule 13(f)(1); Rule 13(f)(4) (Retail Modifier) would become Rule 13(f)(2); Rule 13(f)(5) (Self-Trade Prevention Modifier) would become Rule 13(f)(3); and Rule 13(f)(6) (Sell ''Plus''—Buy ''Minus'' Instruction) would become Rule 13(f)(4). As discussed below, the Exchange proposes to delete Rule 13(f)(7) which defines Stop Orders.

[8] *See* Rule 13(f)(7)(A) & (B). Elected Stop Orders also become Market Orders and are eligible for automatic execution in accordance with Rules 116.40—Equities, 123C—Equities and 1000—1004—Equities. Stop Orders that would be elected by the price of the opening transaction on the Exchange are included in the opening transaction as Market Orders. *See id.* at (C). Odd-lot size transactions are not considered transactions eligible to elect Stop Orders on the Exchange. *See id.* at (D).

[9] Rule 118—Equities uses the term ''Open buying orders''. An Open Order is another term for a GTC Order. *See* Rule 13(a)(2). Since Rule 118—Equities applies only to GTC Orders and Stop Orders, the Exchange proposes to delete the rule in its entirety.

[10] *See* Securities Exchange Act Release No. 67686 (August 17, 2012), 77 FR 51596 (August 24, 2012) (SR–NYSEMKT–2012–13) (deleting the auction market order). Auction limit orders do not appear to have been implemented.

[11] *See* note 9, *supra.*

• The Exchange proposes to amend Rule 123D—Equities (Openings and Halts in Trading), which specifies that Exchange systems may open one or more securities electronically if a DMM cannot facilitate the opening of trading as required by Exchange rules. First, the Exchange proposes to replace the references to Rule 115A(b)—Equities with references to Rule 115A(a)—Equities. Second, the Exchange proposes to delete subsection (a)(3)(C)(ii), which provides that Stop Orders elected based on the opening price would trade second in time priority when interest that is otherwise guaranteed to participate in an opening trade would cause an opening price to be outside the Opening Price Range (as defined therein). Third, to reflect the deletion of subsection (a)(3)(C)(ii) and the removal of Stop Orders from second in time priority, the Exchange proposes to re-number subsections (a)(3)(C)(iii) through (v) and re-order priority for Limit Orders (current subsection (a)(3)(C)(iii)) from third to second, for G-quotes (current subsection (a)(3)(C)(iv)) from fourth to third, and for all other limit interest priced equal to the open (current subsection (a)(3)(v)) from fifth to fourth.

• The Exchange proposes to amend Rule 501—Equities (Definitions), which sets forth the definitions for the Rules 500–525—Equities Series governing the trading of ''UTP Securities'' on the Exchange pursuant to unlisted trading privileges. The Exchange proposes to delete subsection (d)(1)(A) of Rule 501—Equities, which defines a GTC or Open Order for a UTP Security. The Exchange also proposes to delete subsection (d)(2)(E) of Rule 501—Equities, which lists Stop Order as one of the order types not accepted for trading in UTP Securities.

• The Exchange proposes to amend Rule 1000—Equities (Automatic Executions), which provides for automatic executions by Exchange systems. Rule 1000(c)—Equities provides that incoming market orders, including an elected stop order, or marketable limit order to buy (sell) will not execute or route to another market center at a price above (below) the Trading Collar applicable when automatic executions are in effect and calculated pursuant to Rule 1000(c)(i)—Equities. The Exchange proposes to delete the reference to elected stop order in paragraph (c) of Rule 1000—Equities.

• The Exchange proposes to amend Rule 1004—Equities (Election of Buy Minus, Sell Plus and Stop Orders), which provides that automatic executions of transactions reported to the Consolidated Tape shall elect, among others, stop orders electable at the price of such executions and that any stop order so elected shall be automatically executed as market orders pursuant to Exchange rules. The Exchange proposes to delete the references to Stop Orders, including in the heading.

• Finally, the Exchange proposes to amend Rule 6140—Equities (Other Trading Practices), which governs a number of prohibited trading practices. First, the Exchange proposes to delete Rule 6140(h)(1)—Equities, which provides that a member or member organization may, but is not obligated to, accept a stop order in designated securities, and defines buy stop orders (Rule 6140(h)(1)(A)—Equities) and sell stop orders (Rule 6140(h)(1)(B)—Equities). Second, the Exchange proposes to delete Rule 6140(h)(2)—Equities, which provides that a member or member organization may, but is not obligated to, accept stop limit orders in designated securities and that when a transaction occurs at a stop price, the stop limit order to buy or sell becomes a limit order at the limit price. Current subsection (i) of Rule 6140—Equities would become new subsection (h).

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[12] of the Act, in general, and furthers the objectives of Section 6(b)(5),[13] in particular, in that it is 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, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

Specifically, the Exchange believes that eliminating GTC Orders and Stop Orders removes impediments to and perfects a national market system by simplifying functionality and complexity of its order types. The Exchange believes that eliminating these order types would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from the removal of complex functionality. Because Stop Orders, when elected, can exacerbate market volatility and result in executions in declining markets at prices significantly different than the quoted price, the Exchange believes that eliminating them would reduce the potential for orders on the Exchange to cause significant price dislocation. The Exchange also believes that eliminating GTC Orders would benefit investors because it shifts the responsibility to monitor best execution obligations on behalf of a customer to the member organization entering the order, rather than leaving a GTC order at the Exchange until it gets executed.

The Exchange further believes that deleting corresponding references in Exchange rules to deleted order types also removes impediments to and perfects the mechanism of a free and open market by ensuring that members, regulators and the public can more easily navigate the Exchange's rulebook and better understand the orders types available for trading on the Exchange. Removing obsolete cross references also furthers the goal of transparency and adds clarity to the Exchange's rules.

*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 change is not designed to address any competitive issue but would rather remove complex functionality and obsolete cross-references, thereby reducing confusion and making the Exchange's rules easier to understand and navigate.

*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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[14] and Rule 19b–4(f)(6) thereunder.[15] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [16] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[17] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

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) [18] 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–NYSEMKT–2015–103 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–NYSEMKT–2015–103. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of 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–NYSEMKT–2015–103, and should be submitted on or before January 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–31926 Filed 12–18–15; 8:45 am]

**BILLING CODE 8011–01–P**

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii).

[18] 15 U.S.C. 78s(b)(2)(B).

[19] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76648; File No. SR–Phlx–2015–49]**

## Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend and Correct Rule 1080.07

December 15, 2015.

On June 5, 2015, NASDAQ OMX PHLX LLC (the ''Exchange'' or ''Phlx'') 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 and correct several provisions in Phlx Rule 1080.07, which governs the trading of Complex Orders on Phlx XL. The proposed rule change was published for comment in the **Federal Register** on June 23, 2015.[3] On July 30, 2015, the Commission extended the time period for Commission action to September 21, 2015.[4] On September 17, 2015, the Commission instituted proceedings under section 19(b)(2)(B) of the Act [5] to determine whether to approve or disapprove the proposed rule change.[6] The Phlx filed Amendment Nos. 1 and 2 to the proposal on November 4, 2015, and December 3, 2015, respectively.[7] The Commission received no comments regarding the proposal.[8]

Section 19(b)(2) of the Act provides that proceedings to determine whether to disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of filing of the proposed rule change.[9] The time for conclusion of the proceedings may be extended for up to 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination.[10] The 180th day for this filing is December 20, 2015.

The Commission is extending the time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the issues raised by the proposal and to take action on the Exchange's proposed rule change.

Accordingly, pursuant to section 19(b)(2)(B)(ii)(II) of the Act [11] and for the reasons stated above, the Commission designates February 18, 2016, as the date by which the Commission should either approve or disapprove the proposed rule change (File No. SR–Phlx–2015–49).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 75189 (June 17, 2015), 80 FR 35997.

[4] *See* Securities Exchange Act Release No. 75570, 80 FR 46619 (August 5, 2015).

[5] 15 U.S.C. 78s(b)(2)(B).

[6] *See* Securities Exchange Act Release No. 75942, 80 FR 57406 (September 23, 2015).

[7] When the Phlx filed Amendment Nos. 1 and 2 with the Commission, it also posted the amendments on the Phlx's Web site and submitted the amendments as a comment letters to the file, which the Commission posted on its Web site and placed in the public comment file for SR–Phlx–2015–49.

[8] As noted above, the Phlx submitted Amendment Nos. 1 and 2 to the comment letter file for SR–Phlx–2015–49.

[9] 15 U.S.C. 78s(b)(2)(B)(i)(II) and (ii)(I).

[10] 15 U.S.C. 78s(b)(2)(B)(ii)(II).

[11] *Id.*

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–31935 Filed 12–18–15; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76653; File No. SR–MSRB–2015–13]**

## Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Forms G–37, G–37x and G–38t To Change the MSRB's Address on the Forms

December 15, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'' or ''Exchange Act'')[1] and Rule 19bb–4–4 thereunder,[2] notice is hereby given that on December 4, 2015, the Municipal Securities Rulemaking Board (the ''MSRB'' or ''Board'') 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 MSRB. 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 MSRB filed with the Commission a proposed rule change to amend Forms G–37, G–37x and G–38t to change the MSRB's address on the forms (the ''proposed rule change''). The MSRB has designated the proposed rule change as concerned solely with the administration of the self-regulatory organization under paragraph (f)(3) of Rule 19bb–4–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The text of the proposed rule change is available on the MSRB's Web site at *www.msrb.org/Rules-and-Interpretations/SEC-Filings/2015-Filings.aspx,* at the MSRB's principal office, 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 MSRB 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 MSRB 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

As of December 14, 2015, the MSRB is re-locating its offices from 1900 Duke Street, Suite 600, Alexandria, VA 22314, to 1300 I Street NW., Suite 1000, Washington DC 20005–3314 (the ''MSRB's new address''). Currently, brokers, dealers and municipal securities dealers (''dealers'') submitting Form G–37 or Form G–37x pursuant to MSRB Rule G–37, on political contributions and prohibitions on municipal securities business,[4] or Form G–38t, pursuant to MSRB Rule G–38, on solicitation of municipal securities business,[5] may submit these forms to the MSRB either electronically, via a web submission portal, or in paper form to the MSRB's address. The MSRB proposes to amend Forms G–37, G–37x and G–38t solely to change the address of the MSRB on the forms to reflect the MSRB's new address, so that dealers that mail any of the forms to the MSRB will be apprised by the form of the correct address.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act,[6] which provides that the MSRB's rules shall:

> 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 municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.

The proposed rule change would amend Forms G–37, G–37x and G–38t solely to reflect the MSRB's new address that must be used by a dealer, as of and after December 14, 2015, if the dealer is submitting such forms to the MSRB in paper form, but would not amend, in any manner, the information that must be provided to the MSRB pursuant to Rule G–37 and Rule G–38, as applicable. By updating the MSRB's address on Forms G–37, G–37x and G–38t, the proposed rule change will promote compliance with the reporting provisions of Rule G–37 and Rule G–38. As the MSRB makes all Form G–37, G–37x and G–38t submissions available to the public at no charge on its Electronic Municipal Market Access (EMMA) Web site, these provisions serve to give the market, including regulators, dealers, issuers and investors, transparency regarding the political contributions of dealers and the third-party solicitors compensated by dealers. Such transparency serves to combat *quid pro quo* corruption or the appearance thereof in connection with the awarding of municipal securities business and promote market integrity and a free and open municipal securities market. The reporting provisions also enhance the ability of the MSRB and other regulators to detect and deter fraudulent or manipulative acts and practices in connection with the awarding of municipal securities business. The proposed rule change will help ensure that dealers that elect to provide the applicable required form(s) to the MSRB in paper form are aware of the correct address to which they should send their information.

[12] 17 CFR 200.30–3(a)(57).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19bb–4–4.

[3] 17 CFR 240.19bb–4–4(f)(3).

[4] Rule G–37 requires dealers to disclose to the MSRB on Form G–37 information about certain: Contributions to officials of an issuer; payments to political parties of states or political subdivisions; contributions to bond ballot campaigns; and information regarding municipal securities business with issuers.

[5] Rule G–38 prohibits dealers from making any direct or indirect payment to any person who is not an affiliated person of the dealer for a solicitation of municipal securities business on behalf of the dealer. Under Rule G–38(c), a limited exception exists for payments made with respect solely to solicitation activities undertaken prior to August 29, 2005 pursuant to a consultant agreement under former Rule G–38, if, among other things, the dealer submits to the MSRB Form G–38t setting forth certain information related to the consultant agreement.

[6] 15 U.S.C. 78*o*–4(b)(2)(C).

*B. Self-Regulatory Organization's Statement on Burden on Competition*

Section 15B(b)(2)(C) of the Act[7] requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The MSRB believes that the proposed rule change, which does not change, in any substantive respect, dealers' obligations to provide information required by any MSRB rule, does not impose any burden on competition not necessary or appropriate in furtherance of the Act. The proposed rule change merely technically amends Forms G–37, G–37x and G–38t to reflect the MSRB's new address.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and paragraph (f) of Rule 19b–4 thereunder.[9] 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 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–MSRB–2015–13 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–MSRB–2015–13. 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 MSRB. 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–MSRB–2015–13 and should be submitted on or before January 11, 2016.

For the Commission, pursuant to delegated authority.[10]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–31924 Filed 12–18–15; 8:45 am]

**BILLING CODE 8011–01–P**

[7] 15 U.S.C. 78*o*–4(b)(2)(C).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f).

[10] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76651; File No. SR–NASDAQ–2015–149]**

## Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NASDAQ Options Market—Fees and Rebates

December 15, 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 December 2, 2015, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') 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 Chapter XV, entitled ''Options Pricing,'' at Section 2, which governs pricing for NASDAQ members using the NASDAQ Options Market (''NOM''), NASDAQ's facility for executing and routing standardized equity and index options, to amend the Customer[3] and Professional[4] Penny Pilot[5] Options

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Customer'' applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation (''OCC'') which is not for the account of broker or dealer or for the account of a ''Professional'' (as that term is defined in Chapter I, Section 1(a)(48)).

[4] The term ''Professional'' means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) pursuant to Chapter I, Section 1(a)(48). All Professional orders shall be appropriately marked by Participants.

[5] *See* Securities Exchange Act Release Nos. 57579 (March 28, 2008), 73 FR 18587 (April 4, 2008) (SR–NASDAQ–2008–026) (notice of filing and immediate effectiveness establishing Penny Pilot); 60874 (October 23, 2009), 74 FR 56682 (November 2, 2009) (SR–NASDAQ–2009–091) (notice of filing and immediate effectiveness expanding and extending Penny Pilot); 60965 (November 9, 2009), 74 FR 59292 (November 17, 2009) (SR–NASDAQ–2009–097) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 61455 (February 1, 2010), 75 FR 6239 (February 8, 2010) (SR–NASDAQ–2010–013) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 62029 (May 4, 2010), 75 FR 25895 (May 10, 2010) (SR–NASDAQ–2010–053) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 65969 (December 15, 2011), 76 FR 79268 (December 21, 2011) (SR–NASDAQ–2011–169) (notice of filing and immediate effectiveness [sic] extension and replacement of Penny Pilot); 67325 (June 29, 2012), 77 FR 40127 (July 6, 2012) (SR–NASDAQ–2012–075) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2012); 68519 (December 21, 2012), 78 FR 136 (January 2, 2013) (SR–NASDAQ–2012–143) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2013); 69787 (June 18, 2013), 78 FR 37858 (June 24, 2013) (SR–NASDAQ–2013–082) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31,

Continued

Rebates to Add Liquidity. The proposed amendments apply to volume from December 2, 2015 through December 31, 2015.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend Chapter XV, Section 2, entitled ''NASDAQ Options Market—Fees and Rebates'' to amend the Customer and Professional Penny Pilot Options Rebates to Add Liquidity. The proposed rule change is detailed below.

Customer and Professional Penny Pilot Options Rebates To Add Liquidity

Today, the Exchange offers tiered Penny Pilot Options Rebates to Add Liquidity to Customers and Professionals based on various criteria with rebates ranging from $0.20 to $0.48 per contract.[6] Participants may qualify for Customer and Professional Penny Pilot Options Rebates to Add Liquidity by adding a certain amount of liquidity as specified by each tier.[7]

Tier 8 of the Customer and Professional Penny Pilot Options Rebates To Add Liquidity

The Exchange proposes to amend Tier 8 of the Customer and Professional Penny Pilot Options Rebate to Add Liquidity to remove a requirement to qualify for this tier. Currently, Tier 8 provides, ''Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.75% or more of total industry customer equity and ETF option ADV contracts per day in a month or Participant adds (1) Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 30,000 or more contracts per day in a month, (2) the Participant has certified for the Investor Support Program[8] set forth in Rule 7014, and (3) the Participant qualifies for rebates under the Qualified Market Maker (''QMM'') Program set forth in Rule 7014.'' The Exchange is proposing to eliminate the third requirement which requires the Participant to qualify for rebates under the QMM Program. A QMM is a NASDAQ member that makes a significant contribution to market quality by providing liquidity at the national best bid and offer (''NBBO'') in a large number of stocks for a significant portion of the day.[9] The QMM Program is an equity program. With this proposal, the Exchange proposes to continue to pay a $0.48 per contract[10] Tier 8 Customer and Professional Penny Pilot Options Rebate to Add Liquidity if the Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.75% or more of total industry customer equity and ETF option ADV contracts per day in a month[11] or Participant adds (1) Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 30,000 or more contracts per day in a month and (2) the Participant has certified for the Investor Support Program set forth in Rule 7014 from December 2, 2015 through December 31, 2015.[12]

2013); 71105 (December 17, 2013), 78 FR 77530 (December 23, 2013) (SR–NASDAQ–2013–154) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2014); 79 FR 31151 [sic] (May 23, 2014), 79 FR 31151 (May 30, 2014) (SR–NASDAQ–2014–056) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through December 31, 2014); 73686 (December 2, 2014) [sic], 79 FR 71477 (November 25, 2014) [sic] (SR–NASDAQ–2014–115) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot through June 30, 2015) and 75283 (June 24, 2015), 80 FR 37347 (June 30, 2015) (SR–NASDAQ–2015–063) (notice of filing and immediate effectiveness and extension and replacement of Penny Pilot). *See also* NOM Rules, Chapter VI, Section 5.

[6] *See also* infra note 10.

[7] Tiers 6 and 7 are calculated based on Total Volume. Total Volume is defined as Customer, Professional, Firm, Broker-Dealer, Non-NOM Market Maker and NOM Market Maker volume in Penny Pilot Options and/or Non-Penny Pilot Options which either adds or removes liquidity on NOM. *See* note ''b'' in Section 2(1) of Chapter XV. The Exchange utilizes data from The Options Clearing Corporation (''OCC'') to determine the total industry customer equity and ETF options ADV figure. OCC classifies equity and ETF options volume under the equity options category. Also, both customer and professional orders that are transacted on options exchanges clear in the customer range at OCC and therefore both customer and professional volume would be included in the total industry figure to calculate rebate tiers.

[8] For a detailed description of the Investor Support Program or ISP, *see* Securities Exchange Act Release No. 63270 (November 8, 2010), 75 FR 69489 (November 12, 2010) (NASDAQ–2010–141) (notice of filing and immediate effectiveness) (the ''ISP Filing''). *See also* Securities Exchange Act Release Nos. 63414 (December 2, 2010), 75 FR 76505 (December 8, 2010) (NASDAQ–2010–153) (notice of filing and immediate effectiveness); and 63628 (January 3, 2011), 76 FR 1201 (January 7, 2011) (NASDAQ–2010–154) (notice of filing and immediate effectiveness).

[9] In addition, the NASDAQ equity member must avoid imposing the burdens on NASDAQ and its market participants that may be associated with excessive rates of entry of orders away from the inside and/or order cancellation. The designation ''QMM'' reflects the QMM's commitment to provide meaningful and consistent support to market quality and price discovery by extensive quoting at the NBBO in a large number of securities. In return for its contributions, certain financial benefits are provided to a QMM with respect to a particular MPID (a ''QMM MPID''), as described under Rule 7014(e).

[10] The Exchange offers Participants an opportunity to increase the Tier 8 Customer and Professional Rebate to Add Liquidity Tiers in note c, which states, ''Participants that: (1) Add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non- Penny Pilot Options of 1.15% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional $0.02 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month; or (2) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of total industry customer equity and ETF option ADV contracts per day in a month will receive an additional $0.05 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in that month; or (3) (a) add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.75% of total industry customer equity and ETF option ADV contracts per day in a month and (b) has added liquidity in all securities through one or more of its Nasdaq Market Center MPIDs that represent 1.10% or more of Consolidated Volume in a month will receive an additional $0.03 per contract Penny Pilot Options Customer Rebate to Add Liquidity for each transaction which adds liquidity in Penny Pilot Options in a month. Consolidated Volume shall mean the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of an equity member's trading activity, expressed as a percentage of or ratio to Consolidated Volume, the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member's trading activity.''

[11] Participants have two ways to qualify for the Tier 8 Customer and Professional Penny Pilot Options Rebate to Add Liquidity.

[12] Monthly volume from December 1, 2015 will not count toward the calculation of the Tier 8 rebate with respect to the December 2, 2015 through December 31, 2015 time period. The month will be calculated in two time periods.

The Exchange believes that removing the requirement to qualify for the QMM Program to earn the Tier 8 Customer and Professional Penny Pilot Option Rebate to Add Liquidity will encourage Participants to add even more liquidity on NOM to specifically qualify for the Tier 8 rebate.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[13] in general, and with Section 6(b)(4) and 6(b)(5) of the Act,[14] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Customer volume is important because it continues to attract liquidity to the Exchange, which benefits all market participants. Further, with respect to Professional liquidity, the Exchange initially established Professional pricing in order to ''. . . bring additional revenue to the Exchange.'' [15] The Exchange noted in the Professional Filing that it believes ''. . . that the increased revenue from the proposal would assist the Exchange to recoup fixed costs.''[16] Further, the Exchange noted in that filing that it believes that establishing separate pricing for a Professional, which ranges between that of a Customer and market maker, accomplishes this objective.[17]

Customer and Professional Penny Pilot Options Rebates To Add Liquidity

Tier 8 of the Customer and Professional Penny Pilot Options Rebates To Add Liquidity

The Exchange's proposal to amend Tier 8 of the Customer and Professional Penny Pilot Options Rebate to Add Liquidity to remove the requirement to qualify for the QMM Program to earn the Tier 8 rebate is reasonable, because removing the requirement to qualify for the QMM Program should encourage Participants to add even more liquidity on NOM to specifically qualify for the Tier 8 rebate. The Exchange currently requires Participants to add Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.75% or more of total industry customer equity and ETF option ADV contracts per day in a month to qualify for the Tier 8 rebate. Also, a Participant could qualify for a Tier 8 rebate, today, by that [sic] adding (1) [sic] Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 30,000 or more contracts per day in a month *and* certifies for the Investor Support Program set forth in Rule 7014 may also qualify for the rebate. The Exchange's proposal would eliminate the necessity to qualify for two equity programs, the Investor Support and QMM Program. The Exchange believes that heightened volume requirement already present in the requirements to qualify for Tier 8, as compared with other tier volume requirements, combined with the requirement to continue to certify for the Investor Support Program will continue to incentivize Participants to transact an even greater number of qualifying Customer and/or Professional volume, which liquidity will benefit other market participants by providing them the opportunity to interact with that liquidity. Moreover, the incentive has the potential to make the applicable higher rebate available to a wider range of market participants with the removal of the QMM Program as a means of qualification.

The Exchange's proposal to permit Participants to qualify for the highest Customer and Professional Penny Pilot Options Rebate to Add Liquidity Tier of $0.48 per contract, by adding volume from December 2, 2015 through December 31, 2015,[18] which criteria continue to include the addition of options and equity volume, is reasonable because the Exchange is encouraging market participants to send order flow to both the options and equity markets to receive the rebate. Incentivizing Participants to add options liquidity through the payment of an additional rebate is not novel as, today, Tier 8 permits the additional [sic] of equity volume to qualify for this rebate. The concept of participating in the equities market as a means to qualify for an options rebate exists today. This participation benefits the Nasdaq Market Center as well as the NOM market by incentivizing order flow to these markets. This rebate recognizes the prevalence of trading in which members simultaneously trade different asset classes within the same strategy. Participants will continue to be required to add liquidity to both the options and equities requirement if they qualify for the Tier 8 rebate utilizing the second method.[19] Because cash equities and options markets are linked, with liquidity and trading patterns on one market affecting those on the other, the Exchange believes that pricing incentives that encourage market participant activity in NOM also support price discovery and liquidity provision in the Nasdaq Market Center. Further, because the requirements to qualify for Tier 8 requires significant levels of liquidity provision, which benefits all market participants, and because activity in NOM also supports price discovery and liquidity provision in the Nasdaq Market Center due to the increasing propensity of market participants to be active in both markets and the influence of each market on the pricing of securities in the other, the remaining requirements to qualify for the Tier 8 rebate continue to be reasonable, notwithstanding the elimination of the QMM Program requirement. Finally, other options exchanges today pay rebates to participants that add order [sic] both options and equity order flow.[20]

The Exchange's proposal to amend Tier 8 of the Customer and Professional Penny Pilot Options Rebate to Add Liquidity to remove the requirement to qualify for the QMM Program to earn the Tier 8 rebate is equitable and not unfairly discriminatory because all Participants may qualify for Tier 8.

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(4) and (5).

[15] *See* Securities Exchange Act Release No. 64494 (May 13, 2011), 76 FR 29014 (May 19, 2011) (SR–NASDAQ–2011–066) (''Professional Filing''). In this filing, the Exchange addressed the perceived favorable pricing of Professionals who were assessed fees and paid rebates like a Customer prior to the filing. The Exchange noted in that filing that a Professional, unlike a retail Customer, has access to sophisticated trading systems that contain functionality not available to retail Customers.

[16] *See* Professional Filing.

[17] *See* Professional Filing. The Exchange also [sic] in the Professional Filing that it believes the role of the retail Customer in the marketplace is distinct from that of the Professional and the Exchange's fee proposal at that time accounted for this distinction by pricing each market participant according to their roles and obligations.

[18] Monthly volume from December 1, 2015 will not count toward the calculation of the Tier 8 rebate with respect to the December 2, 2015 through December 31, 2105 time period. The month will be calculated in two time periods.

[19] There are two ways to qualify for the Tier 8 rebate, as amended by this proposal, either: (1) Participant adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.75% or more of total industry customer equity and ETF option ADV contracts per day in a month; or (2) Participant adds Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 30,000 or more contracts per day in a month and the Participant has certified for the Investor Support Program set forth in Rule 7014 from December 2, 2015 through December 31, 2015.

[20] BATS Exchange Inc. (''BATS'') and NYSE Arca, Inc. ([sic] NYSE Arca'') offer Cross-Asset Step-Up Tiers on its equity market. *See* BATS BZX Exchange Fee Schedule. *See also* NYSE Arca Equities Schedule of Fees and Charges for Exchange Services and NYSE Arca Options Fees and Charges.

Qualifying Participants will be uniformly paid a $0.48 per contract rebate, provided the requirements are met for the time period from December 2, 2015 through December 31, 2015.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

NASDAQ 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.

Customer and Professional Penny Pilot Options Rebates To Add Liquidity

Tier 8 of the Customer and Professional Penny Pilot Options Rebates To Add Liquidity

The Exchange's proposal to amend Tier 8 of the Customer and Professional Penny Pilot Options Rebate to Add Liquidity to remove the requirement to qualify for the QMM Program to earn the Tier 8 rebate does not impose an undue burden on intra-market competition because all Participants are eligible to qualify for the Tier 8 Customer or Professional Rebate to Add Liquidity, provided they meet the qualifications. Further, the Tier 8 rebate will be uniformly paid to those Participants that are eligible for the rebate. Moreover, the changes have the potential to make the applicable incentives available to a wider range of market participants with the removal of the QMM Program.

Furthermore, continuing to incentivize Participants to add not only options, but equities volume does not impose an undue burden on intra-market competition because cash equities and options markets are linked, with liquidity and trading patterns on one market affecting those on the other, the Exchange believes that pricing incentives that encourage market participant activity in NOM also support price discovery and liquidity provision in the Nasdaq Market Center. Further, the pricing incentives require significant levels of liquidity provision, which benefits all market participants on NOM and the Nasdaq Market Center.

*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 Act.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**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–NASDAQ–2015–149 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–NASDAQ–2015–149. 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 offices 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–NASDAQ–2015–149, and should be submitted on or before January 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–31922 Filed 12–18–15; 8:45 am]

**BILLING CODE 8011–01–P**

[21] 15 U.S.C. 78s(b)(3)(A)(ii).

[22] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76644; File No. SR–NFA–2015–01]**

## Self-Regulatory Organizations; National Futures Association; Notice of Filing and Immediate Effectiveness of Proposed Change to the Interpretive Notice to NFA Compliance Rules 2–7 and 2–24 and Registration Rule 401: Proficiency Requirements for SFPs

December 15, 2015.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (''Exchange Act''),[1] and Rule 19b–7 under the Exchange Act,[2] notice is hereby given that on December 3, 2015, National Futures Association (''NFA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been prepared by NFA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. NFA also filed this proposed rule change on December 3, 2015 with the Commodity Futures Trading Commission (''CFTC'').

NFA, on December 3, 2015, requested that the CFTC make a determination that review of the proposed rule change of NFA is not necessary.

The CFTC has not yet made such a determination.

[1] 15 U.S.C. 78s(b)(7).

[2] 17 CFR 240.19b–7.

**I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change**

The amendments to the Interpretive Notice entitled ''NFA Compliance Rules 2–7 and 2–24 and Registration Rule 401: Proficiency Requirements for Security Futures Products'' (''Notice'') make permanent the provision permitting registrants to qualify to engage in securities futures activities by completing a training program.

The text of the Interpretive Notice is available on NFA's Web site at *www.nfa.futures.org,* the Commission's Web site at *www.sec.gov,* the self-regulatory organization's office, 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, NFA 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. NFA 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

Section 15A(k) of the Exchange Act [3] makes NFA a national securities association for the limited purpose of regulating the activities of NFA Members (''Members'') who are registered as brokers or dealers under Section 15(b)(11) of the Exchange Act.[4] NFA's Notice entitled: ''NFA Compliance Rules 2–7 and 2–24 and Registration Rule 401: Proficiency Requirements for Security Futures Products'' applies to all Members who meet the criteria in the Interpretive Notice and could apply to Members registered under Section 15(b)(11) of the Exchange Act.

The Commodity Futures Modernization Act of 2000 amended the Securities Exchange Act of 1934 to require NFA to ''have rules that ensure that members and natural persons associated with members meet such standards of training, experience and competence necessary to effect transactions in security futures products and are tested for their knowledge of securities and securities futures products.'' In 2001, NFA and FINRA (then NASD) adopted temporary relief allowing registrants to qualify to engage in security futures activities by completing a training program rather than taking a proficiency exam, which NFA codified in the Notice. That relief has been extended four times and is currently set to expire on December 31, 2015.

NFA and FINRA proposed the four prior extensions, and the CFTC and SEC agreed to them, because of the relatively low trading volume in security futures products (''SFP'') and the relatively few registrants engaging in security futures activities. These characteristics made the imposition of a qualifications exam an inefficient option, and the same reasons are equally compelling today.

In 2002 NFA, FINRA and the Institute for Financial Markets partnered together to develop a free web-based training program consisting of a series of modules intended to satisfy the training requirement (''SRO Training Modules''). From 2002 through May 2015, 15,216 individuals have completed the SRO Training Modules. Of this number, 10,108 individuals are registered with FINRA (including joint registrants) and 5,108 individuals are registered only with the CFTC. Most of these individuals took the SRO Training Modules in the first couple of years after SFPs began trading, and traffic has decreased since then. In 2014, only 180 registered individuals completed the SRO Training Modules (162 CFTC-only registrants). This compares with the approximately 4,000 people who took the Series 3 exam last year.

Additionally, SFP volume is low. In 2014, U.S. futures exchanges traded approximately 3.9 billion contracts, while SFP volume was just over 8 million—approximately 0.21% of the total. Given the limited interest in these products, NFA believes that implementing a testing requirement does not appear to be the most practical solution at this time.

Given the continued low number of registrants engaging in securities futures activities and the low SFP volume, NFA's Board of Directors at its August 20, 2015 meeting authorized NFA's Executive Committee to approve amendments to NFA's Interpretive Notice regarding proficiency requirements for SFPs to make permanent the provision permitting registrants to satisfy their proficiency requirement through training and eliminating the sunset provision. NFA's Executive Committee, as authorized by the Board of Directors, approved the amendments on October 15, 2015. NFA's Board of Directors ratified the Executive Committee's action at it November 19, 2015 meeting. The amendments also emphasize that the training must be completed before any individual registrant engages in activities involving SFPs. NFA, in coordination with FINRA, will continue to monitor the security futures volume and the number of persons taking the SRO Training modules, as well as any disciplinary matters involving SFPs, in considering whether a proficiency test should be developed at a later date.

Amendments to the Interpretive Notice regarding NFA Compliance Rules 2–7 and 2–24 and Registration Rule 401: Proficiency Requirements for Security Futures Products were previously filed with the SEC in SR–NFA–2002–04, Exchange Act Release No. 34–46502 (Sep. 16, 2002), 67 FR 59587 (Sep. 23, 2002); SR–NFA–2003–03, Exchange Act Release No. 34–47825 (May 9, 2003), 68 FR 27128 (Mar. 19, 2002); SR–NFA–2003–04, Exchange Act Release No. 34–49054 (Jan. 12, 2004), 69 FR 2806, (Jan. 20, 2004); SR–NFA–2007–07, Exchange Act Release 34–57142 (Jan. 14, 2008), 73 FR 3502 (Jan. 18, 2008); SR–NFA–2009–02, Exchange Act Release 34–61284 (Jan. 4, 2010), 75 FR 1431 (Jan. 11, 2010) and SR–NFA–2014–01, Exchange Act Release No. 34–71976 (April 21, 2014), 79 FR 23028 (April 25, 2014).

2. Statutory Basis

The rule change is authorized by, and consistent with, Section 15A(k)(2)(D) of the Exchange Act.[5] That Section requires NFA to ''have rules that ensure that members and natural persons associated with members meet such standards of training, experience, and competence necessary to effect transactions in SFPs and are tested for their knowledge of securities and securities futures products.'' Although the proposal makes permanent the relief from having to take an exam to engage in securities futures activities, the proposal still requires individual registrants to complete training before entering into any activities.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The proposed rule change will have little or no impact on competition. The proposed Interpretive Notice does not impose new requirements on Members, but rather makes permanent the provision permitting registrants to qualify to engage in security futures

[3] 15 U.S.C. 78o–3(k).

[4] 15 U.S.C. 78o(b)(11).

[5] 15 U.S.C. 78o–3(k)(2)(D).

activities by completing a training program.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

NFA did not publish the rule change to the membership for comment. NFA did not receive comment letters concerning the rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The proposed rule change is not effective because the CFTC has not yet determined that review of the proposed rule change is not necessary.

At any time within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily temporarily suspend the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Exchange 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 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–NFA–2015–01 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–NFA–2015–01. 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 NFA. 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–NFA–2015–01, and should be submitted on or before January 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–31931 Filed 12–18–15; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76645; File No. SR–NYSEArca–2015–74]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change Regarding a Change to the Underlying Index of the Market Vectors Short High Yield Municipal Index ETF

December 15, 2015.

**I. Introduction**

On August 26, 2015, NYSE Arca, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to reflect a change to the reference index relating to the Market Vectors Short High Yield Municipal Index ETF (''Fund''). The Commission published notice of the proposed rule change in the **Federal Register** on September 16, 2015.[3] On October 16, 2015, the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[4] The Commission received no comments on the proposal. This order approves the proposed rule change.

**II. The Exchange's Description of the Proposal**

The Commission approved listing and trading on the Exchange of shares (''Shares'') of the Fund under NYSE Arca Equities Rule 5.2(j)(3), which governs the listing and trading of Investment Company Units (''Units'').[5] Currently, the Shares are listed and traded on the Exchange. The Exchange submitted this proposed rule change because the underlying index will be changed and the index as modified would continue not to meet the ''generic'' listing requirement of Commentary .02(a)(2) to NYSE Arca Equities Rule 5.2(j)(3) in that, as of June 30, 2015, only 30.10% of the weight of the Revised Index components had a minimum original principal amount outstanding of $100 million or more.[6]

The investment objective of the Fund is to seek to replicate as closely as possible, before fees and expenses, the price and yield performance of the Barclays Municipal High Yield Short Duration Index (''Short High Yield Index'' or ''Index''). The Fund is a series of the Market Vectors ETF Trust. Van Eck Associates Corporation is the investment adviser and the

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 75888 (September 10, 2015), 80 FR 55701 (''Notice'').

[4] *See* Securities Exchange Act Release No. 76174, 80 FR 64027 (October 22, 2015). The Commission determined that it was appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission designated December 15, 2015 as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[5] *See* Securities Exchange Act Release No. 71232 (January 3, 2014), 79 FR 1662 (January 9, 2014 (SR–NYSEArca–2013–118) (order approving listing and trading of shares of the Market Vectors Short High Yield Municipal Index ETF) (''Order''). *See also* Securities Exchange Act Release No. 70871 (November 14, 2013), 78 FR 69503 (November 19, 2013) (SR–NYSEArca–2013–118) (notice of proposed rule change relating to listing and trading of shares of the Market Vectors Short High Yield Municipal Index ETF and, together with the Order, the ''Release''). The Exchange submitted that proposed rule change to permit listing and trading of the Shares because the index underlying the Fund did not meet all of the ''generic'' listing requirements of Commentary .02(a) to NYSE Arca Equities Rule 5.2(j)(3) that are applicable to the listing of Units based on fixed income securities indexes. More specifically, the Index met all of the criteria except for those set forth in Commentary .02(a)(2), which requires that components that in the aggregate account for at least 75% of the weight of the index or portfolio each shall have a minimum original principal amount outstanding of $100 million or more.

[6] The Exchange states that the other generic listing criteria are satisfied. *See* Notice, *supra* note 3, 80 FR at 55703.

administrator for the Fund. Van Eck Securities Corporation is the Fund's distributor. The Bank of New York Mellon is the custodian of the Fund's assets and provides transfer agency and fund accounting services to the Fund.

*A. The Current Index*

The Index is a market-size-weighted index composed of publicly traded municipal bonds that cover the U.S. dollar-denominated high-yield short-term tax-exempt bond market. A majority of the Index's constituents are from the revenue sector, with some constituents being from the general obligation sector. The revenue sector is divided into industry sectors that consist of, but may not be limited to, electric, health care, transportation, education, water and sewer, resource recovery, leasing, and special tax. The Index is calculated using a market-value weighting methodology, provided that the allocation to issuers from the territories of the United States, including: Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa and the Northern Mariana Islands, each individually does not exceed 8%.

*B. The Revised Index*

The Index Provider plans to revise the Index methodology as follows. The revised Short High Yield Index (''Revised Index'') will have a targeted 40% weight in the Muni High Yield/$100 Million Deal Size Index (reduced from a 50% weight). In addition, the Revised Index will have a 10% weight in the Muni A-Rated Index, which comprises investment grade components, as described below. The Revised Index will continue to have a 25% weight in the Muni High Yield/Under $100 Million Deal Size Index and a 25% weight in the Muni Baa-Rated/$100 Million Deal Size Index, as described in the Release.

The Revised Index will comprise four total-return, market-size-weighted benchmark indexes with target weights as follows:

- 40% weight in Muni High Yield/$100 Million Deal Size Index. To be included in the Muni High Yield/$100 Million Deal Size Index, bonds must be unrated or rated Ba1/BB+ or lower by at least two of the following rating agencies, if all three rate the bond: Moody's Investors Service, Inc. (''Moody's''), Standard & Poor's, Inc. (''S&P''), and Fitch, Inc. (''Fitch''). If only two of the three agencies rate the security, the lower rating is used to determine index eligibility. If only one of the three agencies rates a security, the rating must be Ba1/BB+ or lower. Bonds in the Muni High Yield/$100 Million Deal Size Index must have an outstanding par value of at least $3 million and be issued as part of a transaction of at least $100 million.[7]
- 25% weight in Muni High Yield/Under $100 Million Deal Size Index. To be included in the Muni High Yield/Under $100 Million Deal Size Index, bonds must be unrated or rated Ba1/BB+ or lower by at least two of the following rating agencies, if all three rate the bond: Moody's, S&P, and Fitch. If only two of the three agencies rate the security, the lower rating is used to determine index eligibility. If only one of the three agencies rates a security, the rating must be Ba1/BB+ or lower. Bonds in the Muni High Yield/Under $100 Million Deal Size Index must have an outstanding par value of at least $3 million and be issued as part of a transaction of under $100 million but over $20 million.[8]
- 25% weight in Muni Baa-Rated/$100 Million Deal Size Index. To be included in the Muni Baa-Rated/$100 Million Deal Size Index, bonds must have a Barclays credit-quality classification between Baa1/BBB+ and Baa3/BBB−. Barclays credit-quality classification is based on the three rating agencies, Moody's, S&P, and Fitch. If two of the three agencies rate the bond equivalently, then that rating is used. If all three rate the bond differently, the middle rating is used. If only two of the three agencies rate the security, the lower rating is used to determine index eligibility. If only one of the three agencies rates a security, the rating must be Baa1/BBB+, Baa2/BBB, or Baa3/BBB−. The bonds must have an outstanding par value of at least $7 million and be issued as part of a transaction of at least $100 million.[9]
- 10% weight in Muni A-Rated Index. To be included in the Muni A-Rated Index, bonds must have a Barclays credit-quality classification between A1/A+ and A3/A−. The Barclays credit-quality classification is based on the three rating agencies, Moody's, S&P, and Fitch. If two of the three agencies rate the bond equivalently, then that rating is used. If all three rate the bond differently, the middle rating is used. If only two of the three agencies rate the security, the lower rating is used to determine index eligibility. If only one of the three agencies rates a security, the rating must be A1/A+, A2/A, or A3/A−. The bonds must have an outstanding par value of at least $7 million and be issued as part of a transaction of at least $75 million. Remarketed issues will not be allowed in the benchmark. All bonds must have a fixed rate, a dated-date (*i.e.,* the date when interest begins to accrue) after December 31, 1990, and a nominal maturity of 1 to 12 years. Taxable municipal bonds, bonds with floating rates, and derivatives will be excluded from the Revised Index.

The composition of the Revised Index will be rebalanced monthly. Interest and principal payments earned by the component securities will be held in the Revised Index without a reinvestment return until month end, when they are removed from the Revised Index.

Total returns will be calculated based on the sum of price changes, gain/loss on repayments of principal, and coupons received or accrued, expressed as a percentage of beginning market value. The Revised Index will be calculated and made available once a day.

As of June 30, 2015, 69.73% of the weight of the Revised Index components was composed of individual maturities that were part of an entire municipal bond offering with a minimum original principal amount outstanding of $100 million or more for all maturities of the offering. In addition, the total dollar amount outstanding of issues in the Revised Index was approximately $224.6 billion, and the average dollar amount outstanding of issues in the Index was approximately $23.7 million. Further, the most heavily weighted component represents 2.44% of the weight of the Revised Index, and the five most heavily weighted components represent 9.47% of the weight of the Revised Index.[10]

The Exchange believes that the Revised Index is sufficiently broad-based to deter potential manipulation, notwithstanding that the Revised Index does not satisfy the criterion in NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 (a)(2), because it is composed of approximately 9,481 issues and 900 unique issuers. The Exchange also believes that the Revised Index securities are sufficiently liquid to deter potential manipulation in that a substantial portion (69.73%) of the

[7] As described in the Release, currently 50% of the Index weight is in the Muni High Yield/$100 Million Deal Size Index.

[8] The 25% weighting in the Muni High Yield/Under $100 Million Deal Size Index is identical to the weighting set forth in the Release.

[9] The 25% weighting in the Muni Baa-Rated/$100 Million Deal Size Index is identical to the weighting set forth in the Release.

[10] Commentary .02(a)(4) to NYSE Arca Equities Rule 5.2(j)(3) provides that no component fixed-income security (excluding Treasury Securities and GSE Securities, as defined therein) shall represent more than 30% of the weight of the index or portfolio, and the five most heavily weighted component fixed-income securities in the index or portfolio shall not in the aggregate account for more than 65% of the weight of the index or portfolio.

Revised Index weight is composed of maturities that are part of a minimum original principal amount outstanding of $100 million or more, and in view of the substantial total dollar amount outstanding and the average dollar amount outstanding of Revised Index issues, as referenced above. In addition, the Exchange notes that the average daily notional trading volume for Revised Index components for the period from June 30, 2014 to June 30, 2015 was approximately $323.6 million, and the sum of the notional trading volumes for the same period was $82.2 billion.

The Revised Index value, calculated and disseminated at least once daily, as well as the components of the Revised Index and their percentage weighting, will be available from major market data vendors. In addition, the portfolio of securities held by the Fund will be disclosed daily on the Fund's Web site at *www.marketvectorsetfs.com.*

The Exchange represents that: (1) Except for Commentary .02(a)(2) to NYSE Arca Equities Rule 5.2(j)(3), the Shares currently satisfy all of the generic listing standards under NYSE Arca Equities Rule 5.2(j)(3); (2) the continued listing standards under NYSE Arca Equities Rules 5.2(j)(3) and 5.5(g)(2) applicable to Units shall apply to the Shares; and (3) the Trust is required to comply with Rule 10A–3 under the Act [11] for the initial and continued listing of the Shares. In addition, the Exchange represents that the Shares will comply with all other requirements applicable to Units including, but not limited to, requirements relating to the dissemination of key information such as the value of the Revised Index and the applicable Intraday Indicative Value (''IIV''); [12] rules governing the trading of equity securities, trading hours, trading halts, surveillance, and the Information Bulletin to Equity Trading Permit Holders (''ETP Holders''), as set forth in Exchange rules applicable to Units; and prior Commission orders approving the generic listing rules applicable to the listing and trading of Units.[13]

The value of the Revised Index will be widely disseminated by one or more major market data vendors at least once per day, as required by NYSE Arca Equities Rule 5.2(j)(3), Commentary .02(b)(ii). The IIV for the Shares will be disseminated by one or more major market data vendors, updated at least every 15 seconds during the Exchange's Core Trading Session, as required by NYSE Arca Equities Rule 5.2(j)(3), Commentary .02(c).

## III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to permit the Fund to track the Revised Index is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[14] In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Exchange Act,[15] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the Revised Index is unlikely to be more susceptible to manipulation than the existing Index. The weight of the Revised Index components with a minimum original principal amount outstanding of $100 million or more was 30.10% as of June 30, 2015,[16] which is heavier than the weight of such components in the Index as of November 27, 2012.[17] Additionally, the number of components and the number of unique issuers is greater for the Revised Index than for the Index.[18] Further, the average daily notional trading volume was much greater for Revised Index components than for Index components.[19]

The Commission notes that the Exchange represents that: (1) The Shares and the Revised Index satisfy all of the requirements for generic listing standards under NYSE Arca Equities Rule 5.2(j)(3) except for Commentary .02(a)(2) to NYSE Arca Equities Rule 5.2(j)(3); and (2) except as noted, all other representations made in support of the Release remain unchanged.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Exchange Act [20] and the rules and regulations thereunder applicable to a national securities exchange.

## IV. Conclusion

*It is therefore ordered,* pursuant to section 19(b)(2) of the Exchange Act,[21] that the proposed rule change (SR–NYSEArca–2015–74), be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–31932 Filed 12–18–15; 8:45 am]

**BILLING CODE 8011–01–P**

[11] 17 CFR 240.10A–3.

[12] The IIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session of 9:30 a.m. to 4:00 p.m., Eastern time. Currently, it is the Exchange's understanding that several major market data vendors display or make widely available IIVs taken from the Consolidated Tape Association or other data feeds.

[13] *See, e.g.,* Securities Exchange Act Release Nos. 55783 (May 17, 2007), 72 FR 29194 (May 24, 2007) (SR–NYSEArca–2007–36) (order approving NYSE Arca generic listing standards for Units based on a fixed income index); 44551 (July 12, 2001), 66 FR 37716 (July 19, 2001) (SR–PCX–2001–14) (order approving generic listing standards for Units and Portfolio Depositary Receipts); 41983 (October 6, 1999), 64 FR 56008 (October 15, 1999) (SR–PCX–98–29) (order approving rules for listing and trading of Units).

[14] 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).

[15] 15 U.S.C. 78f(b)(5).

[16] *See* Notice, *supra* note 3, 80 FR at 55703.

[17] *See* Order, *supra* note 4, 79 FR at 1663–4 (''only 15.66% of the weight of the Index components, as of November 27, 2012, had a minimum original principal amount outstanding of $100 million or more'').

[18] As of June 30, 2015, the Revised Index was composed of 9,481 issues and 900 unique issuers. *See* Notice, *supra* note 3, 80 FR at 55704. As of November 27, 2012, the Index was composed of 1,935 issues and 530 unique issuers. *See* Order, *supra* note 4, 79 FR at 1664.

[19] Between June 30, 2014, and June 30, 2015, the average daily notional trading volume for Revised Index components was approximately $323.6 million. *See* Notice, *supra* note 3, 80 FR at 55704. The average daily notional trading volume for Index components between October 31, 2011, and October 31, 2012 was $2,839,895. *See* Securities Exchange Act Release No. 71232, *supra* note 4, 78 FR at 69505.

[20] 15 U.S.C. 78f(b)(5).

[21] 15 U.S.C. 78s(b)(2).

[22] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76657; File No. SR–Phlx–2015–104]**

## Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delete Rule 108

December 15, 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 December 9, 2015, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 delete Rule 108, Bids and Offers to Be Made Within Six Feet of Post.

The text of the proposed rule change is below; proposed new language is in italics; proposed deletions are in brackets.

* * * * *

Rule 108. *Reserved.* [Bids and Offers to Be Made Within Six Feet of Post

All bids and offers in any security on the floor shall be made within six feet of the post assigned to such security by the Exchange.]

* * * * *

**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 Exchange proposes to update its rules to delete Rule 108, Bids and Offers to Be Made Within Six Feet of Post. Rule 108 applied to both the equity and options trading floors for a long time. Now, there is no equity trading floor and the options trading floor is configured in a way that this provision does not make sense. The number of people on the options floor has decreased over time due to increased automation such that the layout of the floor is more compact. The Exchange does not believe that the number of feet is the relevant measure of where bids and offers should be made, because the number of feet is not determinative of whether crowd participants are aware of and can reasonably participate in crowd trades.

Instead, the Exchange relies on a number of other rules to ensure that the options trading floor operates in a fair and orderly manner. Specifically, Rules 110 and 1000(g) provide that bids and offers must be made in an audible tone of voice. In addition, Options Floor Procedure Advice C–7(b) provides that a Floor Broker must be loud and audible when representing a market and/or representing an order in the trading crowd. A Floor Broker must make reasonable efforts to position himself in the trading crowd to be heard by the majority of the trading crowd. A number of other provisions also refer to similar requirements, such as the loud and audible requirement.[3]

Accordingly, the Exchange believes that the rules relating to exposing orders in the options trading crowd in an audible manner are sufficient and that Rule 108 can be deleted.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[4] in general, and furthers the objectives of Section 6(b)(5) of the Act[5] in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest by making clear that the bids and offers made on the options trading floor are not subject to a ''six foot'' rule but rather to the requirement that bids and offers occur in a loud and audible fashion. This should promote just and equitable principles of trade by helping ensure maximum participation from the trading crowd, including the opportunity for price improvement. The opportunity for price improvement should, in turn, protect investors and the public interest.

*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 proposal applies equally to all participants in the options trading crowd.

*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.

[3] *See* Rules 1014(g)(v)(D)(1)(a) and 1064(a)(i).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[6] and subparagraph (f)(6) of Rule 19b–4 thereunder.[7]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**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–Phlx–2015–104 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–Phlx–2015–104. 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/*

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

*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–Phlx–2015–104 and should be submitted on or before January 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–31928 Filed 12–18–15; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–76654; File No. SR–Phlx–2015–105]**

## Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Certificate of Formation, By-Laws and First Amended Limited Liability Company Agreement

December 15, 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 December 9, 2015, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') 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 the Substance of the Proposed Rule Change

The Exchange is filing this proposed rule change with respect to amendments of its Certificate of Formation (the ''Charter''), By-Laws (the ''By-Laws'') and First Amended Limited Liability Company Agreement (the ''LLC Agreement'') to change its name to NASDAQ PHLX LLC. The proposed amendments will be implemented on a date designated by the Exchange, which shall be at least 30 days from the date of this filing. The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

As part of an ongoing global rebranding initiative, the Exchange's parent company and sole member (the ''Parent'') recently changed its legal name from The NASDAQ OMX Group, Inc. to Nasdaq, Inc.[3] For purposes of consistency, the Parent also has decided to change the legal names of certain of its subsidiaries to eliminate references to OMX. The Exchange therefore proposes to amend its Charter, By-Laws and LLC Agreement to change its legal name from NASDAQ OMX PHLX LLC to NASDAQ PHLX LLC.

Specifically, the Exchange proposes to file a Certificate of Amendment to its Charter with the Secretary of State of the State of Delaware to amend Article First of the Charter to reflect the new name.[4] In addition, the Exchange proposes to amend the title and Article I(k) of the By-Laws to reflect the new name. The Exchange also proposes to amend the first paragraph of the By-Laws to refer to the Exchange's Second Amended Limited Liability Company Agreement, which it will enter into in connection with the name change and which will replace the current LLC Agreement.

With respect to the current LLC Agreement, the Exchange proposes to amend the title, the first paragraph, the recitals and the signature page to reflect the Exchange's proposed name change, the Parent's recent name change and the entry by the Parent into the Second Amended Limited Liability Company Agreement to effectuate both of the aforementioned changes. The Exchange also proposes to update section 1 and Schedule A to reflect its proposed name change, sections 13 and 17 to use the defined term ''Stockholder'' for the Parent and Schedules A and B to reflect the Parent's recent name change.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act,[5] in general, and furthers the objectives of section 6(b)(5) of the Act,[6] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange is proposing amendments to its Charter, By-Laws and LLC Agreement to effectuate its name change to NASDAQ PHLX LLC and to reflect the Parent's recent name change to Nasdaq, Inc. The Exchange believes that the changes will protect investors and the public interest by eliminating confusion that may exist because of differences between its corporate name and the current global branding of the Parent and its affiliated entities, including the Exchange.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

Because the proposed rule change relates to the governance and not to the operations of the Exchange, the

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 75421 (July 10, 2015), 80 FR 42136 (July 16, 2015) (SR–BSECC–2015–001, SR–BX–2015–030, SR–NASDAQ–2015–058, SR–Phlx–2015–46, SR–SCCP–2015–01).

[4] On the Exchange's Web site (*http://nasdaqomxphlx.cchwallstreet.com), the Certificate of Formation and Certificate of Amendment will appear as two separate documents, which is consistent with how they will appear in the records of the Secretary of State of the State of Delaware.*

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

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.

*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**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A)(iii) of the Act[7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**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–Phlx–2015–105 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–Phlx–2015–105. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of 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–Phlx–2015–105, and should be submitted on or before January 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2015–31925 Filed 12–18–15; 8:45 am]

**BILLING CODE 8011–01–P**

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 200.30–3(a)(12).

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2015–0320]**

### Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of applications for exemptions; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 17 individuals for an exemption from the prohibition against persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to operate a commercial motor vehicle (CMV) in interstate commerce. The regulation and the associated advisory criteria published in the Code of Federal Regulations as the ''Instructions for Performing and Recording Physical Examinations'' have resulted in numerous drivers being prohibited from operating CMVs in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified medical examiner. If granted, the exemptions would enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs for up to 2 years in interstate commerce.

**DATES:** Comments must be received on or before January 20, 2016.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2015–0320 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *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 or Courier:* 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.

Each submission must include the Agency name and the docket ID for this Notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

*Docket:* For access to the docket to read background documents or comments, go to *www.regulations.gov,* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

**FOR FURTHER INFORMATION CONTACT:** Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, or via email at *fmcsamedical@dot.gov,* or by letter to FMCSA, Room W64–113, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

## Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption for up to 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 statutes allow the Agency to renew exemptions at the end of the 2-year period. The 17 individuals listed in this notice have requested an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8), which applies to drivers who operate CMVs as defined in 49 CFR 390.5, in interstate commerce. Section 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

FMCSA provides medical advisory criteria for use by medical examiners in determining whether drivers with certain medical conditions should be certified to operate CMVs in intrastate commerce. The advisory criteria indicate that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause that did not require anti-seizure medication, the decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the medical examiner in consultation with the treating physician. Before certification is considered, it is suggested that a 6-month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and anti-seizure medication is not required, then the driver may be qualified.

In those individual cases where a driver had a seizure or an episode of loss of consciousness that resulted from a known medical condition (*e.g.,* drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has recovered fully from that condition, has no existing residual complications, and is not taking anti-seizure medication. Drivers who have a history of epilepsy/seizures, off anti-seizure medication and seizure-free for 10 years, may be qualified to operate a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5-year period or more.

## 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–2015–0320'' 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.

## 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–2015–0320'' and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

## Summary of Applications

*James E. Allen*

Mr. Allen is a 48 year-old driver in Maine. He has a history of a seizure disorder and has remained seizure free since 1992. He takes anti-seizure medication with the dosage and frequency remaining the same since 2003. His physician states that he is supportive of Mr. Allen receiving an exemption.

*Richard A. Bailey*

Mr. Bailey is a 65 year-old class A CDL holder in Iowa. He has a history of a seizure disorder and has remained seizure free since 2009. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Bailey receiving an exemption.

*Thomas A. DeAngelo*

Mr. DeAngelo is a 43 year-old class A CDL holder in Illinois. He has a history of a seizure disorder and has remained seizure free since 1990. He takes anti-seizure medication with the dosage and frequency remaining the same since 1998. His physician states that he is supportive of Mr. DeAngelo receiving an exemption.

*Nathan Dermer*

Mr. Dermer is a 40 year-old driver in Alaska. He has a history of a benign brain tumor removal in 1991 and a single seizure in 1994. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Dermer receiving an exemption.

*Daniel Lloyd Halstead*

Mr. Halstead is a 63 year-old class A CDL holder in Nevada. He has a history of a seizure disorder and has remained seizure free since 1973. He takes anti-seizure medication with the dosage and frequency remaining the same since 2005. His physician states that he is supportive of Mr. Halstead receiving an exemption.

*Kevin Mathis*

Mr. Mathis is a 29 year-old driver in New Jersey. He has a history of juvenile myoclonic epilepsy and has remained seizure free since 2003. He takes anti-seizure medication with the dosage and

frequency remaining the same since that time. His physician states that he is supportive of Mr. Mathis receiving an exemption.

*Toriano T. Mitchell*

Mr. Mitchell is a 32 year-old class B CDL holder in Ohio. He has a history of a seizure disorder and has remained seizure free since 2003. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Mitchell receiving an exemption.

*Thomas A. Mitman*

Mr. Mitman is a 58 year-old class A CDL holder in New York. He has a history of a seizure disorder and has remained seizure free since 1996. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Mitman receiving an exemption.

*James P. Murphy*

Mr. Murphy is a 39 year-old driver in Massachusetts. He has a history of a single seizure and tumor removal in 2011. He was previously on anti-seizure medication but discontinued it 2015. His physician states that he is supportive of Mr. Murphy receiving an exemption.

*Jason Christopher Nikolas*

Mr. Nikolas is a 42 year-old driver in Virginia. He has a history of epilepsy and has remained seizure free since 2012. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Nikolas receiving an exemption.

*Curtis Joseph Palubicki*

Mr. Palubicki is a 29 year-old driver in Minnesota. He has a history of epilepsy and has remained seizure free since September 2008. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Palubicki receiving an exemption.

*Franklin Prettyman*

Mr. Prettyman is a 77 year-old driver in Maryland. He has a history of a seizure disorder and has remained seizure free since 2012. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Prettyman receiving an exemption.

*Chad Riemenschneider*

Mr. Riemenschneider is a 35 year-old driver in Texas. He has a history of a single seizure in 2011 related to a brain tumor. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Riemenschneider receiving an exemption.

*Isaac E. Rogers*

Mr. Rogers is a 29 year-old class A CDL holder in Illinois. He has a history of a seizure disorder and has remained seizure free since 2009. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Rogers receiving an exemption.

*Tyler W. Schaefor*

Mr. Schaefor is a 34 year-old driver in Maine. He has a history of a seizure disorder and has remained seizure free since 2003. He takes anti-seizure medication with the dosage and frequency remaining the same since 2008. His physician states that he is supportive of Mr. Schaefor receiving an exemption.

*Kenneth P. Schmitt*

Mr. Schmitt is a 38 year-old driver in South Dakota. He has a history of a seizure disorder and his last seizure date is not documented. He takes anti-seizure medication with the dosage and frequency remaining the same and his physician notes that Mr. Schmitt admits to occasional anti-seizure medication noncompliance. His physician states that he is supportive of Mr. Schmittt receiving an exemption.

*Alfonso Valdivieso*

Mr. Valdivieso is a 52 year-old class A CDL holder in New York. He has a history of a seizure disorder and has remained seizure free since 2011. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Valdivieso receiving an exemption.

**Request for Comments**

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on the exemption applications described in this notice. We will consider all comments received before the close of business on the closing date indicated earlier in the notice.

Dated: December 9, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2015–31978 Filed 12–18–15; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[FMCSA Docket No. FMCSA–2015–0066]**

### Qualification of Drivers; Exemption Applications; Diabetes Mellitus

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA confirms its decision to exempt 54 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

**DATES:** The exemptions were effective on September 17, 2015. The exemptions expire on September 17, 2017.

**FOR FURTHER INFORMATION CONTACT:** Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays.

**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 August 17, 2015, FMCSA published a notice of receipt of Federal diabetes exemption applications from 54 individuals and requested comments from the public (80 FR 49304). The public comment period closed on September 16, 2015, and no comments were received.

FMCSA has evaluated the eligibility of the 54 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

*Diabetes Mellitus and Driving Experience of the Applicants*

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 54 applicants have had ITDM over a range of 1 to 36 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the August 17, 2015, **Federal Register** notice and they will not be repeated in this notice.

## III. Discussion of Comments

FMCSA received no comments in this proceeding.

## IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

## V. Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) 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 (4) 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 also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

## VI. Conclusion

Based upon its evaluation of the 54 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above 949 CFR 391.64(b)):

Joshua E. Adkins (KS)
Rosendo R. Amador (TX)
Thomas A. Ardoin (LA)
Richard L. Arsenault (TX)
George H. Bonney, Jr. (NH)
Paul M. Boucher (MI)
Tiffany C. Carvalho (MN)
Larry J. Christiansen (MN)
Cynthia J. Claunch (NM)
Stephen C. Crescentini (NJ)
John J. D'Agostino (NJ)
James R. Ditman (IN)
Eric D. Egan (IL)
Alva Eldridge (IL)
Walter R. Elser (VT)
Adam C. Exum (GA)
Ryan S. Farrell (MA)
Patrick F. Felix (WI)
Gary M. Fosnaught (PA)
Jermaine Galle (GA)
Gary A. Gross (SD)
Terry L. Guynes (MO)
Colin W. Hale (NY)
Clarence Hill (NY)
Marcus Hughes (GA)
Paul J. Lennon (IL)
Michael C. Lewis (SD)
Lon A. Mingo (MN)
Robert L. Moberly (OR)
Jason L. Montgomery (WA)
John F. Mortieau (MT)
Alexander Musalin (WA)
Clark E. Najac (NY)
Matthew S. Ness (WI)
Andrew T. Oezer (MI)
Vanja Pazin (OR)
Troy A. Pearl (WA)
Randell J. Pecenka (IA)
Leonard M. Radford (IN)
Jerry J. Rava (CA)
Isaac E. Ridenour (NM)
William J. Rixon, Jr. (NJ)
Matias Rodriguez, Jr. (CT)
William J. Schrade (CT)
John W. Schwirian (PA)
Shain L. Simpson (UT)
Neil E. Smith (KS)
Timothy R. Sobczynski (OH)
Joey F. Starnes (AL)
Joshua R. Stieb (CO)
Donald L. Strand (MT)
Rick L. Vosburg (CA)
William G. Wressell (WA)
Randy P. Young (IN)

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is valid for

two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (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(e) 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: December 9, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2015–31980 Filed 12–18–15; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[FMCSA Docket No. FMCSA–2015–0067]**

### Qualification of Drivers; Exemption Applications; Diabetes Mellitus

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA confirms its decision to exempt 52 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

**DATES:** The exemptions were effective on November 3, 2015. The exemptions expire on November 3, 2017.

**FOR FURTHER INFORMATION CONTACT:** Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays.

**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 October 1, 2015, FMCSA published a notice of receipt of Federal diabetes exemption applications from 52 individuals and requested comments from the public (80 FR 59237). The public comment period closed on November 2, 2015, and no comments were received.

FMCSA has evaluated the eligibility of the 52 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

*Diabetes Mellitus and Driving Experience of the Applicants*

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 52 applicants have had ITDM over a range of 1 to 40 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the October 1, 2015, **Federal Register** notice and they will not be repeated in this notice.

#### III. Discussion of Comments

FMCSA received no comments in this proceeding.

#### IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

#### V. Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage

diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) 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 (4) 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 also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

**VI. Conclusion**

Based upon its evaluation of the 52 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above 949 CFR 391.64(b)):

Melvin S. Adams (MD)
Kevin R. Arnett (MO)
David A. Ash (KS)
Louis Barrios (NV)
Robert W. Brown (TN)
Gallaspy C. Chapman (CO)
Frederick R. Conner (PA)
Charles A. Culler (OH)
Allan E. Dover (ID)
Warren L. Duncan (ME)
Larry D. Everett (CA)
James Ferrone (PA)
Kenneth C. Fosdick (OH)
Mark J. Greig (OR)
Todd E. Gross (WI)
Ricky V. Hoffman (KS)
Bernis Hursey (MD)
Gary A. Jackson (PA)
Wayne O. Jennings (KS)
Rocky N. Kennedy, Jr. (WV)
Larian A. Koger (NC)
Donald L. Kuhn (PA)
Richard C. Lakas (MO)
Amondo D. Lark (FL)
Walter L. Loyd, Jr. (IL)
Daniel T. Morse (MA)
Deborah C. Neece (NC)
Paul Neville (NJ)
Thomas M. Nicolaus (IA)
James D. Rast, III (SC)
Kevin B. Reese (FL)
Andrew R.W. Rictor (OR)
Jason K. Riley (WV)
Bryan N. Ripley (MN)
David C. Ripley (WA)
Scottie L. Russell (NY)
Jerome A. Shapiro (AL)
Joseph D. Shehan (NC)
Amanda K. Shelman (IA)
Michael Shuler (DC)
Joseph A. Sitarchyk (PA)
Max F. Smith (IA)
Vann H. Smith (AL)
Donald Snead (GA)
Arron L. Snook (WA)
John L. Stauffer (IA)
David L. Stephenson (SD)
Timothy R. Stirn (MD)
Connie E. Wideman (FL)
Gary W. Wood (AR)
Richard O. Yethman (MA)
Willard Zylstra (CA)

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (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(e) 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: December 9, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2015–31981 Filed 12–18–15; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2015–0339]**

### 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 56 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 January 20, 2016.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2015–0339 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:** Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., 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 56 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**

*James R. Bishop*

Mr. Bishop, 38, 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. Bishop understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bishop 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 West Virginia.

*Randall S. Blight*

Mr. Blight, 53, 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. Blight understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Blight 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 CDL from Michigan.

*George S. Callahan*

Mr. Callahan, 57, 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. Callahan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Callahan meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

*Jeffrey L. Carlson*

Mr. Carlson, 48, 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. Carlson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Carlson 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 Minnesota.

*Myron D. Collins*

Mr. Collins, 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. Collins understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Collins 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 Colorado.

*Paul E. Costello*

Mr. Costello, 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. Costello understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Costello 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 Nebraska.

*Daniel J. Cramer*

Mr. Cramer, 60, 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. Cramer understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cramer 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 Wisconsin.

*Cyrus G. Davenport, Jr.*

Mr. Davenport, 52, has had ITDM since 2000. 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. Davenport understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Davenport meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist

examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Virginia.

*Pete J. Dewitt*

Mr. Dewitt, 30, 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. Dewitt understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dewitt 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.

*Frank A. Earullo*

Mr. Earullo, 22, has had ITDM since 1994. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Earullo understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Earullo meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

*Hugh R. Ferguson*

Mr. Ferguson, 67, has had ITDM since 1978. 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. Ferguson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ferguson 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 Massachusetts.

*James A. Graczyk*

Mr. Graczyk, 55, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Graczyk understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Graczyk meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class C CDL from New York.

*Isadios P. Harris*

Mr. Harris, 43, 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. Harris understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Harris 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 New Jersey.

*David A. Heine*

Mr. Heine, 49, 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. Heine understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Heine meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from North Dakota.

*Nathaniel P. Hetherington*

Mr. Hetherington, 24, 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. Hetherington understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hetherington 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.

*Surlloyd D. Hilson*

Mr. Hilson, 40, 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. Hilson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hilson 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 Florida.

*Terrence T. Holocher*

Mr. Holocher, 55, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or

more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Holocher understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Holocher 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 Indiana.

*Logan L. Jackson*

Mr. Jackson, 27, has had ITDM since 1999. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Jackson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jackson 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 California.

*Elie Jean*

Mr. Jean, 60, 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. Jean understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jean 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.

*Dean L. Jerpseth*

Mr. Jerpseth, 43, has had ITDM since 1993. 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. Jerpseth understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jerpseth 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 Minnesota.

*Paul T. Laak*

Mr. Laak, 43, 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. Laak understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Laak 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 Washington.

*Terrence P. Lescamela*

Mr. Lescamela, 66, 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. Lescamela understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lescamela 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 Michigan.

*Janet M. Lind*

Ms. Lind, 41, has had ITDM since 2002. 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. Lind understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Lind meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her ophthalmologist examined her in 2015 and certified that she has stable nonproliferative diabetic retinopathy. She holds an operator's license from South Dakota.

*Russell D. Logan*

Mr. Logan, 65, 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. Logan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Logan 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 North Carolina.

*Tommaso Maccarrone*

Mr. Maccarrone, 57, 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. Maccarrone understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely.

Mr. Maccarrone 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.

*Larry D. May*

Mr. May, 77, 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. May understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. May 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 Arkansas.

*Raymond Mendez*

Mr. Mendez, 57, 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. Mendez understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mendez 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.

*Anthony J. Miller*

Mr. Miller, 26, has had ITDM since 2003. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Miller understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Miller meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Pennsylvania.

*Marlin D. Milliken*

Mr. Milliken, 71, 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. Milliken understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Milliken 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 Pennsylvania.

*Charles R. Mims*

Mr. Mims, 62, has had ITDM since 1958. 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. Mims understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mims 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 and proliferative diabetic retinopathy. He holds an operator's license from Alabama.

*Gustavo A. Mojica*

Mr. Mojica, 59, 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. Mojica understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mojica meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Florida.

*Charles E. Otts, III*

Mr. Otts, 48, has had ITDM since 2013. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Otts understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Otts 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 Nebraska.

*Rajesh Patel*

Mr. Patel, 42, 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. Patel understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Patel 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 New Jersey.

*Timothy S. Pederson*

Mr. Pederson, 34, 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. Pederson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV

safely. Mr. Pederson 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 South Dakota.

*Carlos J. Perez-Beltran*

Mr. Perez-Beltran, 36, has had ITDM since 2004. 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. Perez-Beltran understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Perez-Beltran 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 Pennsylvania.

*Bruce J. Pfeffer*

Mr. Pfeffer, 62, 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. Pfeffer understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pfeffer 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 Iowa.

*Seth A. Piel*

Mr. Piel, 39, has had ITDM since 1984. 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. Piel understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Piel 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 Colorado.

*Carlos M. Pinto*

Mr. Pinto, 48, 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. Pinto understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pinto meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable proliferative diabetic retinopathy. He holds a Class B CDL from New York.

*Peter C. Poungded*

Mr. Poungded, 39, 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. Poungded understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Poungded 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 California.

*Michael D. Prestby*

Mr. Prestby, 51, 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. Prestby understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Prestby 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 Iowa.

*Gary L. Ray*

Mr. Ray, 50, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Ray understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ray 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 Arkansas.

*Thomas L. Rice*

Mr. Rice, 60, 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. Rice understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rice 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.

*Wilson Rosado*

Mr. Rosado, 71, 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. Rosado understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rosado 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 Indiana.

*Jason G. Ross*

Mr. Ross, 21, has had ITDM since 2005. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Ross understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ross meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from California.

*Timothy P. Ross*

Mr. Ross, 47, 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. Ross understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ross 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 Florida.

*Sandra J. Sexton*

Ms. Sexton, 55, 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. Sexton understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Sexton meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her ophthalmologist examined her in 2015 and certified that she has stable proliferative diabetic retinopathy. She holds a Class B CDL from Illinois.

*Jacob A. Small*

Mr. Small, 58, has had ITDM since 2006. 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. Small understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Small 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 Jersey.

*Gregory T. Smith*

Mr. Smith, 52, has had ITDM since 2006. 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 ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Wyoming.

*Randy Smith*

Mr. Smith, 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. 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 an operator's license from Maryland.

*Timmy J. Tarnowski*

Mr. Tarnowski, 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. Tarnowski understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Tarnowski 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.

*Dale L. Vaughan*

Mr. Vaughan, 57, 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. Vaughan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Vaughan 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 Missouri.

*Tyler J. Vogt*

Mr. Vogt, 48, 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. Vogt understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Vogt 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.

*Christoph Wagner*

Mr. Wagner, 42, 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. Wagner understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wagner 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.

*Russell J. Welke*

Mr. Welke, 54, has had ITDM since 2001. 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. Welke understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Welke 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 Wisconsin.

*Donald L. Westbrook*

Mr. Westbrook, 57, 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. Westbrook understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Westbrook 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 Pennsylvania.

*David M. Wike*

Mr. Wike, 61, 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. Wike understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wike 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 North Carolina.

## 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–2015–0339 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

[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.

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–2015–0339 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: December 9, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2015–31973 Filed 12–18–15; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2012–0032]**

### Commercial Driver's License Standards: Application for Exemption; Daimler Trucks North America (Daimler)

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition; grant of application for exemption.

**SUMMARY:** FMCSA announces its decision to grant Daimler Trucks North America's (Daimler) application for an exemption to allow a Daimler employee to drive commercial motor vehicles (CMV) in the United States without having a commercial driver's license (CDL) issued by one of the States. The driver, Philipp Kehm, will test-drive Daimler vehicles on U.S. roads to better understand product requirements for these vehicles in ''real world'' environments and verify results. He holds a valid German commercial license but lacks the U.S. residency necessary to obtain a CDL issued by one of the States. FMCSA believes that the process for obtaining a German commercial license is comparable to or as effective as the U.S. CDL requirements and ensures that this driver will likely achieve a level of safety that is equivalent to or greater than the level of safety that would be obtained in the absence of the exemption.

**DATES:** This exemption is effective December 21, 2015 and expires December 21, 2017.

**ADDRESSES:** *Docket:* For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year

*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:** Mrs. Pearlie Robinson, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–4325, Email: *MCPSD@dot.gov,* Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. If you have questions on viewing material in the docket, contact Docket Services, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

**I. Public Participation**

*Viewing Comments and Documents*

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *www.regulations.gov* and insert the docket number, ''FMCSA–2012 -0032 in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

**II. Background**

Since 2012, FMCSA has granted five Daimler drivers similar exemptions [May 25, 2012 (77 FR 31422); July 22, 2014 (79 FR 42626); August 29, 2014 (79 FR 516910); March 27, 2015 (80 FR 16511)]. Each of these drivers held a valid German commercial license but lacked the U.S. residency required to obtain a CDL. FMCSA has concluded that the process for obtaining a German commercial license is comparable to or as effective as the U.S. CDL requirements and ensures that these drivers will likely achieve a level of safety equivalent to or greater than the level that would be obtained in the absence of the exemption.

**III. Legal Basis**

The Secretary of Transportation (the Secretary) has the authority to grant exemptions from any of the Federal Motor Carrier Safety Regulations (FMCSRs) issued under chapter 313 or § 31136 of title 49, United States Code, to a person(s) seeking regulatory relief (49 U.S.C. 31136(e), and 31315(b)). Prior to granting an exemption, the Secretary must request public comment and make a determination that the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be achieved absent such exemption.

**IV. Daimler Application for Exemption**

Daimler applied for the same CDL exemption for Philipp Kehm. Notice of the application was published on September 4, 2015 (80 FR 53614). Only one comment was filed, and the commenter neither opposed nor supported the application for exemption for Mr. Kehm. A copy of the Daimler request is in the docket identified at the beginning of this notice. The exemption would allow Mr. Kehm to operate CMVs to support Daimler field tests to meet future vehicle safety and environmental requirements and to promote the development of technology and advancements in vehicle safety systems and emissions reductions. He will typically drive for no more than 6 hours per day for up to 10 days, and 10 percent of the test driving will be on two-lane State highways, while 90 percent will be on interstate highways. The driving will consist of no more than 200 miles per day, on a biannual basis.

Section 383.21 requires CMV drivers in the United States to have a CDL issued by a State. With a few exceptions, only residents of a State can apply for a CDL. Mr. Kehm is a citizen and resident of Germany. Without the

exemption, he would not be able to test-drive prototype CMVs on U.S. roads.

Mr. Kehm holds a valid German commercial license and is an experienced operator of CMVs. In the application for exemption, Daimler also submitted documentation showing his safe German driving record.

### V. Method To Ensure an Equivalent or Greater Level of Safety

According to Daimler, the requirements for a German-issued commercial license ensure that drivers meet or exceed the same level of safety as if these drivers had obtained a U.S. CDL. Mr. Kehm is familiar with the operation of CMVs worldwide and will be accompanied at all times by a driver who holds a U.S. CDL and is familiar with the routes to be traveled. FMCSA has determined that the process for obtaining a commercial license in Germany is comparable to that for obtaining a CDL issued by one of the States and adequately assesses the driver's ability to operate CMVs safely in the United States.

### VI. FMCSA Decision

Based upon the merits of this application, including Mr. Kehm's extensive driving experience and safety record, and the fact that he has successfully completed the requisite training and testing to obtain a German commercial license, FMCSA concluded that the exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption, in accordance with § 381.305(a).

### VII. Terms and Conditions for the Exemption

FMCSA grants Daimler and Mr. Philipp Kehm an exemption from the CDL requirement in 49 CFR 383.23 to allow Mr. Kehm to drive CMVs in this country without a U.S. State-issued CDL, subject to the following terms and conditions: (1) The driver and carrier must comply with all other applicable provisions of the Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR parts 350–399); (2) the driver must be in possession of the exemption document and a valid German commercial license; (3) the driver must be employed by and operate the CMV within the scope of his duties for Daimler; (4) at all times while operating a CMV under this exemption, the driver must be accompanied by a holder of a U.S. CDL who is familiar with the routes traveled; (5) Daimler must notify FMCSA in writing within 5 business days of any accident, as defined in 49 CFR 390.5, involving this driver; and (6) Daimler must notify FMCSA in writing if this driver is convicted of a disqualifying offense under § 383.51 or § 391.15 of the FMCSRs.

In accordance with 49 U.S.C. 31315 and 31136(e), the exemption will be valid for 2 years unless revoked earlier by the FMCSA. The exemption will be revoked if (1) Mr. Kehm fails to comply with the terms and conditions of the exemption; (2) the exemption results in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would be inconsistent with the goals and objectives of 49 U.S.C. 31315 and 31136.

### VIII. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate or intrastate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption.

Issued on: December 10, 2015.

**T.F. Scott Darling, III,**

*Acting Administrator.*

[FR Doc. 2015–31959 Filed 12–18–15; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Motor Carrier Safety Administration

**[FMCSA Docket No. FMCSA–2015–0064]**

## Qualification of Drivers; Exemption Applications; Diabetes Mellitus

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA confirms its decision to exempt 46 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

**DATES:** The exemptions were effective on September 9, 2015. The exemptions expire on September 9, 2017.

**FOR FURTHER INFORMATION CONTACT:** Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays.

**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 August 6, 2015, FMCSA published a notice of receipt of Federal diabetes exemption applications from 46 individuals and requested comments from the public (80 FR 47024). The public comment period closed on September 8, 2015, and no comments were received.

FMCSA has evaluated the eligibility of the 46 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

*Diabetes Mellitus and Driving Experience of the Applicants*

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded

that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 46 applicants have had ITDM over a range of 1 to 47 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the August 6, 2015, **Federal Register** notice and they will not be repeated in this notice.

## III. Discussion of Comments

FMCSA received no comments in this proceeding.

## IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

## V. Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) 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 (4) 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 also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

## VI. Conclusion

Based upon its evaluation of the 46 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above 949 CFR 391.64(b)):

Earl H. Andreas (PA)
Kristopher K. Bitting (PA)
Eric A. Bouldin (TX)
Joel K. Bredeson (WY)
Clinton L. Carlaw, III (WI)
Victor Carranza (IA)
Steven A. Casavant (RI)
Justin M. Coffey (RI)
Steven W. Conrad, Jr. (PA)
Jeremy L. Demar (MN)
Anthony C. Eavenson (NM)
Markie Q. Elsey (MD)
Michael W. Finnegan (NJ)
Gale A. Gallagher (IL)
Scott E. Gallagher (VA)
David L. Hareland (MN)
J. Dale Hogrefe (MN)
Moazzam Imtiaz (FL)
Brian C. Kennerson (NH)
Garrett P. Lockwood (IN)
Sean P. McNally (AZ)
Ryan A. McNaught (AZ)
James S. Miller (PA)
Paul R. Monfils (RI)
Bryan Moser (AR)
Richard G. Murman (PA)
Anthony J. Nault (NH)
Sammie J. Nazzise (UT)
Doyle C. Owens (NM)
Alvin W. Peck, Jr. (SD)
Roy R. Phelps (CA)
Loran L. Ragar (MO)
Larry W. Reed (TN)
Joey D. Renfrow (NC)
Phillip J. Rigling (TN)
Kenneth W. Romjue (OK)
Robert T. Scott (OH)
Larry Sherman (AR)
John Smeal (PA)
Ronald G. Smeltzer (IN)
Randy E. Smith (PA)
Curtis G. Taylor (WA)
Jacob F.M. Tucker (UT)
Jeremy D. Urbanosky (TX)
Joseph T. Webb, Jr. (NH)
Douglas L. Zerkle (OH)

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (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(e) 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: December 9, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2015–31975 Filed 12–18–15; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2015–0239]**

### Parts and Accessories Necessary for Safe Operation; Volvo Trucks of North America Application for an Exemption

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to grant Volvo Trucks of North America's (Volvo) application for a limited 2-year exemption from 49 CFR 393.60(e)(1) on behalf of motor carriers operating Volvo commercial motor vehicles (CMVs) to use a rain and ambient light detection sensor mounted in the windshield area

at a height lower than what is currently allowed by the regulation. The sensor is part of a hands-free driver aid equipment package intended to improve driver safety. The Agency has determined that the placement of the rain and ambient light detection sensor in the windshield area would not have an adverse impact on safety and that the terms and conditions of the exemption would achieve a level of safety equivalent to or greater than the level of safety provided by the regulation.

**DATES:** This exemption is effective December 21, 2015 and ending December 20, 2017.

**FOR FURTHER INFORMATION CONTACT:** Mr. Luke Loy, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, (202) 366–0676, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

*Docket:* For access to the docket to read background documents or comments submitted to notice requesting public comments on the exemption application, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The online Federal document management system is available 24 hours each day, 365 days each year. The docket number is listed at the beginning of this notice.

**SUPPLEMENTARY INFORMATION:**

## Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

## Volvo's Application for Exemption

Volvo applied for an exemption from 49 CFR 393.60(e)(1) to allow the placement of a rain and ambient light detection sensor on Volvo CMVs lower in the windshield than is currently permitted by the Agency's regulations in order to utilize a mounting location that allows the sensor to function correctly. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.60(e)(1) of the FMCSRs prohibits the obstruction of the driver's field of view by devices mounted on the windshield. Antennas, transponders, and similar devices must not be mounted more than 152 mm (6 inches) below the upper edge of the windshield. These devices must be located outside the area swept by the windshield wipers, and outside the driver's sight lines to the road and highway signs and signals.

The application stated:

> Volvo is making this request so that it becomes possible to introduce a rain and ambient light detection sensor as an option on some Volvo commercial motor vehicles. In order for the sensor to function correctly, it must be installed in the wiper swept area of the windshield. This is due to the fact that an unswept portion of the windshield, which would not necessarily be kept clean and dry by the wipers, could make it difficult for the sensor to determine if the wipers are needed or not. The sensor, which is approximately 2.6 inches tall by 2.2 inches wide, would be placed on the passenger side of the windshield, outside the driver's sight lines to all mirrors, highway signs, signals, and view of the road ahead. Therefore, we respectfully request an exemption to grant us permission to proceed with the installation of the sensor on the lower part of the windshield within the bottom 6 inches of the area swept by the wipers. . .
>
> This will enable Volvo to install this hands-free driver aid equipment for commercial motor vehicle operators while ensuring the adherence to the specified location requirements requested. . .

Without the proposed exemption, Volvo stated that it will not be able to deploy the rain sensor and ambient light system in vehicle models because (1) its ''customers will be fined for violating the current regulation,'' and (2) ''the rain and ambient light sensing system will not perform adequately and will not generate the hands-free driver aid benefits that would be expected.''

The exemption would apply to all Volvo CMVs. Volvo believes that mounting the sensor lower in the windshield will allow it to function properly while maximizing the external view of the road and maintaining an adequate forward facing field of view for the driver.

## Comments

FMCSA published a notice of the application in the **Federal Register** on July 24, 2015, and asked for public comment (80 FR 44186).

The Agency received one comment from an anonymous commenter, supporting the exemption application.

## FMCSA Decision

The FMCSA has evaluated the Volvo exemption application. The Agency believes that granting the temporary exemption to allow the placement of the rain and ambient light detection sensor lower in the windshield than is currently permitted by the Agency's regulations will provide a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption because (1) based on the technical information available, there is no indication that the rain and ambient light detection sensor would obstruct drivers' views of the roadway, highway signs and surrounding traffic; (2) generally, trucks and buses have an elevated seating position that greatly improves the forward visual field of the driver, and any impairment of available sight lines would be minimal; and (3) the location within the bottom 7 inches of the area swept by the windshield wiper [1] and out of the driver's normal sightline will be reasonable and enforceable at roadside. In addition, the Agency believes that the use of rain and ambient light detection sensors by fleets is likely to improve the overall level of safety to the motoring public.

This action is consistent with previous Agency action permitting the placement of similarly-sized devices on CMVs within the lower portion of the windshield within the bottom 7 inches of the wiper swept area. In March 2015, FMCSA granted a temporary exemption to Volvo/Prevost, LLC enabling the mounting of lane departure warning

[1] In its exemption application, Volvo referenced two different mounting locations: ''within the bottom 6 inches of the area swept by the wipers,'' and ''within 7 inches at the bottom of the wiper swept area of the windshield. FMCSA confirmed with the applicant, Mr. Tim LaFon, Volvo's Vice President of Regulatory Affairs, that the top of the sensor will be located 160 mm (6.3 inches) from the bottom of the windshield. As such, the subject exemption permits mounting of the rain and ambient light detection sensor within the bottom 7 inches of the area swept by the wipers.

(LDW) system sensors not more than 7 inches above the lower edge of the area swept by the windshield wipers and outside the driver's sight lines to the road and highway signs and signals (80 FR 13460). FMCSA is not aware of any evidence showing that the installation of the LDW system sensors has resulted in any degradation in safety.

**Terms and Conditions for the Exemption**

The Agency hereby grants the exemption for a 2-year period, beginning December 21, 2015 and ending December 20, 2017. During the temporary exemption period, motor carriers will be allowed to operate CMVs manufactured by Volvo equipped with rain and ambient light detection sensors placed on the lower part of the passenger side of the windshield within the bottom 7 inches of the area swept by the wipers, outside the driver's sight lines to all mirrors, highway signs, signals, and view of the road ahead. The exemption will be valid for 2 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) Motor carriers and/or commercial motor vehicles fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Interested parties possessing information that would demonstrate that motor carriers operating Volvo CMVs equipped with rain and ambient light sensors are not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any such information and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemption.

**Preemption**

In accordance with 49 U.S.C. 31313(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

Issued on: December 10, 2015.

**T.F. Scott Darling, III,**

*Acting Administrator.*

[FR Doc. 2015–31972 Filed 12–18–15; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2015–0345]**

### Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of applications for exemptions; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 19 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

**DATES:** Comments must be received on or before January 20, 2016. All comments will be investigated by FMCSA. The exemptions will be issued the day after the comment period closes.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2015–0345 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

*Instructions:* Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy*.

**FOR FURTHER INFORMATION CONTACT:** Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' FMCSA can renew exemptions at the end of each 2-year period. The 19 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

**II. Qualifications of Applicants**

*Raed A. Abdelrahim*

Mr. Abdelrahim, 48, has a phthisis left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2015, his optometrist stated, ''His Right [*sic*] eye vision without correction is 20/20 and his field of view is full to 120 degrees. Based on these findings I feel he has sufficient vision to operate a commercial vehicle.'' Mr. Abdelrahim reported that he has driven straight trucks for 4 years, accumulating 300,000 miles, tractor-trailer combinations for 1 year, accumulating 50,000 miles. He holds a Class A CDL from New Hampshire. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he failed to obey a traffic signal.

*Dominic A. Berube*

Mr. Berube, 53, has had a central serous chorioretinopathy in his right eye since 2005. The visual acuity in his right eye is 20/100, and in his left eye, 20/15. Following an examination in 2015, his ophthalmologist stated, ''I [*sic*] my medical opinion, Mr. Berube has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Berube reported that he has driven straight trucks for 20 years, accumulating 260,000 miles. He holds a Class A CDL from Massachusetts. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Gary L. Best*

Mr. Best, 66, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 2015, his ophthalmologist stated, ''No medicalvisual [*sic*] contraindications to operating a commercial vehicle.'' Mr. Best reported that he has driven straight trucks for 11 years, accumulating 330,000 miles. He holds a Class CA CDL from Michigan. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Therron K. Billings*

Mr. Billings, 49, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/15, and in his left eye, counting fingers. Following an examination in 2015, his optometrist stated, ''I feel that Mr. Billings sees very well with his right eye and his visual field is full with minimal restrictions and his reduced vision in his left eye should not affect his ability to perform his job . . . Based on the requirements you have listed, he has sufficient vision to operate a commercial vehicle.'' Mr. Billings reported that he has driven straight trucks for 5 years, accumulating 57,500 miles. He holds a Class M operator's license from Virginia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Lucien A. Fregeau*

Mr. Fregeau, 68, has had refractive amblyopia in his right eye since birth. The visual acuity in his right eye is 20/60, and in his left eye, 20/30. Following an examination in 2015, his ophthalmologist stated, ''OD: Vision 20/60, OS: Vision 20/30, based on this history . . . my judgement is that he can drive this commercial vehicle.'' Mr. Fregeau reported that he has driven straight trucks for 20 years, accumulating 500,000 miles. He holds a Class D operator's license from Connecticut. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Michael A. Gibbons*

Mr. Gibbons, 62, has had optic neuropathy in his right eye since 2011. The visual acuity in his right eye is 20/50, and in his left eye, 20/20. Following an examination in 2015, his ophthalmologist stated, ''In my opinion, Michael has a sufficient [*sic*] when tested, as well as vision overall, to continue his driving of commercial vehicles.'' Mr. Gibbons reported that he has driven straight trucks for 26 years, accumulating 390,000 miles and tractor-trailer combinations for 26 years, accumulating 390,000 miles. He holds a Class AM CDL license from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Fred M. Hill, Jr.*

Mr. Hill, 71, has a prosthetic left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/40, and in his left eye, no light perception. Following an examination in 2015, his ophthalmologist stated, ''Mr. Hill has had only one eye since the age of 12 . . . I expect Mr. Hill to continue to drive well and have no reason to believe he will not continue to drive his commercial truck well.'' Mr. Hill reported that he has driven straight trucks for 8 years, accumulating 80,000 miles. He holds an operator's license from Louisiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Freddie H. Johnson*

Mr. Johnson, 42, has a prosthetic right eye due to a traumatic incident in childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, ''It is my medical opinion that Freddie Johnson has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Johnson reported that he has driven straight trucks for 3 years, accumulating 322,500 miles. He holds an operator's license from Idaho. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Timothy C. Kohn*

Mr. Kohn, 34, has complete loss of vision in his right eye due to a traumatic incident in childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/15. Following an examination in 201X, his optometrist stated, ''Mr. Kohn has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Kohn reported that he has driven straight trucks for 12 years, accumulating 6,000 miles, and tractor-trailer combinations for 4 years, accumulating 18,000 miles. He holds an operator's license from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*John D. Morgan*

Mr. Morgan, 44, has central vision loss in his right eye due to a traumatic incident in 1996. The visual acuity in his right eye is 20/150, and in his left eye, 20/25. Following an examination in 2015, his optometrist stated, ''I feel that Mr. Morgan meets the monocular criteria to perform the driving tasks required to operate a commercial vehicle with his left eye only.'' Mr. Morgan reported that he has driven straight trucks for 19 years, accumulating 95,760 miles and tractor-trailer combinations for 19 years, accumulating 205,200 miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Brian M. Olivas*

Mr. Olivas, 26, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/70, and in his left eye, 20/20. Following an examination in 2015, his optometrist

stated, ''In my professional opinion he has sufficient vision to perform the task of driving a commercial vehicle.'' Mr. Olivas reported that he has driven straight trucks for 3 years, accumulating 180,000 miles. He holds a Class B CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Douglas Pitts*

Mr. Pitts, 54, has complete loss of vision in his left eye due to a traumatic incident in 2001. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2015, his optometrist stated, ''Considering that his visual defiency [*sic*] has been stable for 14 years, it is my medical opinion that Douglas Pitts has sufficient vision to operate a commercial vehicle.'' Mr. Pitts reported that he has driven straight trucks for 6 years, accumulating 450,000 miles and tractor-trailer combinations for 30 years, accumulating 1.5 million miles. He holds a Class A CDL license from Ohio. His driving record for the last 3 years shows no crashes one conviction for a moving violation in a CMV; he exceeded the speed limit by 13 mph.

*Jesus R. Ponce*

Mr. Ponce, 50, has complete loss of vision in his right eye due to a traumatic incident in 1982. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2015, his ophthalmologist stated, ''I believe that Mr. Ponce has sufficient vision in his left eye in order to perform the driving tasks required to operate a commercial vehicle.'' Mr. Ponce reported that he has driven straight trucks for 10 years, accumulating 230,880 miles and buses for 10 years, accumulating 230,880 miles. He holds a Class B CDL from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Eddie R. Schaef*

Mr. Schaef, 67, has had pseudophakia in his left eye since 2011. The visual acuity in his right eye is 20/30, and in his left eye, 20/50. Following an examination in 2015, his optometrist stated, ''In my medical opinion, Mr. Schaef has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Schaef reported that he has driven straight trucks for 10 years, accumulating 500,000 miles. He holds an operator's license from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Brian J. Stoltie*

Mr. Stoltie, 35, has had refractive amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, ''Mr. Stoltie does have sufficient vision uncorrected to operate a commercial vehicle, however a contact lens in the right eye is recommended to maximize his visual acuity.'' Mr. Stoltie reported that he has driven straight trucks for 15 years, accumulating 1 million miles. He holds a Class D operator's license from South Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Terry A. Strong*

Mr. Strong, 69, has had partial optic atrophy in his left eye since 1985. The visual acuity in his right eye is 20/25, and in his left eye, 20/400. Following an examination in 2015, his optometrist stated, ''I have examined Mr. Strong and find that he has sufficient vision, field of view, and experience to safely preform driving tasks required to operate a commercial vehicle.'' Mr. Strong reported that he has driven straight trucks for 48 years, accumulating 1.68 million miles and tractor-trailer combinations for 15 years, accumulating 75,000 miles. He holds an operator's license from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Michael A. Terry*

Mr. Terry, 58, has had a retinal detachment in his right eye since 2007. The visual acuity in his right eye is light perception, and in his left eye, 20/15. Following an examination in 2015, his optometrist stated, ''In my medical opinion, Michael has sufficient vision to perform the visual tasks required to operate a commercial vehicle.'' Mr. Terry reported that he has driven tractor-trailer combinations for 30 years, accumulating 2.55 million miles. He holds a Class A CDL from Indiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Russell A. Wilkinson*

Mr. Wilkinson, 60, has optic atrophy in his left eye due to a traumatic incident in 1974. The visual acuity in his right eye is 20/25, and in his left eye, 20/400. Following an examination in 2015, his ophthalmologist stated, ''Overall, his level of vision should enable him to safely drive a commercial vehicle.'' Mr. Wilkinson reported that he has driven straight trucks for 38 years, accumulating 570,000 miles and tractor-trailer combinations for 38 years, accumulating 1.9 million miles. He holds a Class A CDL from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Timothy W. Youngblood, Jr.*

Mr. Youngblood, 39, has had complete loss of vision in his left eye since birth. The visual acuity in his right eye is 20/15, and in his left eye, hand motion. Following an examination in 2015, his optometrist stated, ''It is my opinion that Mr. Youngblood has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Youngblood reported that he has driven straight trucks for 9 years, accumulating 450,000 miles and tractor-trailer combinations for 9 years, accumulating 450,000 miles. He holds a Class AM CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

## III. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

*Submitting Comments*

If you submit a comment, please include the docket number for this notice, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and put the docket number FMCSA–2015–0345 in the ''Keyword'' box, and click ''Search. When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for

copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

*Viewing Comments and Documents*

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and insert the docket number FMCSA–2015–0345 in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: December 9, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2015–31977 Filed 12–18–15; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2015–0327]**

### Qualification of Drivers; Application for Exemptions; Hearing

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of applications for exemptions; request for comments.

**SUMMARY:** FMCSA announces that 14 individuals have applied for a medical exemption from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). In accordance with the statutory requirements concerning applications for exemptions, FMCSA requests public comments on these requests. The statute and implementing regulations concerning exemptions require that exemptions must provide an equivalent or greater level of safety than if they were not granted. If the Agency determines the exemptions would satisfy the statutory requirements and decides to grant theses requests after reviewing the public comments submitted in response to this notice, the exemptions would enable these 14 individuals to operate CMVs in interstate commerce.

**DATES:** Comments must be received on or before January 20, 2016.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2015–0327 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *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 or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

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 *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 *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., ET, Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

**FOR FURTHER INFORMATION CONTACT:** Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

### Background

The Federal Motor Carrier Safety Administration has authority to grant exemptions from many of the Federal Motor Carrier Safety Regulations (FMCSRs) under 49 U.S.C. 31315 and 31136(e), as amended by Section 4007 of the Transportation Equity Act for the 21st Century (TEA–21) (Pub. L. 105–178, June 9, 1998, 112 Stat. 107, 401). FMCSA has published in 49 CFR part 381, subpart C final rules implementing the statutory changes in its exemption procedures made by section 4007, 69 FR 51589 (August 20, 2004).[1] Under the rules in part 381, subpart C, FMCSA must publish a notice of each exemption request in the **Federal Register**. The Agency must provide the public with an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted and any research reports, technical papers and other publications referenced in the application. The Agency must also provide an opportunity to submit public comment on the applications for exemption.

The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved without the exemption. The decision of the Agency must be published in the **Federal Register**. If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must also specify the effective period of the exemption (up to 2 years) and explain the terms and conditions of the exemption. The exemption may be renewed.

The current provisions of the FMCSRs concerning hearing state that a person is physically qualified to drive a CMV if that person

First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

[1] This action adopted as final rules the interim final rules issued by FMCSA's predecessor in 1998 (63 FR 67600 (Dec. 8, 2008)), and adopted by FMCSA in 2001 [66 FR 49867 (Oct. 1, 2001)].

49 CFR 391.41(b)(11). This standard was adopted in 1970, with a revision in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

FMCSA also issues instructions for completing the medical examination report and includes advisory criteria on the report itself to provide guidance for medical examiners in applying the hearing standard. See 49 CFR 391.43(f). The current advisory criteria for the hearing standard include a reference to a report entitled ''Hearing Disorders and Commercial Motor Vehicle Drivers'' prepared for the Federal Highway Administration, FMCSA's predecessor, in 1993.[2]

**FMCSA Requests Comments on the Exemption Applications**

FMCSA requests comments from all interested parties on whether a driver who cannot meet the hearing standard should be permitted to operate a CMV in interstate commerce. Further, the Agency asks for comments on whether a driver who cannot meet the hearing standard should be limited to operating only certain types of vehicles in interstate commerce, for example, vehicles without air brakes. The statute and implementing regulations concerning exemptions require that the Agency request public comments on all applications for exemptions. The Agency is also required to make a determination that an exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be *achieved absent such exemption before granting any such requests.*

**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 *www.regulations.gov* and in the search box insert the docket number ''FMCSA–2015–0327'' 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.

**Viewing Comments and Documents**

To view comments, go to *www.regulations.gov* and in the search box insert the docket number ''FMCSA–2015–0327'' and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

**Information on Individual Applicants**

*Kevin Black*

Mr. Black, age 50, holds a class A CDL in California.

*Roger Dale Boge*

Mr. Boge, age 59, holds a class A CDL in Iowa.

*Don Boskovski*

Mr. Boskovski, age 24, holds an operator's license in Arizona.

*Michael Bunjer*

Mr. Bunjer, age 50, holds a class A CDL in Maryland.

*Sonny Dorantes*

Mr. Dorantes, age 21, holds an operator's license in Texas.

*Maria Goodman*

Ms. Goodman, age 32, holds an operator's license in Washington.

*Jacob Korsi*

Mr. Korsi, age 34, holds an operator's license in Missouri.

*Eugene Myvett*

Mr. Myvett, age 39, holds an operator's license from California.

*Brian Peek*

Mr. Peek, age 39, holds an operator's license in Georgia.

*Youl Perez*

Mr. Youl, age 43, holds a class A CDL in Florida.

*Kenneth Prusinski*

Mr. Prusinski, age 47, holds an operator's license in Ohio.

*Sandor Sarus*

Mr. Sarus, age 38, holds an operator's license in New York.

*Daniel Tricolici*

Mr. Tricolci, age 28, holds an operator's license in Massachusetts.

*Robert Uhr*

Mr. Uhr, age 43, holds an operator's license in Texas.

**Request for Comments**

In accordance with 49 U.S.C. 31136(e) and 31315(b)(4), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. The Agency will consider all comments received before the close of business January 20, 2016. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: December 9, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2015–31974 Filed 12–18–15; 8:45 am]

**BILLING CODE 4910–EX–P**

[2] This report is available on the FMCSA Web site at *http://www.fmcsa.dot.gov/facts-research/research-technology/publications/medreport_archives.htm.*

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

**[FTA Docket No. 2015–0032]**

### Notice of Request for the Extension of a Currently Approved Information Collection

**AGENCY:** Federal Transit Administration, DOT.

**ACTION:** Notice of request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to renew the following information collection:

49 U.S.C. Section 5312(a) Transit Research, Development, Demonstration and Training Projects

OMB Control No.: 2132–0546

*Background:* 49 U.S.C. 5312(a) authorizes the Secretary of Transportation to make grants or contracts for research, development, demonstration and deployment projects, and for evaluation of technology of national significance to public transportation, that the Secretary determines will improve mass transportation service or help transportation service meet the total urban transportation needs at a minimum cost. In carrying out the provisions of this section, the Secretary is also authorized to request and receive appropriate information from any source. The information collected is submitted as part of the application for grants and cooperative agreements and is used to determine eligibility of applicants. Collection of this information also provides documentation that the applicants and recipients are meeting program objectives and are complying with FTA Circular 6100.1D and other federal requirements

**DATES:** Comments must be submitted before February 19, 2016.

**ADDRESSES:** To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Web site: www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site. (**Note:** The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *www.regulations.gov*. Commenters should follow the directions below for mailed and hand-delivered comments.
2. *Fax:* 202–493–2251.
3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

*Instructions:* You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to Internet users, without change, to *www.regulations.gov*. You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *www.regulations.gov*. Docket: For access to the docket to read background documents and comments received, go to *www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Jamie Pfister, Office of Research, Demonstration and Innovation (202) 366–5424, or email: *jamie.pfister@dot.gov*.

**SUPPLEMENTARY INFORMATION:** Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

In addition to 49 U.S.C. 5312, FTA intends to amend this information collection to include other related programs which support Transit Research, Technical Assistance and Standards, and Human Resources and Training. Once amended and issued, this information collection will cover: (1) Research, Development, Demonstration, and Deployment program(49 U.S.C. 5312), which supports applied research, data collection, analyses, demonstration and deployment activities and evaluations related to transit system; (2) Transit Cooperative Research Program (49 U.S.C. 5313) which provides funds to the National Academy of Sciences to conduct investigative research on subjects related to public transportation; (3) Technical Assistance and Standards Development (49 U.S.C. 5314) program which will allow FTA to partner with national non-profits and other organizations to provide technical assistance to communities; and (4) Human Resources and Training (49 U.S.C. 5322) program to fund the National Transit Institute and to build new Ladders of Opportunity by creating new employment pathways into the transit industry, improving employment training, pursuing outreach to increase minority and female employment in the public transportation sector, conducting research on the skill needed to operate and maintain increasingly complex transit vehicle and equipment systems, and supporting training and assistance for minority business owners, as well as other topics.

*Respondents:* FTA grant and cooperative agreement recipients.

*Estimated Annual Burden on Respondents:* 90 hours for each of the 175 respondents.

*Estimated Total Annual Burden:* 20,590 hours at application stage, post award and project management activities.

*Frequency:* Every two years.

**William Hyre,**

*Deputy Associate Administrator for Administration.*

[FR Doc. 2015–31991 Filed 12–18–15; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2015–0058]**

### Reports, Forms, and Recordkeeping Requirements

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

**ACTION:** Request for public comment on proposed collection of information.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comment.

**DATES:** Comments must be submitted on or before January 20, 2016.

**ADDRESSES:** Send comments to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** For additional information or access to background documents, contact Sean McLaurin, NVS–422, National Highway Traffic Safety Administration, Room

W55–336, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Mr. McLaurin's telephone number is (202) 366–4800. Please identify the relevant collection of information by referring to its OMB Control Number.

**SUPPLEMENTARY INFORMATION:** A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on September 2, 2015 (80 FR 53225). The agency received one comment that asked how this collection related to the agency's mission and expressed concern over the lifetime of digital information.

The NDR's Problem Driver Pointer System (PDPS) is a central repository of information that identifies individuals whose license to operate a motor vehicle has been denied, suspended or revoked for cause, or who have been convicted of certain serious traffic related violations. The information on the PDPS is reported to and maintained by the States who are responsible to review information from PDPS and to take adverse action as determined necessary against problem drivers. While NHTSA operates the system to provide the information to the States, the determination of whether or not to license an applicant driver remains the responsibility of a State using the system. Upon restoration of the driving privilege, the pointer records are removed by the State-of-Record.

*Title:* National Driver Register (NDR).

*OMB Control Number:* 2127–0001.

*Type of Request:* Extension of Clearance.

*Abstract:* The purpose of the NDR is to assist States and other authorized users in obtaining information about problem drivers. State motor vehicle agencies submit and use the information for driver licensing purposes. Other users obtain the information for transportation safety purposes.

*Affected Public:* State, Local, or Tribal Government.

*Estimated Number of Respondents:* The number of respondents is 51—the fifty States and the District of Columbia.

*Estimated Total Annual Burden Hours:* 2,847.

*Public Comments Invited:* You are asked to comment on any aspects of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1:48.

**Terry Shelton,**

*Associate Administrator for the National Center for Statistics and Analysis.*

[FR Doc. 2015–31937 Filed 12–18–15; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

### Additional Designations, Foreign Narcotics Kingpin Designation Act

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one individual and four entities whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act (Kingpin Act) (21 U.S.C. 1901–1908, 8 U.S.C. 1182). Additionally, OFAC is publishing additions to the identifying information for one individual previously designated pursuant to the Kingpin Act.

**DATES:** The designations by the Acting Director of OFAC of the one individual and four entities identified in this notice pursuant to section 805(b) of the Kingpin Act are effective on December 16, 2015.

**FOR FURTHER INFORMATION CONTACT:** Assistant Director, Sanctions Compliance & Evaluation, Office of Foreign Assets Control, U.S. Department of the Treasury, Washington, DC 20220, Tel: (202) 622–2490.

**SUPPLEMENTARY INFORMATION:**

#### Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site at *http://www.treasury.gov/ofac* or via facsimile through a 24-hour fax-on-demand service at (202) 622–0077.

#### Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the imposition of sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury, in consultation with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security, may designate and block the property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On December 16, 2015, the Acting Director of OFAC designated the following individual and four entities whose property and interests in property are blocked pursuant to section 805(b) of the Kingpin Act.

Individual

1. LIBIEN TELLA, Naim, Paseo San Carlos 319, Fracc. San Carlos, Metepec, Mexico 52140, Mexico; Vicente Guerrero 304, Toluca, Mexico 50110, Mexico; Paseo Tollocan 613 Oriente, Colonia Valle Verde, Toluca, Mexico, Mexico; DOB 30 May 1970; POB Toluca, Mexico, Mexico; R.F.C. LITN–700530–6N0 (Mexico); C.U.R.P. LITN700530HMCBLM01 (Mexico); I.F.E. LBTLNM70053015000 (Mexico) (individual) [SDNTK] (Linked To: AEROLINEAS AMANECER, S.A. DE C.V.; Linked To: DIARIO AMANECER; Linked To: UNOMASUNO; Linked To: VALGO GRUPO DE INVERSION S.A. DE C.V.). Designated for materially assisting in, or providing support for or to, or providing goods or services in support of, the international narcotics trafficking activities of Abigael

GONZALEZ VALENCIA and/or the LOS CUINIS DRUG TRAFFICKING ORGANIZATION (DTO), and/or acting for or on behalf of Abigael GONZALEZ VALENCIA and/or the LOS CUINIS DTO and therefore meets the statutory criteria for designation pursuant to sections 805(b)(2) and/or (3) of the Kingpin Act, 21 U.S.C. 1904(b)(2) and/or (3).

Entities

1. AEROLINEAS AMANECER, S.A. DE C.V. (a.k.a. AEROAMANECER), Hangar 6 Zona C., Aviacion Gral. S/N, Toluca, Mexico 50200, Mexico; Paseo Tollocan 802 Poniente, Toluca de Lerdo, Estado de Mexico 50000, Mexico; Folio Mercantil No. 3613–17 (Mexico) [SDNTK]. Designated for being controlled or directed by, or acting for or on behalf of, Naim LIBIEN TELLA and therefore meets the statutory criteria for designation pursuant to section 805(b)(3) of the Kingpin Act, 21 U.S.C. 1904(b)(3).

2. DIARIO AMANECER, Paseo Tollocan 613 Ote., Col. Valle Verde, Toluca, Estado de Mexico C.P. 50130, Mexico; Gabino Barreda No. 86, Col. San Rafael, Del. Cuauhtemoc, Mexico, Distrito Federal C.P. 06470, Mexico; Web site *www.diarioamanecer.com.mx* [SDNTK]. Designated for being owned, controlled, or directed by, or acting for or on behalf of, Naim LIBIEN TELLA and therefore meets the statutory criteria for designation pursuant to section 805(b)(3) of the Kingpin Act, 21 U.S.C. 1904(b)(3).

3. UNOMASUNO (a.k.a. UNO MAS UNO), Gabino Barreda No. 86, Col. San Rafael, Del. Cuauhtemoc, Mexico, Distrito Federal C.P. 06470, Mexico; Web site *www.unomasuno.com.mx* [SDNTK]. Designated for materially assisting in, or providing support for or to, or providing goods or services in support of, the international narcotics trafficking activities of the LOS CUINIS DTO and/or Abigael GONZALEZ VALENCIA, and/or is owned, controlled, or directed by, or acting for or on behalf of Naim LIBIEN TELLA and therefore meets the statutory criteria for designation pursuant to sections 805(b)(2) and/or (3) of the Kingpin Act, 21 U.S.C. 1904(b)(2) and/or (3).

4. VALGO GRUPO DE INVERSION S.A. DE C.V., Avenida Bogota 3007, Colonia Circunvalacion Americas, Guadalajara, Jalisco CP 44630, Mexico; Folio Mercantil No. 22071 (Mexico) [SDNTK]. Designated for being owned, controlled, or directed by, or acting for or on behalf of, Abigael GONZALEZ VALENCIA and/or Naim LIBIEN TELLA and therefore meets the statutory criteria for designation pursuant to section 805(b)(3) of the Kingpin Act, 21 U.S.C. 1904(b)(3).

Additionally, OFAC is publishing additions to the identifying information for the following individual previously designated pursuant to the Kingpin Act.

1. GONZALEZ VALENCIA, Abigael (a.k.a. GOMEZ FLORES, Luis Angel; a.k.a. GONZALEZ VALENCIA, Abigail; a.k.a. GONZALEZ VALENCIA, Luis Angel; a.k.a. TAK TOLEDO, Jonathan Paul; a.k.a. TAK TOLEDO, Paul Jonathan); DOB 18 Oct 1972; alt. DOB 28 Oct 1979; POB Aguililla, Michoacan, Mexico; alt. POB Apatzingan, Michoacan, Mexico; alt. POB Guadalajara, Jalisco, Mexico; Gender Male; C.U.R.P. GOVA721018HMNNLB07 (Mexico); alt. C.U.R.P. GOFL721018HJCMLS02 (Mexico); alt. C.U.R.P. GOVL721018HMNNLS08 (Mexico); Passport JX755855 (Canada) (individual) [SDNTK] (Linked To: LOS CUINIS).

The listing for this individual now appears as follows:

1. GONZALEZ VALENCIA, Abigael (a.k.a. GOMEZ FLORES, Luis Angel; a.k.a. GONZALEZ VALENCIA, Abigail; a.k.a. GONZALEZ VALENCIA, Luis Angel; a.k.a. TAK TOLEDO, Jonathan Paul; a.k.a. TAK TOLEDO, Paul Jonathan), Paseo Royal Country 5395–31, Fraccionamiento Royal Country, Zapopan, Jalisco, Mexico; DOB 18 Oct 1972; alt. DOB 28 Oct 1979; POB Aguililla, Michoacan, Mexico; alt. POB Apatzingan, Michoacan, Mexico; alt. POB Guadalajara, Jalisco, Mexico; Gender Male; C.U.R.P. GOVA721018HMNNLB07 (Mexico); alt. C.U.R.P. GOFL721018HJCMLS02 (Mexico); alt. C.U.R.P. GOVL721018HMNNLS08 (Mexico); Passport JX755855 (Canada) (individual) [SDNTK] (Linked To: LOS CUINIS; Linked To: VALGO GRUPO DE INVERSION S.A. DE C.V.).

Dated: December 16, 2015.

**John E. Smith,**

*Acting Director, Office of Foreign Assets Control.*

[FR Doc. 2015–31960 Filed 12–18–15; 8:45 am]

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Part II

## Department of Transportation

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 171, 172, 173, et al.
Hazardous Materials: Requirements for the Safe Transportation of Bulk Explosives (RRR); Final Rule

**DEPARTMENT OF TRANSPORTATION**

**Pipeline and Hazardous Materials Safety Administration**

**49 CFR Parts 171, 172, 173, and 177**

**[Docket No. PHMSA–2011–0345 (HM–233D)]**

**RIN 2137–AE86**

## Hazardous Materials: Requirements for the Safe Transportation of Bulk Explosives (RRR)

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The Pipeline and Hazardous Materials Safety Administration (PHMSA) is amending the Hazardous Materials Regulations by establishing standards for the safe transportation of explosives on cargo tank motor vehicles and multipurpose bulk trucks transporting materials for blasting operations. This rulemaking is responsive to two petitions for rulemaking submitted by industry representatives: P–1557, concerning the continued use of renewal applications, and P–1583, concerning the incorporation of an industry standard publication. Further, developing these requirements provides wider access to the regulatory flexibility currently only offered by special permits and competent authorities.

The requirements of this final rule mirror the majority of provisions contained in nine widely-used longstanding special permits that have established safety records. These requirements eliminate the need for future renewal requests, thus reducing paperwork burdens and facilitating commerce while maintaining a commensurate level of safety. This final rule authorizes the transportation of certain explosives, ammonium nitrates, ammonium nitrate emulsions, and other specific hazardous materials in both non-bulk and bulk packagings, which are not otherwise authorized under current regulations. These hazardous materials are used in blasting operations on cargo tank motor vehicles and specialized vehicles, known as multipurpose bulk trucks, which are used as mobile work platforms to create blends of explosives that are unique to each blast site. Finally, this rulemaking addresses the construction of new multipurpose bulk trucks.

**DATES:** *Effective Date:* This final rule is effective January 20, 2016.

*Incorporation by reference date:* The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of January 20, 2016.

**ADDRESSES:** You may find information on this rulemaking (Docket No. PHMSA–2011–0345) at Federal eRulemaking Portal: *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Matthew Nickels, (202) 366–8553, Standards and Rulemaking Division, Office of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:**

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## I. Executive Summary

The Pipeline and Hazardous Materials Safety Administration (PHMSA) is issuing this final rule, titled ''Hazardous Materials: Requirements for the Safe Transportation of Bulk Explosives (RRR),'' in order to establish standards for the safe transportation of explosives on cargo tank motor vehicles (CTMV) and multipurpose bulk trucks (MBTs) transporting materials for blasting operations. This final rule is responsive to two petitions for rulemaking submitted by industry representatives: P–1557, concerning the continued use of renewal applications, and P–1583, concerning the incorporation of an industry standard publication. Further, codifying these new requirements provides wider access to the regulatory flexibility currently offered only by special permits and competent authority approvals. This final rule will eliminate the need for future renewal requests of nine special permits (the transportation of certain explosives, ammonium nitrates, ammonium nitrate emulsions, and other specific hazardous materials in bulk packaging) that have established safety records. These amendments will reduce paperwork burdens and facilitate commerce while maintaining an appropriate level of safety.

PHMSA published a notice of proposed rulemaking (NPRM) on July 15, 2014, under Docket HM–233D (PHMSA–2011–0345). See 79 FR 41185.[1] This final rule addresses comments to the NPRM and amends the existing hazardous materials regulations (HMR; 49 CFR parts 171–180) pertaining to the following:

- Incorporating by reference (IBR) the Institute of Makers of Explosives' (IME) Safety Library Publication No. 23 ''Recommendations for the Transportation of Explosives, Division 1.5, Ammonium Nitrate Emulsions, Division 5.1, Combustible Liquids, Class 3 and Corrosives, Class 8 in Bulk Packaging'' (referred to as IME Standard 23).
- Establishing requirements directing manufacturers of newly constructed or modified MBTs to comply with certain National Highway Traffic Safety Administration (NHTSA) requirements known as the Federal Motor Vehicle Safety Standards (FMVSS) found in 49 CFR part 571.

PHMSA is confident that this final rule is of benefit to both the public and the industry, as it will: (1) Eliminate the need for firms to apply individually for the transportation of certain classes of bulk materials in MBTs, (2) provide regulatory flexibility and relief while maintaining a high level of safety, (3) promote safer transportation practices, (4) facilitate commerce, (5) reduce paperwork burdens, (6) protect the

[1] *https://www.federalregister.gov/articles/2014/07/15/2014-16382/hazardous-materials-requirements-for-the-safe-transportation-of-bulk-explosives-rrr.*

public health, welfare, safety, and environment, and (7) eliminate unnecessary regulatory requirements.

In the NPRM, PHMSA encouraged all interested parties, particularly the holders of the nine currently active special permits (discussed in Section II. Background), to submit comments on the proposals discussed. Additionally, we asked that commenters give feedback on the NPRM's preliminary Regulatory Impact Analysis [2] (RIA) and the underlying proposed benefit-cost estimates, and provide additional recommendations to improve the final rule language and increase regulatory flexibility.

## II. Background

### *A. Special Permits*

In this final rule, PHMSA is amending the HMR by establishing standards for the safe transportation of explosives on CTMVs and MBTs transporting materials for blasting operations. These standards for bulk explosives mirror the majority of provisions contained in nine widely-used longstanding special permits issued by PHMSA under 49 CFR part 107, subpart B (§§ 107.101 to 107.127). A special permit sets forth alternative requirements (variances) to the requirements in the HMR in a way that achieves a safety level at least equal to that required under the regulations or that is consistent with the public interest. Congress expressly authorized DOT to issue these variances in the Hazardous Materials Transportation Act of 1975 as amended. For an in-depth discussion on what special permits are and why incorporating them into the HMR is necessary, please review the Section II. Background preamble discussion in the NPRM (July 15, 2014; 79 FR 41185; 41187).[3]

This final rule incorporates elements of nine special permits (by way of incorporating IME Standard 23) that authorize multipurpose bulk truck operations not specifically permitted under the HMR. These amendments eliminate the need for hundreds of current grantees to reapply for renewal of nine special permits every four years and for PHMSA to process those renewal applications. These nine special permits are:

- *DOT–SP 4453:* Authorizes the transportation in commerce of certain Division 1.5D explosives contained in non-DOT specification bulk, hopper-type tanks. This special permit was issued in 1980 and is utilized by 22 grantees with acceptable safety performance.
- *DOT–SP 5206:* Authorizes the transportation in commerce of certain Division 1.5D explosives contained in privately operated bulk hopper-type units. This special permit has been in effect since 1980 and is utilized by one grantee with acceptable safety performance.
- *DOT–SP 8453:* Authorizes the transportation in commerce of certain Division 1.5D explosives and Division 5.1 materials contained in DOT specification cargo tanks and certain non-DOT specification cargo tanks and portable tanks. This special permit has been in effect since 1980 and is utilized by 33 grantees with acceptable safety performance.
- *DOT–SP 8554:* Authorizes the transportation in commerce of certain Division 1.5D explosives and/or Division 5.1 oxidizers in the bulk motor vehicles described in the special permit. This special permit has been in effect since 1981 and is utilized by at least 38 grantees with acceptable safety performance.
- *DOT–SP 8723:* Authorizes the transportation in commerce of certain Division 1.5 explosives and/or Division 5.1 oxidizers, in bulk, in DOT specification and non DOT specification packagings described in the special permit. This special permit has been in effect since 1981 and has been utilized by at least 31 grantees with acceptable safety performance.
- *DOT–SP 9623:* Authorizes the transportation in commerce of certain Division 1.5D explosives and Division 5.1 oxidizers in a cargo tank with a dromedary compartment (cargo compartments) containing Division 1.1 explosives mounted directly behind the trailer cab subject to the limitations specified in the special permit. This special permit was issued in 1986 and is utilized by seven grantees with acceptable safety performance.
- *DOT–SP 10751:* Authorizes the transportation in commerce of certain Division 1.1, 1.4, and 1.5 explosives, Division 5.1 oxidizers, and Class 3 combustible liquids in separate containers mounted on the same vehicle frame structure. This special permit was issued in 1994 and is utilized by 16 grantees with acceptable safety performance.
- *DOT–SP 11579:* Authorizes the transportation in commerce of certain Division 1.1B, 1.1D, 1.4B, 1.4D, 1.4S, and 1.5D explosives, Division 5.1 oxidizers, Class 8 materials, and Class 3 combustible liquids in separate containers secured on the same vehicle frame structure. This special permit was issued in 1996 and is utilized by 65 grantees with acceptable safety performance.
- *DOT–SP 12677:* Authorizes the transportation in commerce of certain Division 1.1, 1.4, and 1.5D explosives, Division 5.1 oxidizers, Class 8 corrosive liquids, and Class 3 combustible liquids in separate containers secured on the same vehicle frame structure. This special permit was issued in 2001 and is utilized by eight grantees with acceptable safety performance.

This final rule benefits the regulated community by incorporating into the HMR these nine special permits (221 grantees) with well-established safety records [4] thus reducing paperwork burdens and facilitating commerce while maintaining an appropriate level of safety.

### *B. Petitions for Rulemaking*

Two components in this final rule were presented to PHMSA in petitions for rulemaking.

1. Petition No. P–1557

The petition from R&R (P–1557) dated March 23, 2010, asked PHMSA to eliminate the need to operate under the terms and conditions of a special permit for deliveries of certain types of bulk explosives, and to develop bulk explosive requirements in the HMR. R&R Trucking stated that ''the request is limited to Explosives, blasting, type E, 1.5D, UN0332, PG [Packing Group] II and Ammonium nitrate emulsion, 5.1, UN3375, PG II, transported on articulated DOT specification CTMVs.'' Further, the petition stated that ''no other hazardous material may be loaded into or carried on the vehicle or any vehicle in a combination of vehicles when transporting either of these materials in the approved bulk packaging.'' A more detailed description

[2] See *http://www.regulations.gov* and insert PHMSA–2011–0345–0004 into the ''Search for:'' box.

[3] *http://www.gpo.gov/fdsys/pkg/FR-2014-07-15/pdf/2014-16382.pdf.*

[4] Over the past 10 years, there have been 43 reported transportation incidents in the U.S. involving multipurpose bulk trucks. During this same period, there has never been a death or major injury attributed to the hazardous materials while in transportation when there was compliance with the regulations. While there has been one incident that resulted in a fatality in that 10 year period, it involved a vehicular crash and human error, and was not attributed to the transportation of the hazardous materials. Overall most incidents (90 percent) resulted in spillage; fewer incidents resulted in vapor dispersion (3 percent), environmental damage (0.5 percent), fire (0.5 percent), waterway infringement (0.4 percent), and explosion (0.1 percent.) Most of the time, the closures or covers in portable tanks failed, causing leaks. Detailed hazardous materials incident reports for hazardous materials incidents specified in § 171.16 may be found at the PHMSA Web site at the following URL: *https://hazmatonline.phmsa.dot.gov/IncidentReportsSearch/Search.aspx.*

of P–1557 is available in the Section II. Background preamble discussion in the NPRM (July 15, 2014; 79 FR 41185; 41188).[5]

PHMSA agrees with the petitioner on the merit of establishing requirements for the transportation of bulk explosives in commerce. With the incorporation of IME Standard 23 in this final rule, PHMSA is establishing all relevant and appropriate requirements set out in the current multipurpose bulk transportation special permits,[6] including the special permits under which R&R Trucking operates. It should be noted that while we are not incorporating every provision in all nine special permits, we have established criteria to transport these commodities in conformance with the HMR.

2. Petition No. P–1583

The petition from IME (P–1583) dated May 13, 2011, asked PHMSA to develop bulk explosive requirements in the HMR by incorporating by reference IME Safety Library Publication No. 23, *Recommendations for the Transportation of Explosives Division 1.5, Ammonium Nitrate Emulsions Division 5.1, Combustible Liquids Class 3, and Corrosives Class 8 in Bulk Packagings.* IME's petition stated that: (1) The long-term, ubiquitous, and safe transport of explosives in bulk form, including the use of MBT technology, warrant expansion of the HMR to include established requirements of general applicability governing these transportation practices; and (2) the recommendations included in IME Standard 23 represent industry-wide best practices that, collectively, prescribe a higher standard of safety than the requirements included in the special permits currently used to authorize this transportation. A more detailed description of P–1583 is available in the Section II. Background preamble discussion in the NPRM (July 15, 2014; 79 FR 41185; 41189).[7]

PHMSA agrees with the petitioner's request to develop bulk explosive requirements in the HMR by proposing to incorporate by reference IME Standard 23. Codifying these new requirements in this final rule and incorporating IME Standard 23 into the HMR provides wider access to the regulatory flexibility currently offered only by special permits and competent authority approvals.

Access to the petitions referenced in this final rule can be found at *http://www.regulations.gov* under Docket Numbers ''PHMSA–2010–0101'' (P–1557), and ''PHMSA–2011–0137'' (P–1583).[8]

## III. Incorporation by Reference Discussion Under 1 CFR Part 51

The Institute of Makers of Explosives' (IME) Safety Library Publication No. 23 ''Recommendations for the Transportation of Explosives, Division 1.5, Ammonium Nitrate Emulsions, Division 5.1, Combustible Liquids, Class 3 and Corrosives, Class 8 in Bulk Packaging'' (referred to as IME Standard 23) is free and easily accessible to the public via the Web site provided by the parent organization. Access to the IME Standard 23 publication incorporated by reference is also available for public download and review at: *http://www.ime.org/.* Under the ''Publications & Products'' tab, click the ''Safety Library Publications'' link [9] and either order a physical copy or download a free PDF copy via email. Also, a copy of the IME Standard 23 publication has been added to the Docket [10] under ''PHMSA–2011–0345'' at *http://www.regulations.gov.* IME Standard 23 is discussed in VI. Section-by-section Review of Amendments *(A. Part 171-Section 171.7)* of this final rule.

## IV. List of Commenters

In response to PHMSA's July 15, 2014 NPRM (79 FR 41185), PHMSA received comments from various stakeholders. The organizations who commented are listed in Table 1:

TABLE 1—LIST OF ORGANIZATIONS COMMENTING ON THE HM–233D NPRM

| Assigned docket Number | Name | Docket URL |
|---|---|---|
| PHMSA–2011–0345–0005 | Institute of Makers of Explosives (IME) | *http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0345-0005.* |
| PHMSA–2011–0345–0006 | Dangerous Goods Advisory Council (DGAC) | *http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0345-0006.* |
| PHMSA–2011–0345–0007 | R&R Trucking (R&R) | *http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0345-0007.* |
| PHMSA–2011–0345–0008 | Council on Safe Transportation of Hazardous Articles (COSTHA). | *http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0345-0008.* |
| PHMSA–2011–0345–0009 | Council on Safe Transportation of Hazardous Articles (COSTHA) IME Support. | *http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0345-0009.* |
| PHMSA–2011–0345–0010 | IME Supplemental Comments | *http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0345-0010.* |

## V. Summary and Discussion of Public Comments

Discussed in the following sections is a list of the major amendments PHMSA proposed for adoption into the HMR in the NPRM, a brief synopsis of the comments we received in response to those proposals, and our position regarding those comments received to the NPRM. Furthermore, the amendments we are finalizing in this final rule are addressed in Section VI. Section-by-section Review of Amendments.

### *A. Incorporation by Reference*

In the NPRM, PHMSA proposed to incorporate by reference the latest edition of the technical standard published by IME, known as ''Safety Library Publication No. 23 Recommendations for the Transportation of Explosives, Division 1.5, Ammonium Nitrate Emulsions, Division 5.1, Combustible Liquids, Class 3 and Corrosives, Class 8 in Bulk Packaging'' (referred to as IME Standard 23). The intent behind proposing to incorporate by reference IME Standard

[5] *http://www.gpo.gov/fdsys/pkg/FR-2014-07-15/pdf/2014-16382.pdf.*

[6] DOT–SP 4453, DOT–SP 5206, DOT–SP 8453, DOT–SP 8554, DOT–SP 8723, DOT–SP 9623, DOT–SP 10751, DOT–SP 11579, and DOT–SP 12677.

[7] *http://www.gpo.gov/fdsys/pkg/FR-2014-07-15/pdf/2014-16382.pdf.*

[8] *http://www.regulations.gov/.*

[9] *https://www.ime.org/products/category/safety_library_publications_slps.*

[10] *http://www.regulations.gov/.*

23 was to establish general requirements of: (1) A single bulk hazardous material for blasting by CTMV; and (2) CTMVs capable of transporting multiple hazardous materials for blasting in bulk and non-bulk packagings. PHMSA received general support from the commenters on the principle of utilizing industry consensus standards as a necessary and effective approach, with IME, Dangerous Goods Advisory Council (DGAC), and R&R specifically, endorsing IME Standard 23. We did not receive any comments that opposed our proposals to incorporate this standard and we are adopting it as proposed.

*B. Hazardous Materials Table and Special Provision 148*

As previously discussed, in the NPRM PHMSA proposed to incorporate IME Standard 23 into the HMR and establish requirements of general applicability governing the transportation of: (1) A single bulk hazardous material for blasting by CTMV; and (2) CTMVs capable of transporting multiple hazardous materials for blasting in bulk and non-bulk packagings. However, as noted in the NPRM, the HMR does not permit the transportation in bulk packaging of certain Class 1 and Class 5 hazardous materials that are used in commercial blasting operations. This type of transportation is only permitted under a PHMSA special permit. In the NPRM, we proposed that a new Special Provision 148 be added to each entry under Column 7 of the Hazardous Materials Table (HMT) for HMT entries that are listed in IME Standard 23. These HMT entries include certain hazardous materials from the following hazard classes and divisions: Divisions 1.1B, 1.1D, 1.4B, 1.4D, 1.4S and 1.5D explosives; Division 5.1 oxidizers; Class 8 corrosive liquids; and Class 3 combustible liquids. In the NPRM, Special Provision 148 was proposed in order to direct readers to § 173.66, therefore only specific explosives, oxidizers, etc. will be eligible.

PHMSA received general support from the commenters on the principle of revising the HMT and adding a new Special Provision 148 to appropriate HMT entries, with IME offering one suggestion. IME stated that: ''IME inadvertently included 'Detonator assemblies, non-electric, for blasting, Division 1.1B, UN0360' in a pre-publication version of IME Standard 23, but removed it from the final copy. This should be removed from the HMT changes in the final rule.'' We reviewed the comment and agree with IME's suggestion and will revise the regulatory text in this final rule as needed.

We did not receive any comments that opposed our proposals to revise the appropriate HMT entries and add new Special Provision 148. Therefore, in this final rule, we are amending the regulatory text and also removing the HMT entry IME noted in its comments.

*C. New Section 173.66 on the Requirements for Bulk Explosives*

In the NPRM, PHMSA proposed to add a new section to 49 CFR part 173 (§ 173.66), which included specific requirements for newly constructed MBTs and modifications to existing trucks.

1. Section 173.66 Preamble

In the preamble of the new section, prior to paragraph (a), PHMSA proposed requirements for MBTs. We proposed that when § 172.101 allowed that a Class 1 (explosive) material may be packaged in accordance with this section, only the bulk packagings specified for these materials in IME Standard 23 (IBR, see § 171.7 of this subchapter) would be authorized, subject to the requirements of subparts A and B of this part and the special provisions in Column 7 of the § 172.101 table. Therefore, as proposed in the NPRM, an entity operating a MBT under current conditions, such as a special permit, would be subject to operating under the IME Standard 23 document. Furthermore, as proposed in the NPRM, the additional requirements in paragraphs (a), (b), and (c) would apply to: (1) A new MBT constructed after December 31, 2014, or (2) an old MBT that requires modifications due to wear and tear (*i.e.,* re-chassis, etc.).

PHMSA received general support from the commenters on the principle of establishing a new § 173.66 that outlined the requirements for bulk explosives, but the commenters had concerns with specific aspects of the regulations. Regarding compliance dates, IME commented that:

> Compliance Date: PHMSA proposes to trigger requirements for compliance with the FMVSS, FSS, and EBDD standards for newly constructed MBTs after December 31, 2014. While we can hope that HM–233D is finalized by December 31, 2014, we request that the mandatory compliance date be triggered by a threshold such as 120 days after the rule is finalized. Additionally, we note that no future effective date is specified for MBTs that are modified. We would suggest that the mandatory compliance date be the same.

Additionally, COSTHA echoed those thoughts in its comment ''We would also like to encourage PHMSA to grant the IME request that the mandatory compliance date with the standards for newly constructed MBTs be transitioned with a threshold such as 120 days after the rule is finalized and that it be aligned with the effective date for MBTs that are modified.'' In regards to the compliance dates issue, we reviewed the comments and agree with IME's suggestion and will revise the regulatory text in this final rule as needed.

Regarding the overall structure and language prior to paragraph (a) of the new section, R&R commented that:

> R&R supports the need for differentiation between transport of: (1) A single bulk hazardous material for blasting by cargo tank motor vehicles and (2) transport by MBT capable of transporting multiple hazmats for blasting in bulk and non-bulk packaging. Two distinctly different types of transportation. Distinction between the two types of transport must be clearly maintained. SLP–23 makes the distinction by having separate sections. In the NPRM, Special Provision 148 makes this distinction, but § 173.66 is vague on the distinction. For clarification § 173.66 should refer to Section 1 of SLP–23 for the standards for transporting a single bulk hazardous material for blasting by cargo tank motor vehicle and to Section 2 of SLP–23 for the standards for cargo tank motor vehicles capable of transporting multiple hazardous materials for blasting in bulk and non-bulk packagings.

In regards to the clarification of single bulk CTMVs differing from MBTs, we reviewed the comments and agree with R&R's suggestion and will revise the regulatory text in this final rule as needed.

2. Fire Suppression Systems

In the NPRM, in paragraph (a) of § 173.66, we proposed additional requirements regarding fire suppression systems (FSS) for newly constructed and modified MBTs. In addition to complying the usual requirements of the HMR (*e.g.,* placarding, shipping papers, etc.), and the IME Standard 23 per § 171.7 of the HMR, the NPRM proposed that these vehicles would be required to have a FSS that is an engineered system connected to the engine and transmission compartments. The system would be activated by manual switch or passive means in the event of a fire. Additionally, all fire extinguishers used as components of the system would be required to meet the requirements of 49 CFR 393.95(a) and the applicable National Fire Protection Association (NFPA) codes and standards. Further, the NPRM proposed that the FSS's design would be required to be verified and certified by the Design Certifying Engineer (DCE) of the vehicle, and the design would have to be tested through engineering analysis or physical testing to verify the initial design or future modification(s) to the current FSS. The NPRM proposed that the FSS would be

visually inspected annually for defects, flaws, damage, etc., to ensure none are present, and the system would be pneumatically tested every five years to ensure the system is free of debris, leaks, and damage, and to ensure the system will function properly. Finally, the NPRM proposed the DCE must prepare a test report and provide it to the manufacturer of the vehicle and the manufacturer must provide a copy to the owner of the vehicle.

Commenters generally did not support the additional requirements regarding FSS for newly constructed and modified MBTs proposed in the NPRM. For example, IME commented that:

PHMSA acknowledges that ''there are too few incident data to estimate and monetize the benefits from a fire suppression system.'' Unaware of any death or serious injury attributable to hazmat carried on MBTs since this technology was introduced in the 1970s. There is no off-the-shelf FSS technology; IME isn't supportive of allowing MBTs to be guinea pigs for field testing FSS technology. SLP–23 already provides a FSS which far exceeds that required for other commercial motor vehicles, including trucks transporting hazmat for which fire is an inherent risk. SLP–23 requires that MBTs be equipped with two fire extinguishers with an Underwriters' Laboratories (UL) rating of at least 4–A:40–B:C. Current federal regulations require that trucks used to transport placarded quantities of hazmat be equipped with one fire extinguisher having an UL rating of 10B:C. There is no assurance, in an accident where the driver is incapacitated and unable to use the fire extinguishers on the vehicle, that the FSS will have survived the crash and be operational. Every ounce of unnecessary weight added to a vehicle is an ounce of lost payload, this adds up to more trucks on the road to carry the same volume of material, increasing crash risk and generate other societal impacts such as wasted fuel and more air emissions. PHMSA's requirement is similar to but not the same as the NRCan standard. Given the lack of incident data to show that such systems would increase safety commensurate with the cost, we do not support the NRCan standard or the more onerous PHMSA proposal. IME questions whether PHMSA, instead of NHTSA, is the agency to propose such a vehicle modification. NHTSA is responsible for setting and enforcing safety performance standards for motor vehicles and motor vehicle equipment.

Furthermore, in a set of supplemental comments, IME commented that:

*Safety:* Safety benefits of MBTs have long been demonstrated. There has never been a death or a major injury attributed to blasting agents and oxidizers transported in bulk. We have not been able to identify a single instance where a FSS would have made a difference to the outcome of the incident. No one would guarantee that such a system would be operational in a crash. A FSS would be of no value in suppressing an engine fire fueled by a tire fire. In a non-crash situation, the driver will already have access to at least two fire extinguishers with a 4–A:40–B:C rating, a standard of safety already surpassing that required on any other commercial motor vehicle operating in the United States.

*Insurance Rates:* The largest insurer of MBTs in the US told IME that adding FSSs to MBTs would have no effect on rates because there is no statistically significant loss experience.

*FSSs in Canada:* We discussed the evolution of and experience with FSSs in Canada. First, industry had little involvement in the FSS standard imposed by Natural Resources Canada (NRCan) through its Mobile Process Unit (MPU) permit system. Thus, it is not correct to represent Canadian industry as ''supporting'' this standard. Second, it is not correct to represent the PHMSA FSS proposal as being aligned or harmonized with the NRCan standard. The NRCan standard is vastly different than that proposed in HM–233D. The NRCan standard reads in full, ''MPUs are also required to have an engineered fire suppression system for the engine compartment. . . . [E]ngineered fire suppression systems must be inspected every 6 months (or sooner if required by other jurisdiction). These systems must be inspected by a qualified and approved facility or person (reg.: NFPA 17, Chap. 11).'' NFPA 17 is the National Fire Protection Association's standard on ''Dry Chemical Extinguishing Systems'', and chapter 11, covers the inspection, maintenance and recharging of such systems. While not referenced, chapter 9 of this standard states that ''only pre-engineered systems . . . shall be installed on mobile equipment.'' PHMSA's standard is paragraphs long requiring vehicle specific designs that have been verified and certified by a Design Certifying Engineer, including physical testing or engineering analysis. Pre-engineered systems are not allowed. Additionally, PHMSA requires periodic inspections and detailed recordkeeping and retention requirements that differ from the NRCan standard. Based on the NRCan requirement, we can report that installation costs of FSSs in Canada run between $4,000 and $6,000, and add between 300–500 pounds to the weight of the vehicle. A typical payload on an MBT is 25,000 pounds, and the cost of a new MBT ranges from $250,000 to $500,000. Thus, a NRCan-type FSS would reduce payload between 1.2% and 2%, and would add between 1.2% and 1.6% to the cost of a new MBT. Costs of periodic inspections average $800 in remote areas and $150 in more populated areas. NRCan allows companies to obtain NFPA certification for their own employees to conduct inspections.

PHMSA's position in the NPRM was that fire was a potential hazard in an MBT incident. IME has highlighted the safety record of MBTs which indicates that fire is not typically common with an incident involving these vehicles.[11] PHMSA's engineered FSS as proposed was more stringent and cost prohibitive than a pre-engineered FSS or the NRCan requirement. PHMSA agrees with IME that the FSS proposed in the NPRM exceeded the level of safety established. However, we disagree that PHMSA does not have the authority to include a FSS.

PHMSA acknowledges that the proposed FSS would add weight to the MBT, and that the increased weight would decrease the payload, thereby increasing the number of MBTs on the road. Furthermore, we do agree that the established safety record of MBTs stand for itself and that IME Standard 23 does exceed the federal requirements for fire extinguishers. As such, we have reviewed the comments regarding FSS for newly constructed and modified MBTs and agree with IME's position. We will revise the regulatory text in this final rule as needed. In addition, PHMSA may revisit the FSS requirement in the future, if a future review of incident data indicates a need.

3. Emergency Shut-Off/Battery Disconnect Devices

In the NPRM, in paragraph (b) of § 173.66, we proposed additional requirements for emergency shut-off/battery disconnect for newly constructed and modified MBTs. The NPRM proposed that for these trucks, the batteries for the chassis would be required to have three easily accessible manual disconnect switches. One manual disconnect switch would be located inside the driver's cab and would not include the ignition; the remaining two manual disconnect switches would be located on each side of the vehicle. Further, the NPRM proposed all three switches would be connected to the positive battery terminal and the line of the switch would be protected from rubbing and abrasion that could cause a short circuit. Finally, the NPRM proposed that the battery disconnect would be required to isolate all manufacturing equipment

[11] Over the past 10 years, there have been 43 reported transportation incidents in the U.S. involving multipurpose bulk trucks. During this same period, there has never been a death or major injury attributed to the hazardous materials while in transportation when there was compliance with the regulations. While there has been 1 incident that resulted in a fatality in that 10 year period, it involved a vehicular crash and human error, and was not attributed to the transportation of the hazardous materials themselves. Overall most incidents (90 percent) resulted in spillage; fewer incidents resulted in vapor dispersion (3 percent), environmental damage (0.5 percent), fire (0.5 percent), waterway infringement (0.4 percent), and explosion (0.1 percent.) Most of the time, the closures or covers in portable tanks failed, causing leaks. Detailed hazardous materials incident reports for hazardous materials incidents specified in § 171.16 may be found at the PHMSA Web site at the following URL: *https://hazmatonline.phmsa.dot.gov/IncidentReportsSearch/Search.aspx*

except critical instrumentation that requires the maintenance of the electrical supply, and that the battery disconnect is tested monthly to ensure proper operation.

Commenters generally did not support the additional requirements of emergency shut-off/battery disconnect devices (EBDD) for newly constructed and modified MBTs. For example, IME commented that:

> We agree that any EBDD standard included in a final rule promulgated under this docket should apply only to newly constructed or modified MBTs. However, we disagree with the EBDD standard as proposed. PHMSA's proposal would require MBTs to be equipped with three manual EBDDs, not to include the ignition switch. The cost/benefit of this standard cannot be justified. First, MBT's are the only type of specialized vehicle that is already required to have a manual EBDD in addition to the ignition switch. Yet, PHMSA provides no data to support the need to triple the current EBDD requirement. In fact, PHMSA acknowledges that no death or major injury has been attributed to hazardous materials carried by MBTs—a record that cannot be matched by other bulk hazardous materials that are sensitive to electric charge. Second, in the years since this requirement has been imposed, we are unaware of any instance where EBDDs have been used in an emergency, irrespective of the consequence. Rather, emergency responders simply cut the battery cable as they are trained to do. Third, PHMSA's cost justification does not include the cost to train all emergency responders on the existence and operation of the EBDDs. We would expect these costs to be significant. There are over one million firefighters, alone, in the United States, and over 70 percent of fire departments are volunteer with relatively high-rates of turnover. Fifth, the proposed EBDD standard is inconsistent with the standard required in Canada. PHMSA should not pass up this opportunity to advance the RCC initiative with regard to EBDD requirements. We would support including an EBDD requirement for MBTs that is equivalent to the Canadian EBDD standard.

Additionally, COSTHA echoed those thoughts in its comment that harmonization is essential and that it would be better to harmonize with an equivalent Canadian EBDD standard than impose an entirely new one.

While the cost/benefit of the additional two switches was adequate to justify this requirement, PHMSA agrees with IME that the triple EBDD is redundant. Also, the triple EBDD is not harmonized with the NRCan requirements or IME Standard 23. As such, we have reviewed the comments regarding EBDD for newly constructed and modified MBTs and agree with the commenters' position. We are revising the regulatory text in this final rule as needed. In addition, PHMSA may revisit the EBDD requirement in the future, if a future review of incident data indicates a need.

4. Federal Motor Vehicle Safety Standard

In the NPRM, in paragraph (c) of § 173.66 we proposed that for newly constructed and modified MBTs, those trucks must be in compliance with the applicable Federal Motor Vehicle Safety Standard (FMVSS) found in 49 CFR part 571. Furthermore, in the NPRM we proposed that the MBT manufacturer must maintain a certification record ensuring the final manufacturing is in compliance with the FMVSS, per the certification requirements found in 49 CFR part 567, and these certification records must be available to DOT representatives upon request.

PHMSA received general support from the commenters on the requirements to be in compliance with the applicable FMVSS found in 49 CFR part 571, with IME offering one comment that: ''PHMSA proposes that newly constructed and modified MBTs be in compliance with applicable FMVSS, and that MBT manufacturers maintain a record ensuring that these vehicles are in compliance with the FMVSS certification requirements found in 49 CFR part 567. IME supports these requirements.'' We did not receive any comments that opposed this requirement, and we are adopting it as proposed.

5. Modified Vehicles

In paragraph (d) of § 173.66 of the NPRM we proposed a definition for the term modification. We proposed that ''modification'' means any change to the original design and construction of a MBT that affects its structural integrity or lading retention capability (*e.g.* rechassising, etc.). In the NPRM, we proposed to exclude: (1) A change to the MBT equipment such as lights, truck or tractor power train components, steering and brake systems, and suspension parts, and changes to appurtenances, such as fender attachments, lighting brackets, ladder brackets; and (2) replacement of components such as valves, vents, and fittings with a component of a similar design and of the same size.

PHMSA received general support from the commenters on the addition of a new term for modification, with IME offering one suggestion. IME stated that: ''We fully support the proposed definition. However, we suggest that the definitional term be changed to 'Modified' since this is the term PHMSA uses in proposed § 173.66 and the preamble.'' We agree with IME's suggestion and are revising the regulatory text in this final rule as needed.

*D. Loading and Unloading Language for Class 1 (Explosive) Materials*

In the NPRM, PHMSA proposed to revise § 177.835 paragraph (a) to state that no Class 1 (explosive) materials may be loaded into, on, or unloaded from any motor vehicle with the engine running, except that the engine of a MBT may be used for the operation of the pumping equipment of the vehicle during loading or unloading. Furthermore, in the NPRM we proposed to add a new paragraph (d) which discussed MBTs and specified that Class 1 (explosive) materials may be packaged in accordance with § 173.66 of this subchapter. However, these materials would be permitted to be transported on the same vehicle with Division 5.1 oxidizers, or Class 8 corrosive materials, and/or Class 3 combustible liquid, n.o.s., NA1993 only under the conditions and requirements set forth in IME Standard 23 (IBR, see § 171.7) and paragraph (g) of § 177.835.

PHMSA received general support from the commenters on the principle of revising loading and unloading language for Class 1 explosive materials in the highway part of the HMR, with DGAC stating that it ''supports the proposed revision to § 177.835 which would authorize the engine of the MBT to remain running when used for the operation of pumping equipment during loading and unloading.'' Additionally, IME states that it ''is supportive of the proposed revision to 49 CFR 177.835(a) that seeks to address that vehicles need to run engines to run equipment on MBTs.'' However, IME did offer one suggestion in that as proposed, ''the NPRM only authorized the ability to use a vehicle engine for MBTs, and that pumping equipment is also used to load/unload material from cargo tanks transporting single commodity blasting agents or oxidizers. As such, IME requests that the proposed 49 CFR 177.835(a) provision be modified to provide the same option for these cargo tank vehicles.''

We reviewed the comment and agree with IME's suggestion and are thus revising the regulatory text in this final rule as needed. Therefore, single commodity CTMVs are similarly eligible to use the vehicle's engine while operating the pumping equipment of the vehicle during loading or unloading, and it ensures overall regulatory clarity for these specific types of operations.

## VI. Section-by-Section Review of Amendments

The following is a section-by-section review of the amendments adopted in this final rule:

*A. Part 171*

Section 171.7

Section 171.7 provides a listing of all standards incorporated by reference into the HMR. For this rulemaking, we evaluated a consensus industry standard pertaining to the standards for transporting a single bulk hazardous material for blasting by CTMVs and for CTMVs capable of transporting multiple hazardous materials for blasting in bulk and non-bulk packaging. These standards include parts on: General requirements; modes of transportation; additional provisions; qualifications, maintenance, and repair of packagings; qualifications of individuals certifying non-DOT specification bulk packaging; placarding and marking requirements; and security and safety of the bulk hazardous materials transported. These standards also include parts on: Purpose and limitations; hazardous materials covered; packagings; operational controls; qualifications, maintenance, and repair of packagings; special provisions; and emergency response, reporting, and training requirements. We determined that the standards provide an enhanced level of safety without imposing significant compliance burdens. These standards have a well-established and documented safety history and their adoption will maintain the high safety standard currently achieved under the HMR. Therefore, we are adding and revising the incorporation by reference material under the following organization:

Paragraph (r)(2) is revised to add the *Institute of Makers of Explosives* IME Standard 23, IME Safety Library Publication No. 23 (IME Standard 23), Recommendations for the Transportation of Explosives, Division 1.5, Ammonium Nitrate Emulsions, Division 5.1, Combustible Liquids, Class 3, and Corrosives, Class 8 in Bulk Packagings, October 2011 Edition.

*B. Part 172*

Section 172.101

Section 172.101 provides the instructions for using the HMT and the HMT itself. In this final rule, PHMSA is revising ''Column (7) Special Provisions'' of the HMT by adding Special Provision 148 to the list of entries. In this final rule, new Special Provision 148 is added to § 172.102(c)(1) and assigned to the HMT entries in Table 2:

TABLE 2—LIST OF HMT ENTRIES ADDING SPECIAL PROVISION 148

| Hazardous materials descriptions and proper shipping names | Identification Nos. |
|---|---|
| Acetic acid solution, not less than 50 percent but not more than 80 percent acid, by mass. | UN2790 |
| Acetic acid solution, with more than 10 percent and less than 50 percent acid, by mass. | UN2790 |
| Ammonium nitrate based fertilizer | UN2067 |
| Ammonium nitrate emulsion or Ammonium nitrate suspension or Ammonium nitrate gel, intermediate for blasting explosives. | UN3375 |
| Ammonium nitrate-fuel oil mixture containing only prilled ammonium nitrate and fuel oil. | NA0331 |
| Ammonium nitrate, liquid (hot concentrated solution). | UN2426 |
| Ammonium nitrate, with not more than 0.2% combustible substances, including any organic substance, calculated as carbon, to the exclusion of any other added substance. | UN1942 |
| Articles, explosive, n.o.s | UN0349 |
| Boosters, without detonator | UN0042 |
| Combustible liquid, n.o.s | NA1993 |
| Cord, detonating, flexible | UN0065 |
| Cord, detonating, flexible | UN0289 |
| Corrosive liquid, acidic, organic, n.o.s. | UN3265 |
| Detonator assemblies, non-electric, for blasting. | UN0361 |
| Detonator assemblies, non-electric, for blasting. | UN0500 |
| Detonators, electric, for blasting | UN0030 |
| Detonators, electric, for blasting | UN0255 |
| Detonators, electric, for blasting | UN0456 |
| Detonators, non-electric, for blasting. | UN0455 |
| Explosive, blasting, type A | UN0081 |
| Explosive, blasting, type B or Agent blasting, Type B. | UN0331 |
| Explosive, blasting, type E | UN0241 |
| Explosive, blasting, type E or Agent blasting, Type E. | UN0332 |
| Hypochlorite solutions | UN1791 |
| Nitrites, inorganic, aqueous solution, n.o.s. | UN3219 |
| Oxidizing liquid, n.o.s | UN3139 |
| Oxidizing solid, n.o.s | UN1479 |

Section 172.102 Special Provisions

Section 172.102 lists special provisions applicable to the transportation of specific hazardous materials. Special provisions contain packaging requirements, prohibitions, and exceptions applicable to particular quantities or forms of hazardous materials. PHMSA is adopting the following revision to § 172.102, special provisions:

Special Provision 148

In this final rule, PHMSA is adding new Special Provision 148 to § 172.102(c)(1) and assigning it to numerous HMT entries (see the previous section: Section 172.101). Special Provision 148 states that for domestic transportation, the HMT entries that are assigned Special Provision 148 are directed to § 173.66 for: (1) The standards for transporting a single bulk hazardous material for blasting by cargo tank motor vehicles (CTMV); and (2) the standards for CTMVs capable of transporting multiple hazardous materials for blasting in bulk and non-bulk packagings.

Special Provision 163

Special Provision 163 currently requires ''UN3375, Ammonium nitrate emulsion or Ammonium nitrate suspension or Ammonium nitrate gel, intermediate for blasting explosives'' to ''satisfactorily pass Test Series 8 of the UN Manual of Tests and Criteria, Part I, Section 18 (IBR, see § 171.7 of this subchapter).'' For bulk packages, Test 8(d) of Test Series 8 applies. This testing is in addition to the requirements in Special Provision 147 and therefore must be completed prior to approval by the Associate Administrator. Although not addressed in the HM–233D NPRM or this final rule's regulatory text, we included this non-substantive clarification in order to highlight the requirement to pass Test 8(d) when transporting applicable substances in a bulk packaging.

*C. Part 173*

Section 173.66

In this final rule, PHMSA is adding a new § 173.66 that provides the requirements for a hazardous material to be permitted for transport in accordance with this section (per Special Provision 148 in § 172.102(c)(1)), and only the bulk packagings specified for these materials in IME Standard 23 (IBR, see § 171.7 of this subchapter) are authorized, subject to the requirements of subparts A and B of this part and the special provisions in Column 7 of the § 172.101 table. (See Section I of IME Standard 23 for the standards for transporting a single bulk hazardous material for blasting by CTMVs, and Section II of IME Standard 23 for the standards for CTMVs capable of transporting multiple hazardous materials for blasting in bulk and non-bulk packagings.) As provided by this new section, an entity operating these types of vehicles would no longer operate under a special permit, and would instead be subject to operating

under the IME Standard 23 document. Furthermore, the additional requirements in paragraph (a) would apply to: (1) A new multipurpose bulk truck constructed after 120 days from publication of the final rule in the **Federal Register**, or (2) an old multipurpose bulk truck that is modified due to wear and tear (*i.e.,* re-chassis, etc.) after 120 days from publication of the final rule in the **Federal Register**.

In paragraph (a), we require that for newly constructed and modified MBTs, those trucks must be in compliance with the applicable FMVSS found in 49 CFR part 571. Furthermore, the multipurpose bulk truck manufacturer must maintain a certification record ensuring the final manufacturing is in compliance with the FMVSS, per the certification requirements found in 49 CFR part 567, and these certification records must be available to DOT representatives upon request.

In paragraph (b), we state that the term ''modified'' means any change to the original design and construction of a MBT that affects its structural integrity or lading retention capability, (*e.g.* rechassising, etc.). Excluded from this category are the following: (1) A change to the MBT equipment such as lights, truck or tractor power train components, steering and brake systems, and suspension parts, and changes to appurtenances, such as fender attachments, lighting brackets, ladder brackets; and (2) replacement of components such as valves, vents, and fittings with a component of a similar design and of the same size.

By finalizing these requirements, PHMSA is echoing the majority of provisions contained in nine widely-used longstanding special permits that have established safety records. These requirements will eliminate the need for future renewal requests, thus reducing paperwork burdens and facilitating commerce while maintaining an appropriate level of safety.

*D. Part 177*

Section 177.835

Section § 177.835 provides the loading and unloading requirements for Class 1 explosive materials. In this final rule, we are revising paragraph (a) to state that no Class 1 explosive materials may be loaded into, on, or unloaded from any motor vehicle with the engine running, except that the engine of a MBT (see paragraph (d) of this section) and the engine of a cargo tank motor vehicle transporting a single bulk hazardous material for blasting may be used for the operation of the pumping equipment of the vehicle during loading or unloading. Furthermore, we are adding a new paragraph (d) which provides requirements for MBTs and specifies that Class 1 explosive materials may be packaged in accordance with § 173.66 of this subchapter. However, these materials would be permitted to be transported on the same vehicle with Division 5.1 oxidizing materials, or Class 8 corrosive materials, and/or Class 3 combustible liquid, n.o.s., NA1993 only under the conditions and requirements set forth in IME Standard 23 (IBR, see § 171.7 of this subchapter) and paragraph (g) of this section (§ 177.835).

## VII. Regulatory Analyses and Notices

*A. Statutory/Legal Authority for This Rulemaking*

This final rule is published under the authority of 49 U.S.C. 5103(b), which authorizes the Secretary of Transportation to prescribe regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce. The 49 U.S.C. 5117(a) authorizes the Secretary of Transportation to issue a special permit from a regulation prescribed in 5103(b), 5104, 5110, or 5112 of the Federal Hazardous Materials Transportation Law to a person transporting, or causing to be transported, hazardous material in a way that achieves a safety level at least equal to the safety level required under the law, or consistent with the public interest, if a required safety level does not exist. The final rule amends the regulations by incorporating IME Standard 23 and provisions from certain widely-used longstanding special permits that have established a history of safety and which may, therefore, be converted into the regulations for general use.

*B. Executive Order 13610, Executive Order 13563, Executive Order 12866, and DOT Regulatory Policies and Procedures*

This final rule is not considered a significant regulatory action under Executive Order (E.O.) 12866 (''Regulatory Planning and Review''), as supplemented and reaffirmed by E.O. 13563 (''Improving Regulation and Regulatory Review''), stressing that, to the extent permitted by law, an agency rulemaking action must be based on benefits that justify its costs, impose the least burden, consider cumulative burdens, maximize benefits, use performance objectives, and assess available alternatives, and the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). Both the preliminary NPRM and the final rule regulatory impact assessments discussing the benefits and costs of this action are available for review in the public docket for this rulemaking (filed under ''PHMSA–2011–0345'' at *http://www.regulations.gov*).

Executive Order 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review that were established in Executive Order 12866 Regulatory Planning and Review of September 30, 1993. Executive Order 13563, issued January 18, 2011,[12] notes that our nation's current regulatory system must not only protect public health, welfare, safety, and our environment but also promote economic growth, innovation, competitiveness, and job creation.[13] Further, this executive order urges government agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. In addition, federal agencies are asked to periodically review existing significant regulations, retrospectively analyze rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and modify, streamline, expand, or repeal regulatory requirements in accordance with what has been learned.

Executive Order 13610, issued May 10, 2012, urges agencies to conduct retrospective analyses of existing rules to examine whether they remain justified and whether they should be modified or streamlined in light of changed circumstances, including the rise of new technologies.[14]

By building off of each other, these three Executive Orders require agencies to regulate in the ''most cost-effective manner,'' to make a ''reasoned determination that the benefits of the intended regulation justify its costs,'' and to develop regulations that ''impose the least burden on society.''

In this final rule, PHMSA amends the HMR to incorporate alternatives this agency has permitted under widely-used longstanding special permits and competent authority approvals with established safety records that we have determined meet the safety criteria for inclusion in the HMR. Incorporation of IME Standard 23 into the regulations of general applicability will provide

[12] *http://www.gpo.gov/fdsys/pkg/FR-2011-01-21/pdf/2011-1385.pdf.*

[13] See *http://www.whitehouse.gov/the-press-office/2011/01/18/improving-regulation-and-regulatory-review-executive-order.*

[14] See *http://www.gpo.gov/fdsys/pkg/FR-2012-05-14/pdf/2012-11798.pdf.*

shippers and carriers with additional flexibility to comply with established safety requirements, thereby reducing transportation costs and increasing productivity. In addition, the final rule will reduce the paperwork burden on industry and this agency resulting from putting an end to the need for renewal applications for special permits. As such, nine special permits with 221 grantees will no longer be needed. Taken together, the provisions of this final rule will promote the continued safe transportation of hazardous materials while reducing transportation costs for the industry and administrative costs for the agency.

In accordance with the guidance provided by OMB Circular A–4 [15] on the development of regulatory analysis as required under Section 6(a)(3)(c) of Executive Order 12866, the Regulatory Right-to-Know Act, and a variety of related authorities, the Final Rule regulatory impact assessment addresses the following:

- Describes the need for the regulatory action
- Defines the baseline
- Sets the timeframe of analysis
- Identifies a range of regulatory alternatives
- Identifies the consequences of regulatory alternatives
- Quantifies and monetizes the benefits and costs or evaluates non-quantified costs and benefits
- Discounts future benefits and costs

This analysis discusses the individual (requirement area by requirement area) costs and benefits. The remainder of this section presents an overview of the factors considered for the analysis in accordance with OMB guidelines. As this is the regulatory analysis for the final rule, only the alternative adopted is analyzed.

1. Need for the Regulatory Action

Our agency's mission is to protect people and the environment from the risks of hazardous materials transportation. To do this, PHMSA establishes national policy; sets and enforces standards, educates, and conducts research to prevent incidents; and prepares the public and first responders to reduce consequences if an incident does occur.

PHMSA's vision is that no harm results from the transportation of hazardous materials, and it is committed to reducing the risk of harm to people and the environment resulting from the transportation of hazardous materials. PHMSA does not accept death as an inevitable consequence of transporting hazardous materials and works continuously to find new ways to reduce risk of death, injury, environmental and property damage, and transportation disruptions.

This rulemaking action is necessary to provide regulatory flexibility and eliminate the need for future renewal requests, thus reducing paperwork burdens and facilitating commerce while maintaining an appropriate level of safety. The final rule would be beneficial to stakeholders by reducing paperwork and providing regulatory flexibility for industry; reducing administrative costs for the Federal Government while maintaining an appropriate level of safety; and facilitating commerce.

This rulemaking adopts a combination of features including incorporating into the HMR by reference IME Standard 23, and complying with certain NHTSA requirements. PHMSA believes this final rule will benefit both the public and the industry, as it will:

- Eliminate the need for firms to apply individually for the transportation of certain classes of bulk materials in CTMVs
- Provide regulatory flexibility and relief while maintaining a high level of safety
- Promote safer transportation practices
- Facilitate commerce
- Reduce paperwork burdens
- Protect the public health, welfare, safety, and environment
- Eliminate unnecessary regulatory requirements

Finally, with this rulemaking amending the HMR by incorporating IME Standard 23, the majority of provisions from nine special permits will be incorporated since those permits were used as the basis to create IME Standard 23.

2. Baseline

Explosives are used for many purposes. According to the Bureau of Alcohol, Tobacco, Firearms and Explosives, explosives are used ''in areas such as mining, oil and gas exploration; demolition; avalanche control; and the use of explosives in special industrial tools, fire extinguishers, air bag inflators, fireworks; and specials effects in the entertainment industry.'' [16] The largest user is the mining industry, where coal mining alone accounts for 67 percent of total U.S. explosives consumption.[17]

Bulk explosives are transported by MBTs and Articulated Cargo Tank Vehicles (ACTVs). According to IME, there are approximately 1,500 MBTs on highways in any given year.[18] These trucks make, on average, 350,000 trips covering tens of millions of miles. The average truck payload is 12.5 tons.[19]

The IME estimates are confirmed by the information in the Commodity Flow Survey (CFS) published by the Bureau of Transportation Statistics and the U.S. Census Bureau.[20] The most recent CFS shows the value, amount, and hazardous materials weight-distance traveled by truck (referred to as ''ton-miles'') for shipments of Hazard Class 1, Hazard Class 5, and Hazard Class 8 commodities considered under this analysis (see Table 3).[21] CTMVs transported 8.2 million tons of commodities worth $8.1 billion more than 1.7 billion ton-miles in 2012.

[15] *https://www.whitehouse.gov/omb/circulars_a004_a-4/.*

[16] Bureau of Alcohol, Tobacco, Firearms and Explosives. *Explosives Industry.* Retrieved from *http://www.nibin.gov/content/Explosives/explosives-industry.*

[17] *GlobalSecurity.org. Explosives—Mining Types.* Retrieved from *http://www.globalsecurity.org/military/systems/munitions/explosives-mining1.htm.*

[18] Santis, L. *Cost analysis of SLP–23, special permits, and Canadian standards for bulk trucks.* Institute of Makers of Explosives.

[19] Supplemental comments from the Institute of Makers of Explosives on PHMSA HM–233D Notice of Proposed Rulemaking. Retrieved from *http://www.regulations.gov/#!documentDetail;D=PHMSA-2011-0345-0010.*

[20] Bureau of Transportations Statistics, & U.S. Census Bureau. *2012 Commodity Flow Survey.* Retrieved from *http://www.census.gov/econ/cfs/.*

[21] Includes: UN2790, UN2067, UN3375, NA0331, UN2426, UN1942, UN0349, UN0042, UN0065, UN0289, UN3265, UN0361, UN0500, UN0030, UN0255, UN0456, UN0455, UN0081, UN0331, UN0241, UN0332, UN1791, UN3219, UN3139, and UN1479. UN0360 was not included due to a request by IME to remove this commodity from consideration. NA1993 is a Class 3 commodity that was not included either. This gives an underestimate of the total values, which is counterbalanced by the fact that not all shipments of the above commodities will be subject to HM–233D.

TABLE 3—HAZARDOUS MATERIAL SHIPPED BY PRIVATE AND FOR-HIRE TRUCKS BY HAZARD CLASS IN THE UNITED STATES [22]

| Hazard class | Value 2012 (million $) | Tons 2012 (thousands) | Ton-miles 2012 (millions) | Average miles per shipment |
|---|---|---|---|---|
| Hazard Class 1, Explosives | 5,282 | 3,225 | 535 | 166 |
| Hazard Class 5, Oxidizers and Organic Peroxides | 1,651 | 4,471 | 998 | 223 |
| Hazard Class 8, Corrosive Materials | 1,215 | 547 | 200 | 366 |
| Total | 8,148 | 8,243 | 1,733 | 210 |

**Source:** 2012 CFS Hazardous Materials tables.

On average, trucks travel 210 miles per shipment, which falls inside the 200–500 mile range in the Federal Highway Administration's (FHWA) Freight Facts and Figures 2011. Trucks in the 200–500 mile range average 76,000 miles of travel a year.[23] With an average load of 12.5 tons, each CTMV accounts for 950,000 ton-miles annually (76,000 miles * 12.5 tons). Therefore, we estimate that there were 1,824 CTMVs in 2012 (1.7 billion ton-miles/950,000 ton-miles).

Three of the commodities (UN0331/NA0331, UN0332, and UN3375) with an annual ton-mileage of 539 million were transported by both ACTVs and MBTs,[24] while the remaining commodities were transported by MBT only. Therefore, commodities UN0331/NA0331, UN0332, and UN3375 are the only impacted commodities not exclusively transported by MBT. Sharing out the ton-miles equally between ACTVs and MBTs for those three commodities results in an ACTV population estimate of 284 ((0.5 * 539 million ton-miles)/950,000 ton-miles per CTMV). We estimate that there are 1,540 MBTs (1,824 CTMVs—284 ACTVs), which is close to IME's 1,500 estimate.

Estimates derived from the Federal Motor Carrier Safety Administration (FMCSA) Motor Carrier Management Information System (MCMIS) Catalog can confirm the 2012 CFS estimate of 1,824 trucks.[25] MCMIS data from 2015 show that firms that transport explosives and oxidizers have the following number of hazardous material vehicles in their fleet: [26]

- 19 percent of the firms transporting hazardous materials have 1 vehicle in their fleet
- 34 percent have between 2 and 5 vehicles
- 11 percent have between 6 and 9 vehicles
- 15 percent have between 10 and 24 vehicles
- 13 percent have between 25 and 99 vehicles
- 8 percent have 100 vehicles or more

PHMSA data detailing the applications for the special permits show that 100 firms were involved in obtaining permits for the nine special permits referred to above.[27] All were applications for renewals, party-to status, or modifications. By sharing the 100 firms using the percentages from MCMIS data, we can assume that the 100 firms have the number of vehicles in the fleet as illustrated in the following Table 4:

TABLE 4—CTMV FLEET ESTIMATES

| Number of firms<br>A | MCMIS-based estimate of the number of vehicles per firm<br>B | Number of vehicles in the fleet—low estimate<br>C = A * B [lower bound] | Number of vehicles in the fleet—high estimate<br>D = A * B [upper bound] |
|---|---|---|---|
| 19 | 1 | 19 | 19 |
| 34 | 2 to 5 | 68 | 170 |
| 11 | 6 to 9 | 66 | 99 |
| 15 | 10 to 24 | 150 | 360 |
| 13 | 25 to 99 | 325 | 1287 |
| 8 | 100 or more [28] | 800 | 1000 |
| Total | | 1,428 | 2,935 |

If we assume that 100 firms use the special permits under consideration, the fleet of vehicles transporting the classes of hazardous materials that are under these special permits has approximately between 1,428 and 2,935 vehicles. The estimate of 1,824 CTMVs falls into this range.

*Incidents associated with the transportation of explosives.* Based on analysis of the incident data from 2005 through 2014 that are associated with the special permits under consideration, the transportation of bulk explosives that were granted special permits do not have a high rate of accidents, especially considering the number of trips completed and the miles driven per year. According to PHMSA incident data from 2005 through 2014, there were

[22] Some commodities subject to HM–233D were not listed in the 2012 CFS, and other HM–233D subject commodities with missing values were filled by sharing out the residual for the aggregate hazard class.

[23] FHWA. *Freight Facts and Figures 2011,* Table 3–7. Retrieved from *http://www.ops.fhwa.dot.gov/freight/freight_analysis/nat_freight_stats/docs/11factsfigures/table3_7.htm.*

[24] IME Standard 23.

[25] FMCSA. *Online safety data resources.* Retrieved from *http://www.fmcsa.dot.gov/safety/research-and-analysis/online-safety-data-resources.*

[26] The census identifies those trucks that transport hazardous materials in quantities large enough to require a placard under the HMR at 49 CFR 177.823.

[27] Accessed and downloaded for the nine special permits impacted by HM–233D in May 2015 (*http://www.phmsa.dot.gov/hazmat/regs/sp-a/special-permits/search*).

[28] For the ''High Estimate'' to the firms having 100 or more vehicles, PHMSA approximated 125 vehicles in order to estimate a plausible range.

43 incidents associated with the nine special permits considered in this analysis.[29]

*Risks from incidents.* The risks to the public and/or the environment from the transportation of explosives are difficult to estimate because there are few incidents. A FMCSA report on cargo tank rollovers notes CTMVs are less prone to rollover than similar vehicles.[30] The report estimates a rollover rate of 0.34 rollovers per million miles traveled for vehicles with a lower center of gravity (similar to CTMVs) and 0.39 rollovers per million miles for nominal vehicles. Vehicles with a center of gravity height and wheel width similar to those of CTMVs (*e.g.,* those with a lower center of gravity) may experience 87 rollovers, while vehicles with a higher center of gravity wheel height and wheel width (*e.g.,* nominal vehicles) experience 100 rollovers.[31] Incidents associated with vehicles covered by the special permits included in this analysis are rare. In fact, according to a DOT study on intermodal explosives, the authors noted, ''The risk of transporting explosives by highway compares favorably with transportation of other hazardous materials.'' [32]

For transporting explosives safely, the United Nations devised a ''Hazard Divisions classification system.'' [33] The hazardous materials considered under this final rule are Class 5 Oxidizers,[34] Class 8 Corrosive substances, other combustible explosives (not elsewhere classified), and Class 1 explosives that are categorized into six different divisions that indicate their main hazard characteristics. The Class 1 divisions and their main hazard characteristics are:

- Division 1.1 for explosives with mass explosion hazard
- Division 1.2 for explosives with a projection hazard
- Division 1.3 for explosives with a fire hazard
- Division 1.4 for explosives with no significant explosion, projection, or fire hazard
- Division 1.5 for explosives with a mass explosion hazard but are so insensitive, there is very low probability of initiation or of transition from burning to detonation under normal transport conditions
- Division 1.6 for extremely insensitive articles that do not have a mass explosive hazard. This division is composed of articles that contain only extremely insensitive detonating substances and that demonstrate a negligible probability of accidental initiation or propagation

The transport of industrial explosives in some instances can increase the risk of death, injury, product loss, and property and environmental damage.

Impact on the local economy and community resources: Incidents that cause fires, explosions, road closures, evacuations, or other such events have the potential to increase the demand for community resources. There is typically an increased demand for assistance from first responders and firefighters to control fires, and from police and other law enforcement personnel to control traffic and assist in possible evacuations. These releases may also prompt demand for services from engineers or other public workers to address utility and infrastructure problems. Releases can cause business interruptions or loss of fuel supplies, such as natural gas, gasoline, and home heating oil. Although the potential for releases to cause displacement of populations near or around fires or explosions is remote, these releases could cause the need for permanent or temporary shelter, putting more strain on community resources. Combined effects on businesses, transportation, and other economic resources can exacerbate response and recovery issues.

Impact on the environment: Spills and releases can cause environmental damage, impact wildlife, and contaminate drinking water supplies.

Health hazards: Releases, depending on their mode and severity, can cause many health hazards, including toxicity, dizziness, asphyxiation, irritation, and burns. Accidents and incidents have commanded attention from Congress, stakeholders, constituents, and environmental groups.

*Factors contributing to failures.* Many factors can contribute to failures. Of the 43 incidents reported to PHMSA from 2005 through 2014 involving the nine special permits in the rulemaking, 12 incidents involved one or more vehicles crashing and 14 involved vehicle rollovers (see Table 5). Other factors included human error and loose closure components. This was out of the 34 incidents for which the factors of failure were recorded, while for the other nine incidents, factors of failure were either not applicable or not recorded. There was spillage in 32 recorded incidents involving at least one hazardous material, and six incidents affected the environment. There were no injuries, fatalities, or hospitalizations related to hazardous materials. There were two fatalities, one of which was related to a rollover accident while the other was of an unknown cause.

Each incident report includes data on up to three parts that failed, how they failed, and the cause of failure(s) for each hazardous material. In total, data was recorded for 35 incidents on the parts that failed and for 35 incidents on how they failed. The part that failed most frequently was the closure or cover. Leaking or torn off/damaged closures were the most common methods of failure. In eight incidents, the description of how they failed was not recorded or not applicable, and in eight incidents, failure of parts was not recorded or not applicable.

[29] Over the past 10 years, there have been 43 reported transportation incidents in the U.S. involving multipurpose bulk trucks. During this same period, there has never been a death or major injury attributed to the hazardous materials while in transportation when there was compliance with the regulations. While there has been 1 incident that resulted in a fatality in that 10 year period, it involved a vehicular crash and human error, and was not attributed to the transportation of the hazardous materials themselves. Overall most incidents (90 percent) resulted in spillage; fewer incidents resulted in vapor dispersion (3 percent), environmental damage (0.5 percent), fire (0.5 percent), waterway infringement (0.4 percent), and explosion (0.1 percent.) Most of the time, the closures or covers in portable tanks failed, causing leaks. Detailed hazardous materials incident reports for hazardous materials incidents specified in § 171.16 may be found at the PHMSA Web site at the following URL: *https://hazmatonline.phmsa.dot.gov/IncidentReportsSearch/Search.aspx.*

[30] FMCSA. (2007). *Cargo tank roll stability study: Final report.* Washington, DC: Battelle. Retrieved August 6, 2015, from *http://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/Cargo%20Tank%20Roll%20Stability%20Study%20Final%20Report%20April%202007.pdf.*

[31] FMCSA. (2007). *Cargo tank roll stability study: Final report.* Washington, DC: Battelle. Retrieved August 6, 2015, from *http://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/Cargo%20Tank%20Roll%20Stability%20Study%20Final%20Report%20April%202007.pdf.*

[32] DOT. (2003, February). *Intermodal explosives working group report.*

[33] Retrieved June 18, 2012, from *http://www.un.org/disarmament/convarms/Ammunition/IATG/docs/IATG01.50–UN_Explosive_Classification_System_and_Codes(V.1).pdf.*

[34] These are not technically explosives but can explode under certain circumstances.

TABLE 5—FACTORS CONTRIBUTING TO FAILURES, 2005–2014

| Factors of failures | Number of incidents | Percentage |
|---|---|---|
| Rollover accident | 14 | 41.18 |
| Vehicular crash or accident damage | 12 | 35.29 |
| Loose closure component | 2 | 5.88 |
| Human error | 2 | 5.88 |
| Other[35] | 4 | 11.76 |
| Total | 34 | 100 |

**Source:** PHMSA Incident Reports Database.[36]

TABLE 6—PARTS CONTRIBUTING TO FAILURES, 2005–2014

| Parts failed | Number of incidents | Percentage |
|---|---|---|
| Cover/body/closure | 20 | 57.14 |
| Discharge valve or coupling | 4 | 11.43 |
| Vent | 4 | 11.43 |
| Hose adaptor or coupling | 2 | 5.71 |
| Other[37] | 5 | 14.28 |

**Source:** PHMSA Incident Reports Database.[38]

TABLE 7—HOW IT FAILED, 2005–2014

| How failed | Number of incidents | Percentage |
|---|---|---|
| Leaked | 13 | 37.14 |
| Torn off or damaged | 11 | 31.42 |
| Burst or ruptured | 4 | 11.43 |
| Ripped or torn | 2 | 5.71 |
| Vented | 2 | 5.71 |
| Other[39] | 3 | 8.57 |
| Total | 35 | 100 |

**Source:** PHMSA Incident Reports Database.[40]

3. Timeframe for the Analysis

PHMSA estimates that the economic effects of this rulemaking, once finalized and adopted, will be sustained for many years into the future. Notwithstanding this, because of the difficulty of and uncertainty associated with forecasting industry effects into the far future, PHMSA assumes a 10-year period to quantify and monetize the costs and benefits and demonstrate net effects of the final rule.

4. Calculating Costs and Benefits

Costs to the public and PHMSA accrue from the requirements set forth in the regulations and the enforcement methods and procedures adopted to carry out the objectives of the rules and regulations. Examples of costs include (but are not limited to) goods and services required to comply with the regulation; measures of productivity, such as losses related to work time; incident-related death, illness, or disability; and payments to standard-setting organizations for the standards.

Typically, the benefits of rules are derived from health and safety factors. Since the federal regulatory agencies often design regulations to reduce risks to life, evaluation of the benefits of reducing fatality risks can be the key part of the analysis. In this case, the societal costs (*e.g.,* death, injuries, property damage, other losses) are minimal, since there are no deaths or injuries. The societal costs in this analysis are derived solely from property damage and other losses associated with the incidents. Most of the benefits from the rule will be related to cost savings. Examples of benefits in the form of reduced expenditures include (but are not limited to) private-sector savings, government administrative savings, gains in work time, and reduced costs of compliance.

5. Societal Costs and Potential Benefits

The value of lives saved, injuries prevented, and property damage avoided serve as the basis for calculating societal costs, which in turn represent the potential benefits of a regulation. To determine the cost to society of incidents, we use pertinent historical incident data.

According to PHMSA incident data from 2005 through 2014, there were 43 incidents associated with the nine special permits being considered in this analysis, including two vehicular crash fatalities that were not hazardous material related. PHMSA does not include the incidents that were deemed

[35] All other factors—including corrosion, deterioration or aging, and dropped or misaligned material component/device—had 1 incident out of the 34 incidents (2.94 percent).

[36] *https://hazmatonline.phmsa.dot.gov/IncidentReportsSearch/Welcome.aspx.*

[37] All other parts—including bottom outlet valves, hoses, liquid valves, manway or dome covers/gaskets, and tank shells—had 1 incident out of 35 incidents (2.86 percent).

[38] *https://hazmatonline.phmsa.dot.gov/IncidentReportsSearch/Welcome.aspx.*

[39] All other factors including structural, failed to operate, and cracked had 1 incident out of 35 incidents (2.86 percent).

[40] *https://hazmatonline.phmsa.dot.gov/IncidentReportsSearch/Welcome.aspx.*

not related to hazardous materials in the calculation of societal costs. For this analysis, the societal costs and potential benefits accrue from the material loss, carrier damage, property damage, and remediation costs (heretofore referred to as damages and losses). Table 8 lays out the damages and losses (over a 10-year period) related to the nine special permits under consideration.

TABLE 8—VALUE OF MATERIAL LOSS, CARRIER DAMAGES, PROPERTY DAMAGES, RESPONSE, AND CLEANUP COSTS RELATED TO THE NINE SPECIAL PERMITS, 2005–2014

| | Material loss | Carrier damage | Property damage | Response cost | Cleanup cost | All costs |
|---|---|---|---|---|---|---|
| Total amount reported | $314,504 | $3,894,903 | $94,667 | $321,256 | $286,286 | $4,911,616 |
| Average amount per year | 31,450 | 389,490 | 9,466 | 32,125 | 28,928 | 491,162 |

**Source:** PHMSA Incident Reports Database.[41]

The total annual societal costs (potential benefits), associated damages, and losses for the nine special permits being considered under this analysis are approximately $491,000.

6. Summary of Comments Relating to Costs and Benefits Estimates

For the HM–233D NPRM, PHMSA received two sets of comments from IME and one set of comments from R&R.[42] [43] Comments relevant to the preliminary NPRM RIA included comments on the FSSs and EBDDs requirements of the proposed rule as well as comments concerning the differences between MBTs and ACTVs.

*Comments related to FSSs.* In their comments dated September 11, 2014, and November 21, 2014, IME outlined arguments against including a FSS requirement in the HM–233D rulemaking. IME stated that MBTs, which are subject to the FSS requirement in the proposed rule, have a proven safety record and that they would not want their MBTs to be the ''guinea pigs'' for field testing the FSS technology. Further, IME stated that there have been no deaths or serious injuries attributable to hazardous materials carried on MBTs since the technology was introduced in the 1970s and that the safety benefits of FSS may be negligible, as there is no guarantee that a FSS will be operational after a crash. Also, IME Standard 23 already requires MBTs to be equipped with two fire extinguishers with an Underwriters' Laboratories (UL) rating of at least 4–A:40–B:C, stronger than the current requirement of one fire extinguisher with a UL rating of 10B:C. Finally, IME stated that consequently, Nobel Insurance Services, the largest insurer of MBTs in the U.S., told IME that adding FSSs to MBTs would not have an effect on rates because there would be no significant loss of experience.

Regarding the implementation of the FSS requirement in Canada, IME notes that it is not correct to represent Canadian industry as ''supporting'' this standard; the FSS standard was imposed by NRCan through its Mobile Process Unit permit system and did not include the industry in the process.[44] Furthermore, IME states the PHMSA FSS requirement is different from the NRCan standard. In Canada, pre-engineered FSS technology is permitted, while the PHMSA standard does not permit this type of technology and the standard requires vehicle-specific designs that have already been certified by a DCE, including physical testing or engineering analysis. IME states that unlike the NRCan standard, PHMSA also requires periodic inspections and detailed recordkeeping and retention requirements. Ultimately, given the lack of incident data to show that FSSs would increase safety commensurate with the cost, IME does not support the NRCan FSS standard or the more onerous PHMSA FSS proposal.

Estimating the costs based off the NRCan requirement, IME reports that installation costs of FSSs in Canada are between $4,000 and $6,000, which does not include periodic maintenance, testing requirements, or recordkeeping. IME states each FSS would add 300–500 pounds of weight to the vehicle, and a typical payload of an MBT is 25,000 pounds, and a new MBT ranges from $250,000 to $500,000. Therefore, IME states an NRCan-type FSS would reduce payload between 1.2 percent and 2 percent, and the cost of a new MBT would increase by 1.2 percent to 1.6 percent. Periodic inspections cost an average of $800 in remote areas and $150 in more populated areas.

IME questioned if PHMSA has the jurisdiction to impose a truck safety standard on MBTs or any motor vehicle. Congress delegated PHMSA with the authority to develop regulations and standards for packaging to ensure the safe transportation of hazardous materials, while NHTSA has the authority to set safety performance standards for motor vehicles and motor vehicle equipment, per 49 U.S.C. chapter 301.

*Comments related to EBDDs.* In comments dated September 11, 2014, IME agreed that in a final rule, the EBDD standard should apply only to newly constructed or modified MBTs. IME, however, did not believe that the proposal for a requirement of three EBDDs was justified. MBTs are already required to have a manual EBDD in addition to the ignition switch, a requirement that no other specialized vehicle has. Moreover, PHMSA acknowledged that no death or major injury has been attributed to hazardous materials carried by MBTs,[45] which is a record that cannot be matched by other bulk hazardous materials that are sensitive to electric charge. IME was unaware of any instance where an emergency has warranted the use of EBDDs, irrespective of the consequence. IME states the battery cable is cut by emergency responders as they are trained to do, and that the cost of training all emergency responders is not included in PHMSA's cost calculation. Finally, IME states these costs would be significant given there are more than 1 million firefighters in the U.S., and more than 70 percent of fire departments are volunteer-based, with relatively high rates of turnover. The proposed standard for EBDDs is inconsistent with Canada's standard requirements. IME would support an EBDD requirement that harmonizes with the Canadian EBDD standard.[46]

[41] *https://hazmatonline.phmsa.dot.gov/IncidentReportsSearch/Welcome.aspx.*

[42] Retrieved from *http://www.regulations.gov/#!docketBrowser;rpp=25;po=0;dct=PS;D=PHMSA-2011-0345.*

[43] Other comments received from the Dangerous Goods Advisory Council and the Council on Safe Transportation of Hazardous Articles are supportive of the rulemaking and IME's comments.

[44] A Mobile Process Unit is the Canadian equivalent of a MBT.

[45] 79 FR 41188 (July 15, 2014), FN 2.

[46] NRCan. (2011, September). *Requirements for Bulk Mobile Process Units.* pp. 11.

*Comments on MBT and ACTV differences.* In the comments submitted on September 15, 2014, R&R argued for a clearer distinction in the rulemaking between cargo tank motor vehicles transporting single bulk hazardous materials (*e.g.,* ACTVs) and MBTs. Regarding commodity transportation, ACTVs transport single bulk hazardous materials for blasting while MBTs transport multiple hazardous materials for blasting in bulk and non-bulk packaging. In IME Standard 23, IME clarifies the distinction by having two separate sections for the two types of vehicles and transports. Further, although Special Provision 148 makes this distinction, § 173.66 is not clear in this distinction because it only refers to bulk packaging and not to the type of transport. According to R&R, this portion should refer back to Sections 1 and 2 of IME Standard 23 for the standards for transporting a single bulk hazardous material for blasting by cargo tank motor vehicle and for MBTs capable of transporting multiple hazardous materials for blasting in bulk and non-bulk packaging, respectively. Furthermore, R&R requested clarification on the status of UN3375 ammonium nitrate (AN) emulsion, 5.1 oxidizer, an explosive precursor. If ''these materials'' refer back to Class 1 explosive materials, UN3375 is not included in the authorization to transport in bulk without a special permit, and therefore, R&R states that clarification is needed on the status of UN3375.

*Comments summary.* IME strongly opposed including the FSS requirement in the HM–233D rulemaking and provided numerous arguments and data to back up their point of view. Consequently, PHMSA decided not to include the FSS requirement in the final rule. Therefore, discussion of it is not a cost or benefit component of the Final Rule RIA, and costs estimates of the FSS—taking comment input into account—are outlined in Appendix A of the Final Rule regulatory analysis in the docket.

IME also opposed the specifics of the EBDD requirement in the HM–233D rulemaking, stating that they would support an EBDD requirement that harmonizes with the Canadian standard. As IME Standard 23 already includes an EBDD requirement, PHMSA decided to remove this requirement from the final rule as well. Therefore, discussion of this is not included in the Final Rule regulatory analysis in the docket.

R&R argued for clarifications to be made to the HM–233D rulemaking, in particular, to draw a clearer delineation between ACTVs and MBTs. PHMSA incorporated these clarifications into their rulemaking, and the Final Rule regulatory analysis in the docket was updated to make a clearer distinction between ACTVs and MBTs.

7. The Final Rule

a. Definition of the Scope and Parameters of the Analysis

PHMSA is amending the HMR by establishing standards for the safe transportation of bulk explosives. This rulemaking is responsive to two petitions for rulemaking submitted by industry representatives: P–1557, concerning the continued use of renewal applications, and P–1583, concerning the incorporation by reference into the HMR of an industry standard publication. Further, developing these requirements would provide wider access to the regulatory flexibility currently only offered by special permits and competent authorities.

By implementing these requirements, PHMSA will be mirroring the majority of provisions contained in nine widely-used longstanding special permits that have established safety records.

- The driver qualification and training program audits text in IME Standard 23 (page 14) mirrors that of DOT–SP 10751 (page 4), DOT–SP 11579 (page 7), and DOT–SP 12677 (page 5). This text covers the driver's license, endorsement, and training requirements for drivers transporting explosive materials. Similar text also appears in IME Standard 23 Section 1.
- The packaging requirements for transport of Division 1.5 and Division 5.1 hazardous materials in IME Standard 23 (pages 12–13) excerpts text from DOT–SP 10751 (page 3), DOT–SP 11579 (page 4), and DOT–SP 12677 (page 3).
- IME Standard 23 (page 13) outlines the operational controls dealing with carriage restrictions, the placement of materials and containers inside cargo tanks, and the handling and maintenance of cargo tanks. These are mirrored in DOT–SP 12677 (page 4), DOT–SP 10751 (page 3), and DOT–SP 11579 (page 6).
- Tire specification and tire pressure monitoring standards in IME Standard 23 (page 14) are mirrored in DOT–SP 12677 in (pages 6–7). Tire specification requirements stipulate that the tire be no more than six years old and outline the minimum tread depth of both the steering axle and other tires. Tire pressure standards describe when they should be replaced and when tire pressure should be measured. However, text specifying the frequency of tire pressure checks in the special permits is not equivalent to that in IME Standard 23.
- Emergency battery disconnect standards covered in IME Standard 23 (page 15) are covered in DOT SP–12677 (page 8) and DOT SP–11579 (page 10). Stipulations include that the switch needs to be located 24 inches from the battery terminal, and each switch must be tested once per calendar month and be repaired in the event of malfunction and failure.
- The emergency response, reporting, and training provision in IME Standard 23 (page 15) is described in DOT–12677 (page 10) and DOT–11579 (page 12). This provision describes procedures for reporting and investigation accidents. A slight difference in reporting requirements between IME Standard 23 and the special permits is that IME Standard 23 requires an incident report forwarded to PHMSA within 45 days, while the special permits stipulate that the incident report must be completed within 30 days and then sent to PHMSA within 15 days of its completion.

In this final rule, PHMSA is revising the HMR by amending the regulations to establish standards for the safe transportation of bulk explosives. These final rule requirements include the following:

- Incorporation of IME Standard 23 into the HMR. PHMSA will incorporate IME Standard 23 and establish requirements of general applicability governing the transportation of bulk explosive materials. As such, PHMSA will revise the 49 CFR 171.7 material incorporated by reference to include IME Standard 23, and establish a new section for the bulk explosives requirements.
- Requirements for both existing CTMVs and new construction of CTMVs, including modifications.

By incorporating these requirements, PHMSA will be echoing the majority of provisions contained in nine widely-used longstanding special permits that have established safety records. These revisions are intended to eliminate the need for future renewal requests, thus reducing paperwork burdens and facilitating commerce while maintaining an appropriate level of safety.

b. IME Standard 23

IME Standard 23 recommends standards for MBT straight trucks that typically transport multiple hazardous materials in support of blasting operations and articulated cargo tanks that carry a single bulk blasting agent or oxidizer. The analysis presented here mainly addresses the costs and benefits associated with the operation of MBTs. Where applicable, it also addresses the costs and benefits associated with the operation of ACTVs.

IME Standard 23 was developed with input from IME members, stakeholders, and PHMSA. Federal agencies often incorporate standards, especially if the standards do not compromise the level of safety.[47] PHMSA typically incorporates non-consensus standards (as was the case with the incorporation

[47] OMB Circular A119. *https://www.whitehouse.gov/omb/circulars_a119/.*

of the rail special permits) [48] through an NPRM that is published in the **Federal Register**, providing the regulated community and the public an opportunity to comment. This ensures transparency in the rulemaking process.

The adoption of IME Standard 23 in the HMR affords the following advantages:

- IME Standard 23 is more comprehensive and has stricter standards than the special permits, and it may eliminate some duplicative functions, such as tire pressure inspections under special permits, which are already included in Commercial Vehicle Safety Alliance standards that FMCSA uses but have not incorporated into the HMR. IME Standard 23 requires tire pressure checks before each day at the start of the trip but does not require firms to perform the tire pressure checks before each departure onto a public road.
- IME Standard 23 has a provision that prevents caking of AN into a solid mass.
- IME Standard 23 eliminates the need for special permits and the need for renewals, party-to status, or modifications, thus saving industry and agency resources because it lessens burdens common to applying for and reviewing special permits.
- IME Standard 23 is explicit, unambiguous, targeted, and simple to understand and follow.

The major disadvantages are the following:

- Regulations may need to be reevaluated and changed at appropriate intervals to keep pace with technological enhancements and other matters. However, IME will perform this at no charge to PHMSA. IME will also publish the revised standards free of charge to the public.[49]
- PHMSA will not be evaluating the applicant firm's fitness as it currently does in Phase 2 of the special permit application process.
- PHMSA may have to invest more time on compliance inspections.

c. Analysis of Costs

Below is an analysis of costs associated with the various provisions under IME Standard 23 that affect its incorporation into the HMR.

*Costs associated with fire extinguishers.* IME Standard 23 requires a minimum of two fire extinguishers rated 4–A:40B:C for MBTs. Current Federal regulations require a minimum of one fire extinguisher rated 10B:C. Fire extinguishers rated 4–A:40B:C are more powerful than 10B:C fire extinguishers and can be used for more types of fires.[50] IME makes the following estimates: [51]

- Fire extinguishers could be affixed in 8 hours.
- The cost for 2 fire extinguishers is approximately $250.
- The labor costs for installing the fire extinguishers are estimated at $280.
- The cost associated with the MBT downtime is approximately $560.
- Approximately 25 percent of MBTs would need to acquire and affix the extinguishers.

Using IME data, we estimate that the cost to equip 385 MBTs (25 percent of the 1,540 MBTs in service) with fire extinguishers would be approximately $419,650 (($250 for the fire extinguishers + $280 labor costs + $560 vehicle downtime) * 385 MBTs). This would be a one-time cost. There will be annual maintenance costs, but we believe these costs will be negligible (somewhere between $0 and $5 per MBT over a 10-year period). Each vehicle should already have at least one fire extinguisher on board per DOT regulations.[52] IME estimates that the fire extinguisher has a longer life than the MBT; therefore, we estimate that there would be no annual costs to industry resulting from this requirement.

*Costs associated with working pressure limits.* IME Standard 23 limits the maximum allowable working pressure of an MBT cargo tank to 35 pounds per square inch. This measure is intended to help prevent a buildup of pressure in the tank, which could result in a mass detonation of the contents in a fire.[53] IME estimates that most MBTs already meet this standard and that, at most, 10 percent of the MBTs (or 154 MBTs) would need a retrofit.[54] According to IME, the cost of retrofitting each MBT would be about $3,000.[55] The cost to industry to retrofit 154 MBTs would be approximately $462,000, a one-time cost.

*Costs associated with periodic tests and inspections of non-DOT specification cargo tanks.* IME Standard 23 requires that non-DOT specification cargo tanks be inspected essentially in the same way as specification tanks. This requires competence training of inspectors and physical inspections as described in Appendix B of IME Standard 23. IME estimates that 75 percent of the MBTs with non-specification tanks are in substantial compliance with IME Standard 23 in this regard. According to IME, the annual cost of performing inspections and testing for noncompliant vehicles is approximately $3,500 per vehicle.[56] Assuming that 25 percent of MBTs (or 385 vehicles) would need to comply, the annual cost of complying is $1,347,500 (385 MBTs not in compliance * $3,500 for inspection and tests per vehicle).

*Costs associated with the nameplate.* IME Standard 23 requires that a nameplate be affixed to the vehicle describing its design characteristics. According to IME, virtually all MBTs will need a retrofit, costing an average of about $125 per truck for a total cost of $192,500 ($125 * 1,540 MBTs).[57] This is a one-time cost.

*Costs associated with accident investigations.* IME Standard 23 requires companies to provide PHMSA with an incident investigation report of all CTMV crashes. This report may be an internal investigation because: (1) Some companies are self-insured, and (2) some insurance companies will not allow their reports to be released. An independent accident investigation of a CTMV crash would be conducted only if PHMSA requests it. IME estimates that this would be necessary once a year under IME Standard 23. An independent accident investigation of an MBT crash costs about $10,000.[58] Therefore, the annual cost associated with accident investigations would be $10,000 per year.

*Costs associated with driver training after preventable accidents.* IME Standard 23 requires that drivers involved in preventable accidents (as defined in 49 CFR 385.3) while operating a CTMV be retrained if the driver remains employed by the motor carrier. The IME Standard 23 requirement is similar to the requirement in the current applicable special permits, even though IME Standard 23 clarifies that the carrier does not have a responsibility to

[48] For example, in June 2012, PHMSA published a final rule to incorporate provisions contained in certain widely used or longstanding rail special permits that have general applicability and established safety records rail special permits into the HMR. The incorporation by reference of certain publications listed in foregoing the rule was previously approved by the Director of the Federal Register on October 1, 2003, and March 16, 2009.

[49] Santis, L. *Cost analysis of SLP–23, special permits, and Canadian standards for bulk trucks.* Institute of Makers of Explosives.

[50] *Portable fire extinguishers.* Retrieved from *http://www.ci.garden-grove.ca.us/fire/extinguishers.*

[51] Santis, L. *Cost analysis of SLP–23, special permits, and Canadian standards for bulk trucks.* Institute of Makers of Explosives.

[52] FMCSA. *Part 393: Parts and accessories necessary for safe operation.* Retrieved from *http://www.fmcsa.dot.gov/regulations/title49/section/393.95.*

[53] This does not have an effect on the capacity of an MBT.

[54] Santis, L. *Cost analysis of SLP–23, special permits, and Canadian standards for bulk trucks.* Institute of Makers of Explosives.

[55] Santis, L. *Cost analysis of SLP–23, special permits, and Canadian standards for bulk trucks.* Institute of Makers of Explosives.

[56] Santis, L. *Cost analysis of SLP–23, special permits, and Canadian standards for bulk trucks.* Institute of Makers of Explosives.

[57] Santis, L. *Cost analysis of SLP–23, special permits, and Canadian standards for bulk trucks.* Institute of Makers of Explosives.

[58] Santis, L. *Cost analysis of SLP–23, special permits, and Canadian standards for bulk trucks.* Institute of Makers of Explosives. Similar inferences can be made for ACTVs.

continue to employ the driver. Driver training costs are variable, depending on the amount of training needed and required by the rule. Truck driver courses cost about $5,000 per driver.[59] As noted earlier, there are on average approximately four incidents per year under special permits. If the trend continues in future years under IME Standard 23, the cost of driver training to the industry is expected to be about $20,000 per year (4 * $5,000), providing the drivers are not terminated; however, if the firm has to train new drivers, the cost is expected to be the same.

*Costs associated with maintaining and updating IME Standard 23.* The cost of standard development is spread among many standards that IME makes available to the public. Some standards require more resources than others do. IME estimates that the annual cost for maintaining and updating IME Standard 23 is about $50,000. IME is prepared to bear the cost of maintaining IME Standard 23 and updating it at no cost to PHMSA, once it is incorporated into the HMR. This cost is included in the total cost to industry; this is an ongoing expenditure that is an integral part of industry's management and operation.

*Summary of all costs associated with the final rule.* Incorporating IME Standard 23 into the HMR will result in a one-time cost of approximately $1.1 million and an annual cost of approximately $1.4 million. The following Table 9 details the expected costs:

TABLE 9—COSTS ASSOCIATED WITH THE FINAL RULE

| Cost items | One-time costs | Recurring annual costs |
|---|---|---|
| Fire Extinguishers | $419,650 | $0 |
| Work Pressure Limit | 462,000 | 0 |
| Periodic Inspections | 0 | 1,347,500 |
| Nameplate | 192,500 | 0 |
| Accident Investigation | 0 | 10,000 |
| Driver Training | 0 | 20,000 |
| Maintaining/Updating IME Standard 23 | 0 | 50,000 |
| Total | 1,074,150 | 1,416,500 |

d. Analysis of Benefits

The benefits associated with the final rule are the sum of the benefits of incorporating IME Standard 23 into the HMR and any benefits that may accrue from existing and new trucks meeting the additional requirements described above. The annual benefits from the incorporation of IME Standard 23 into the HMR are described below.

*Cost savings to industry from no longer having to apply for the nine special permits.* According to PHMSA data from May 2015, 305 requests for the nine special permits were submitted, with an average life span of 3.132 years (approximately 97 [305 requests/3.132 years] requests per year).[60] There were no requests for new permits; all 305 were party-to special permits, modifications, or renewals. According to IME, the industry spends approximately $825 for each renewal, party-to status, or modification special permit request. Since none of the applications involved new permits, the annual cost to industry would be $80,025 (97 permit applications per year * $825).

*Cost savings to PHMSA from no longer having to review and approve applications for the nine Special Permits.* PHMSA spends approximately $414 per application.[61] The annual total cost to PHMSA for the application and review process is $40,158 ($414 per application * 97).

*Cost savings to industry associated with not having to check tire pressure before each departure onto the public roads.* The special permits contain a requirement to check and record the pressure in each tire before each regulated movement on a public road, while IME Standard 23 contains a requirement to only check tire pressure before the initial trip of the day, which would be part of a routine pre-trip inspection and should not add any additional cost.[62] For the calculation of costs ensuing from the requirement to check tire pressure before each departure onto public roads (based on information from IME and using inferences for CTMVs), PHMSA assumes the following:

- Drivers of CTMVs earn approximately $35 per hour, including overhead.[63]
- Drivers perform work-related activities about 250 days per year for approximately 14 hours for each of those 250 days. The 14-hour day consists of driving (which, under current U.S. regulations, is restricted to 11 driving hours during a 14-hour workday),[64] non-driving (such as loading, unloading, performing required tire checks, and doing paperwork), and rest breaks. According to a DOT study, commercial motor vehicle drivers spend approximately 66 percent of their workday driving; 23 percent performing non-driving activities; and the remaining 11 percent resting, eating, and sleeping while on duty.[65]
- In 2014, a gallon of diesel fuel cost $3.83.[66]
- The cost per day to operate a CTMV in compliance with special permits is $560.
- Checking tire pressure takes approximately 30 minutes per day, according to an IME estimate. PHMSA believes this

[59] Professional Truck Driver Institute. *Frequently asked questions by prospective students, schools & the general public. http://www.ptdi.org/errata/FAQs.pdf.*

[60] Accessed and downloaded for the nine special permits impacted by HM–233D in May 2015 from *http://www.phmsa.dot.gov/hazmat/regs/sp-a/special-permits/search.*

[61] Estimate provided by the Special Permits and Approvals Division via email on July 17, 2012.

[62] Santis, L. *Cost analysis of SLP–23, special permits, and Canadian standards for bulk trucks.* Institute of Makers of Explosives.

[63] According to the U.S. Department of Labor Bureau of Labor Statistics (BLS) May 2014 occupational wage statistics for ''53–3032 Heavy and Tractor-Trailer Truck Drivers,'' the mean hourly wage is $20.16 per hour or $30.24 per hour, using a 50-percent overhead factor. See: *http://www.bls.gov/oes/current/oes533032.htm.* The BLS wage estimate is less than the IME estimate because the BLS estimate includes drivers of all tractor trailers and trucks with a capacity of 26,000 pounds. PHMSA is using IME's wage estimate for this cost analysis because the IME wage estimate relates to MBT drivers considered under this final rule.

[64] DOT. (2013, July 1). New hours-of-service safety regulations to reduce truck drive fatigue begin today [Press release]. Retrieved from *http://www.transportation.gov/briefing-room/new-hours-service-safety-regulations-reduce-truck-driver-fatigue-begin-today.*

[65] Blanco, M., Hanowski, R.J., Olson, R.L., Morgan, J.F., Soccolich, S.A., Wu, S., & Guo, F. (2011, May). *The impact of driving, non-driving work, and rest breaks on driving performance in commercial motor vehicle operations.* Virginia Polytechnic Institute and State University & FMCSA.

[66] U.S. Energy Information Administration. (2015, August). *Weekly retail gasoline and diesel prices.* Retrieved from *http://www.eia.gov/dnav/pet/pet_pri_gnd_dcus_nus_a.htm.*

may be an overestimation but has included it in the absence of an alternative value.

Under the assumptions above, the cost per year for the tire checks is approximately $4,375 per year per CTMV ($35 driver wage per hour of work * 0.5 hours per tire pressure check * 250 work days/year).

Vehicles idle during the tire check, and PHMSA estimates that they consume 1 gallon of fuel per hour. The fuel costs per year per vehicle are $479 ($3.83 per gallon of diesel * 0.5 hours per tire pressure check * 250 workdays).

Additionally, the industry estimates that the daily time needed to check tire pressure (*i.e.,* 30 minutes per day) translates to a lost time equivalent of approximately 0.036 workdays (0.5 hours per day/14-hour workday). Thus, the lost productive time of CTMVs costs $5,040 (0.036 lost time per workday * 250 workdays/year * $560 to operate a CTMV per day) per year. See the following Table 10:

TABLE 10—ANNUAL COSTS PER VEHICLE ASSOCIATED WITH TIRE PRESSURE CHECKS

| Average amount of time per day | Labor cost per year per CTMV | Fuel cost per year per CTMV | CTMV downtime per year | Total annual cost per CTMV |
|---|---|---|---|---|
| 30 minutes | $4,375 | $479 | $5,040 | $9,894 |

The annual cost per vehicle associated with the tire-pressure check requirement is $9,894, which is an annual cost to industry from the tire pressure test requirement of approximately $18,046,656 ($9,894 total cost per vehicle per year * 1,824 CTMVs).

*Cost savings to industry from reduced caking incidence.* There is a savings from the IME Standard 23 requirement relating to caking. If left sitting for several days, ammonium nitrate (AN) can absorb moisture from the air, allowing it to cake into a solid mass that is extremely difficult to break up. AN is highly hygroscopic; that is, it readily absorbs water from the atmosphere. AN is also highly water-soluble. If AN sits undisturbed in a bulk container long enough, it will absorb water and the prills will dissolve slightly around the edges. A prill is a small aggregate or globule of a material, most often a dry sphere, formed from a melted liquid. A drop in temperature will then cause the prills to solidify into a solid mass. IME Standard 23 counteracts this by unloading the transport container. Almost all bulk trucks will have AN prills in them at some point, making them susceptible to caking. Routine maintenance requirements under IME Standard 23 do not permit caking of the contents of an MBT to occur. IME Standard 23 specifies that if the interior surfaces of bulk packaging are not smooth and free of obstructions, the bulk packaging is to be inspected and cleaned ''to prevent caking and/or drying-out of the bulk hazardous material.'' IME Standard 23 further specifies that bulk hazardous materials not be allowed to remain in the bulk packaging for any period of time that could result in caking. IME Standard 23 recommends that the equipment be cleaned as needed to minimize the accumulation and packing of the bulk hazardous materials in the bulk packaging. IME notes that instances of caking currently occur 5 to 10 times annually and cost about $12,000 to remediate each time.[67] There is no additional cost to industry to comply with the requirement in IME Standard 23 that helps prevent caking. Thus, this preventive requirement represents a savings to industry on average of $90,000 per year (assuming an average of 7.5 (*i.e.,* the average of 5 and 10) caking incidents per year * $12,000 per incident for remediation).

*Cost savings to the public from the IME standard.* There are many resources and costs involved in the development and revision of standards.[68] According to the Administrative Conference of the United States report, ''agencies are legally required to identify the specific version of material incorporated by reference and are prohibited from incorporating material dynamically. When an updated version of the incorporated material becomes available, the regulation must be updated if PHMSA wants the regulation to incorporate the new version.'' [69] In addition, if the standard is copyrighted—as is often the case with voluntary consensus standards—there are concerns with what might constitute ''fair use'' under Section 107 of the Copyright Act. There are fees for licensing the standards. The costs associated with paying a fee for the standards will affect small businesses and may cause small businesses to leave the market.

According to IME information, the resources and costs associated with development and updating include the following:

- Staff and equipment to manage the administration process. IME spends about $1 million annually on this.
- Volunteer members to attend meetings and develop text. Teleconferencing saves some resources and travel costs; IME estimates that a typical member invests about a quarter of a person-year in IME activities. The cost is not quantified.
- For meetings, IME spends approximately $100,000 per year.
- IME spends approximately $50,000 per year to maintain IME Standard 23.
- IME spends approximately $100,000 per year for videos, posters, and publications.

IME will make the standard available at no charge, which represents a cost saving to the public of about $1.3 million.[70] This is cost saving to the users, since there are several factors that impact the price of a standard. According to the American National Standards Institute (ANSI), the price charged by standard setters includes the costs of: (1) Developing and maintaining the standards; (2) supporting the users of the standards and educating Federal, State, and local government regulators and legislators about the value of the standards; (3) paying for intellectual property rights; and (4) paying for the production, warehousing, and distribution costs associated with

[67] Santis, L. *Cost analysis of SLP–23, special permits, and Canadian standards for bulk trucks.* Institute of Makers of Explosives.

[68] ANSI notes that standard-setting organizations charge for standards because ''every standard is a work of authorship and, under U.S. and international law, is copyright protected, giving the owner certain rights of control and remuneration that cannot be taken away without just compensation. In addition, there are many costs associated with developing, maintaining, and distributing standards—all of which can be reflected in the price of a standard.'' ANSI. *Why voluntary consensus standards incorporated by reference into Federal Government regulations are copyright protected.* Retrieved August 18, 2012, from *http://publicaa.ansi.org/sites/apdl/Documents/News%20and%20Publications/Critical%20Issues/Copyright%20on%20Standards%20in%20Regulations/Copyright%20on%20Standards%20in%20Regulation.pdf.*

[69] Administrative Conference of the United States. (Memorandum). (2011, October 19). Retrieved August 7, 2015, from *https://www.acus.gov/sites/default/files/documents/Revised-Draft-Recommendation-10-19-11.pdf.*

[70] Assumes non-quantified costs of $50,000 for volunteer members.

disseminating the standards.[71] Based on IME's experience with developing, maintaining, providing assistance to users and others, and disseminating standards, we estimate that the total annual costs for the development and maintenance of standards would likely be more than $1.3 million because of an undetermined licensing fee additional to the other cost elements.

*Cost savings to industry from reduced paperwork burden.* According to the Paperwork Reduction Act supporting statement that was prepared for the HM–245 rule that incorporated ''Certain Cargo Tank Special Permits'' into the HMR, PHMSA estimated a 1-hour special permit renewal time. PHMSA estimates that the fully loaded wage rate for the employee who fills out the permits (*e.g.,* a compliance officer) is $32.69 per hour; the fully loaded wage rate is $49.04 ($32.69 * 1.5) per hour.[72]

The annual cost savings to industry associated with the reduced paperwork is approximately $4,757 ($49.04 hourly wage rate for a compliance officer * 97 fewer special permits).

*Cost savings from incorporating the NHTSA requirement.* The NHTSA requirement in the final rule is expected to reduce regulatory and administrative burden without negatively affecting transportation safety. There are likely to be no significant marginal costs or benefits associated with this requirement. NHTSA is the U.S. Government agency responsible for implementing and enforcing the National Traffic and Motor Vehicle Safety Act of 1966, as amended, 49 U.S.C. chapter 301 (the Vehicle Safety Act), and certain other laws relating to motor vehicle safety. Under that authority, NHTSA issues and enforces the FMVSS that apply to motor vehicles and to certain items of motor vehicle equipment. The Vehicle Safety Act requires that motor vehicles and regulated items of motor vehicle equipment manufactured for sale in the United States be certified to comply with all applicable FMVSS. Before offering a motor vehicle or motor vehicle equipment item for sale in the United States, the fabricating manufacturer must: (1) Designate a permanent resident of the United States as its agent for service of process if the fabricating manufacturer is not located in the United States (49 CFR part 551, subpart D Service of Process on Foreign Manufacturers and Importers), and (2) submit to NHTSA identifying information on itself and on the products it manufactures to the FMVSS, not later than 30 days after the manufacturing process begins (49 CFR part 566 Manufacturer Identification).

*Summary of all benefits associated with the final rule.* Incorporating IME Standard 23 into the HMR will result in annual quantified cost savings of approximately $19.5 million (see Table 11).

TABLE 11—BENEFITS ASSOCIATED WITH THE FINAL RULE

| Cost savings items | Cost savings per year |
|---|---|
| Industry savings from no longer having to submit special permit applications | $80,025 |
| PHMSA savings from special permit application review .. | 40,158 |
| Industry savings from no longer having to do tire checks prior to departures across public roads ..... | 18,046,650 |
| Savings to industry from remediation resulting from caking incidents experienced under current operations under special permits ..... | 90,000 |
| Minimum savings to the public from making IME Standard 23 available to the public at no cost, updating and maintaining the publication ..... | 1,300,000 |
| Reduced paperwork burden | 4,757 |
| Total ..... | 19,561,590 |

8. Summary of Costs and Benefits From Adopting the Final Rule

Under the final rule, the one-time costs are about $1.1 million and the recurring annual costs are about $1.4 million. The benefits account for approximately $19.6 million (see Table 12). The net present value of costs discounted at three percent and seven percent over 10 years are about $13.1 million and $11.0 million, respectively. The present value of the $19.6 million discounted at three percent and seven percent over 10 years is about $171.9 million and $147.0 million, respectively.

TABLE 12—COSTS AND BENEFITS ASSOCIATED WITH THE FINAL RULE

| Cost items | One-time costs | Recurring annual costs | Benefits (cost savings) per year |
|---|---|---|---|
| Industry applications for special permits | $0 | $0 | $80,025 |
| PHMSA review of special permit applications | 0 | 0 | 40,158 |
| Tire pressure checks | 0 | 0 | 18,046,650 |
| Fire extinguishers | 419,650 | 0 | 0 |
| Working pressure limit | 462,000 | 0 | 0 |
| Caking | 0 | 0 | 90,000 |
| Periodic inspections/tests | 0 | 1,347,500 | 0 |
| Nameplate | 192,500 | 0 | 0 |
| Accident investigations | 0 | 10,000 | 0 |
| Driver training | 0 | 20,000 | 0 |
| Maintaining/updating IME Standard 23 | 0 | 50,000 | 1,300,000 |
| Reduced paperwork burden | 0 | 0 | 4,757 |
| Total | 1,074,150 | 1,427,500 | 19,561,590 |

[71] ANSI. *Why charge for standards?* Retrieved from *http://www.ansi.org/help/charge_standards.aspx?menuid=help.*

[72] PHMSA-based labor costs on the ''Compliance Officer'' occupation for wages, and accounted for fringe benefits of 50 percent to estimate the full labor cost. See: BLS Occupational Employment Statistics *http://www.bls.gov/oes/current/oes131041.htm.*

The annualized costs of the rule discounted at three percent are $1.3 million and at seven percent are approximately $1.1 million (see Table 13). The annualized benefits at three percent are approximately $17.2 million and, at seven percent, $14.7 million. The annualized net benefits of the final rule at three percent are approximately $15.9 million ($17.2 million in annualized benefits and $1.3 million in annualized costs) and at seven percent are approximately $13.6 million ($14.7 million in annualized benefits and $1.1 million in annualized costs). Table 13 summarizes these annual values:

TABLE 13—ANNUAL AND ANNUALIZED VALUES

[$ Millions]

| Values | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 |
|---|---|---|---|---|---|---|---|---|---|---|
| Costs | $2.5 | $1.4 | $1.4 | $1.4 | $1.4 | $1.4 | $1.4 | $1.4 | $1.4 | $1.4 |
| Benefits | 19.6 | 19.6 | 19.6 | 19.6 | 19.6 | 19.6 | 19.6 | 19.6 | 19.6 | 19.6 |
| Net Benefits | 17.1 | 18.1 | 18.1 | 18.1 | 18.1 | 18.1 | 18.1 | 18.1 | 18.1 | 18.1 |
| **Annualized Values at 3% Discount Rate** | | | | | | | | | | |
| Costs | 1.3 | | | | | | | | | |
| Benefits | 17.2 | | | | | | | | | |
| Net Benefits | 15.9 | | | | | | | | | |
| **Annualized Values at 7% Discount Rate** | | | | | | | | | | |
| Costs | 1.1 | | | | | | | | | |
| Benefits | 14.7 | | | | | | | | | |
| Net Benefits | 13.6 | | | | | | | | | |

*C. Executive Order 13132: Federalism*

Executive Order 13132 requires agencies to assure meaningful and timely input by state and local officials in the development of regulatory policies that may 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 final rule was analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''), and the President's memorandum on ''Preemption'' published in the **Federal Register** on May 22, 2009 (74 FR 24693).[73] This final rule preempts state, local and Indian tribe requirements but does not amend any regulation that has substantial direct effects on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of governments. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply. Federal hazardous material transportation law, 49 U.S.C. 5101–5128, contains an express preemption provision [49 U.S.C 5125(b)] preempting state, local and Indian tribe requirements on certain covered subjects. Covered subjects are:

(1) The designation, description, and classification of hazardous materials;

(2) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

(3) The preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, contents, and placement of those documents;

(4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous materials; or

(5) The designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing a package, container or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce.

This final rule addresses covered subject items (2), (3), and (5) and would preempt any State, local, or Indian tribe requirements concerning these subjects unless the non-Federal requirements are ''substantively the same'' as the Federal requirements. Furthermore, this final rule is necessary to update, clarify, and provide relief from regulatory requirements.

Federal hazardous materials transportation law provides at 49 U.S.C. 5125(b)(2) that if PHMSA issues a regulation concerning any of the covered subjects, PHMSA must determine and publish in the **Federal Register** the effective date of Federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. PHMSA proposes the effective date of federal preemption will be 90 days from publication of the final rule in this matter in the **Federal Register**.

*D. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This final rule was analyzed in accordance with the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this final rule does not have tribal implications and does not impose substantial direct compliance costs on Indian tribal governments, the funding and consultation requirements of Executive Order 13175 do not apply. Furthermore, we did not receive any comments to the NPRM or requests for consultation from Indian tribes during this rulemaking process.

*E. Regulatory Flexibility Act, Executive Order 13272, and DOT Procedures and Policies*

The Regulatory Flexibility Act of 1980 (RFA), as amended, requires Federal agencies to conduct a separate analysis of the economic impact of rules on small entities, taking into account the particular concerns of small entities when developing, writing, publicizing, promulgating, and enforcing

[73] *http://www.gpo.gov/fdsys/pkg/FR-2009-05-22/pdf/E9-12250.pdf*

regulations. Under Section 603(b) of the RFA, each final Regulatory Flexibility Analysis is required to address:

1. A statement of the need for, and objectives of, the rule.

2. A summary of the significant issues raised by public comments in response to the Initial Regulatory Flexibility Analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the final rule as a result of such comments.

3. The kind and number of small entities to which the final rule will apply.

4. The projected reporting, recordkeeping, and other compliance requirements of the final rule.

5. A description of the steps the agency has taken to minimize the significant adverse economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each of the other significant alternatives to the rule considered by the agency was rejected.

A discussion of these requirements follows.

1. Need for the Rule

The objective of this rulemaking is to develop a set of standards related to the safe transportation of bulk explosives in CTMVs that will no longer require the need to apply for or become a party to a special permit, as the standard will be in the HMR. This rulemaking action is necessary to provide regulatory flexibility and relief while protecting public health, welfare, safety, and the environment. The final rule will be beneficial to stakeholders by reducing paperwork for industry and government while maintaining an appropriate level of safety, which promotes safer transportation practices. Finally, this rulemaking action facilitates commerce and eliminates unnecessary regulatory requirements. The intended effects of this rulemaking would provide enhanced flexibility for industry transporting hazardous materials in commerce while maintaining an appropriate level of safety. The rulemaking would amend the HMR by incorporating IME Standard 23 and therefore include the requirements of nine special permits that were used to create IME Standard 23.

2. Comments Received on the NPRM Relating to Small Entity Impact

PHMSA did not receive any comments specifically relating to the impact of the proposed rule on small entities. A more extensive discussion of the comments relating to the impact of the requirements proposed in the NPRM is provided in Section 2.7 of the Final Rule Regulatory Impact Analysis (RIA).

For the HM–233D NPRM, PHMSA received two sets of comments from IME and one set of comments from R&R.[74] [75] IME strongly opposed including the FSS requirement in the HM–233D rulemaking and provided numerous arguments and data to back up their point of view. These included:

1. No deaths and serious injuries have been attributable to hazardous materials carried on MBTs.

2. There is no guarantee that a FSS will be operational after a crash.

3. The Natural Resources Canada FSS will increase the cost of a MBT by 1.2 percent to 1.6 percent.

IME also opposed the specifics of the requirement for EBDDs in the HM–233D rulemaking, stating that they would support an EBDD requirement that harmonizes with the Canadian standard. R&R argued for clarifications needed to be made to the HM–233D rulemaking, in particular, to draw a clearer delineation between MBTs and ACTVs that carry one commodity.

3. A Description of and, Where Feasible, an Estimate of the Number of Small Entities To Which the Final Rule Will Apply

By amending the HMR, this action will likely affect only existing holders of the nine special permits. Firms newly engaged in the transportation of bulk explosives will benefit from the elimination of the special permit application process. Manufacturers of MBTs will also be affected by the final rule, as they have to comply with the Federal Motor Vehicle Safety Standard part of the rule.

PHMSA data detailing the applications from firms for the special permits under consideration show that 100 firms were involved in obtaining permits for the nine special permits referred to above.[76] All were applications for renewals, party-to status, or modifications. Of the 100 firms, we found 83 percent to be small and 17 percent to be large. The size of firm was determined using the U.S. Small Business Administration (SBA) size standard.[77] SBA bases the size standard on the firm's North American Industry Classification System (NAICS) code and either average number of employees or average annual revenue. The NAICS code, number of employees, and annual revenue were mostly found on Manta.[78] When there was no information on revenue or employees in Manta, FindTheCompany was used.[79] In the data, five percent of firms did not have an associated NAICS code, and three percent of firms did not have revenue or employee information. As small firms are less likely to have public information associated with them, these firms were classified as small.

There were 29 different NAICS codes, as shown in the following Table 14. Of the 100 firms, 83 were small businesses.

TABLE 14—NUMBER OF SMALL BUSINESSES BY NAICS CODE

| NAICS code | Number of businesses | Number of small businesses | Percentage of small businesses |
|---|---|---|---|
| 424690 | 25 | 24 | 96 |
| 325920 | 18 | 14 | 78 |
| 484230 | 10 | 6 | 60 |
| 238910 | 9 | 6 | 67 |
| 236115 | 2 | 2 | 100 |
| 236210 | 2 | 2 | 100 |
| 237110 | 2 | 1 | 50 |

[74] Retrieved from *http://www.regulations.gov/#!docketBrowser;rpp=25;po=0;dct=PS;D=PHMSA-2011-0345.*

[75] Other comments received from the Dangerous Goods Advisory Council and the Council on Safe Transportation of Hazardous Articles are supportive of the rulemaking and IME's comments.

[76] Accessed and downloaded for the nine special permits impacted by HM–233D in May 2015 (*http://www.phmsa.dot.gov/hazmat/regs/sp-a/special-permits/search*).

[77] SBA. *Table of small business standards matched to North American Industry Classification System codes.* Retrieved from *https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.*

[78] Manta. *http://www.manta.com.*

[79] FindTheCompany. *http://www.findthecompany.com/.*

TABLE 14—NUMBER OF SMALL BUSINESSES BY NAICS CODE—Continued

| NAICS code | Number of businesses | Number of small businesses | Percentage of small businesses |
|---|---|---|---|
| 237310 | 2 | 2 | 100 |
| 237990 | 2 | 2 | 100 |
| 423990 | 2 | 2 | 100 |
| 484121 | 2 | 1 | 50 |
| 541990 | 2 | 2 | 100 |
| 212311 | 1 | 1 | 100 |
| 212312 | 1 | 1 | 100 |
| 213111 | 1 | 1 | 100 |
| 213113 | 1 | 1 | 100 |
| 213115 | 1 | 0 | 0 |
| 238220 | 1 | 1 | 100 |
| 238990 | 1 | 1 | 100 |
| 423610 | 1 | 0 | 0 |
| 444110 | 1 | 1 | 100 |
| 484110 | 1 | 1 | 100 |
| 485999 | 1 | 0 | 0 |
| 488210 | 1 | 1 | 100 |
| 531130 | 1 | 1 | 100 |
| 561499 | 1 | 1 | 100 |
| 562112 | 1 | 1 | 100 |
| 813920 | 1 | 1 | 100 |
| 999900 | 1 | 1 | 100 |
| Not available | 5 | 5 | 100 |
| Total | 100 | 83 | 83 |

**Source:** PHMSA Special Permits Database and Econometrica calculations.

4. A Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Final Rule

The RIA estimated the number of CTMVs to be 1,824, of which 1,540 were estimated to be MBTs and 284 were estimated to be ACTVs. PHMSA assumes a uniform distribution of MBTs among small and large firms, even though large firms operate a significant proportion of the MBTs in service.[80] Thus, small firms operate 1,278 MBTs (1,540 MBTs in service * 83 percent small business entities) and 236 ACTVs (284 ACTVs in service * 83 percent small business entities), giving a total of 1,514 CTMVs, as shown in the following Table 15:

TABLE 15—NUMBER AND TYPES OF TRUCKS OPERATED BY SMALL BUSINESSES

| Type of truck | Total trucks | Percentage operated by small businesses | Trucks operated by small businesses |
|---|---|---|---|
| MBT | 1,540 | 83 | 1,278 |
| ACTV | 284 | 83 | 236 |
| CTMV | 1,824 | 83 | 1,514 |

**Source:** RIA and Econometrica calculations.

A discussion of the impacts of the final rule on small businesses is included below.

Costs to Small Businesses

*Costs associated with tire pressure checks.* IME Standard 23 contains a requirement to check tire pressure before the initial trip of the day. This would be part of a routine pre-trip inspection and is not expected to add costs.

*Costs associated with fire extinguishers.* IME Standard 23 requires a minimum of two fire extinguishers rated 4–A:40B:C. IME estimates that approximately 25 percent of the MBTs in service would need to acquire and affix the fire extinguishers. Assuming these MBTs are distributed uniformly across all firms, small businesses will need to acquire and affix fire extinguishers to 320 MBTs (1,278 MBTs * 0.25 MBTs in service would need to acquire and affix the fire extinguishers) at a total cost of $348,800 [($250 for the fire extinguishers + $280 labor costs + $560 vehicle downtime) * 320 MBTs]. This is expected to be a one-time cost.

*Costs associated with working pressure limits.* IME Standard 23 limits the maximum allowable working pressure of an MBT cargo tank to 35 pounds per square inch. IME estimates that at most 10 percent of the MBTs would need a retrofit to meet this standard. Assuming these MBTs are distributed uniformly across all firms, small businesses will need to retrofit 128 MBTs (1,278 MBTs * 0.10 MBTs

[80] Based on data from the 2015 Federal Motor Carrier Safety Administration Motor Carrier Management Information System Catalog, 8 firms have 100 or more CTMVs in their fleets, so a more complex analysis would remove those 8 large firms and 800 CTMVs from the calculations. Thus, the analysis presented in this Final Rule Regulatory Flexibility Analysis may actually overstate the impact on small businesses.

would need a retrofit to meet this standard) at a total cost of $384,000 ($3,000 for the retrofit * 128 MBTs). This is a one-time cost.

*Costs associated with periodic tests and inspections of non-DOT specification cargo tanks.* IME Standard 23 requires that non-DOT specification cargo tanks be inspected essentially in the same way as specification tanks. This requires competence training of inspectors and physical inspections as described in Appendix B of IME Standard 23. IME estimates that 25 percent of the MBTs with non-specification tanks are not in compliance with IME Standard 23 in this regard. Assuming these MBTs are distributed uniformly across all firms, small businesses will need to conduct tests and inspections on 320 MBTs (1,278 MBTs * 0.25 MBTs with non-specification tanks are not in compliance with IME Standard 23 in this regard) at an annual cost of $1,120,000 ($3,500 per inspection and test * 320 MBTs). This is a recurring cost.

*Costs associated with the nameplate.* IME Standard 23 requires that a nameplate be affixed to the vehicle describing its design characteristics. PHMSA assumes that all MBTs will need to affix a nameplate. For small businesses, the total cost associated with the nameplate is $159,750 ($125 per nameplate * 1,278 MBTs). This is a one-time cost.

*Costs associated with accident investigations and driver training after preventable accidents.* IME Standard 23 requires companies to provide PHMSA with an incident investigation report of all CTMV crashes. This report may be an internal investigation because: (1) Some companies are self-insured, and (2) some insurance companies will not allow their reports to be released. An independent accident investigation of a CTMV crash would be conducted only if PHMSA requests it. IME estimates that under IME Standard 23 this would be necessary once a year. An independent accident investigation of a MBT or ACTV crash costs about $10,000. In addition, four incidents per year will require driver training at the cost of $20,000 ($5,000 per training * 4 incidents). Assuming incidents over time are distributed uniformly among all firms, small businesses will have an expected annual cost of $24,900 per year [($10,000 for investigations + $20,000 for training) * 0.83 small entities].

*Costs summary.* The total one-time cost borne by small businesses associated with the final rule is $892,550; approximately $90,000 per year over a 10-year period. The total recurring cost borne by small businesses is expected to be $1,144,900 per year. The following Table 16 summarizes these costs.

TABLE 16—COST OF FINAL RULE REQUIREMENTS

| Cost item | One-time cost | Annual cost |
|---|---|---|
| Fire Extinguishers | $348,800 | ..... |
| Working Pressure Limit | 384,000 | ..... |
| Periodic Test and Inspections | ..... | $1,120,000 |
| Nameplate | 159,750 | ..... |
| Accident investigations and driver training | ..... | 24,900 |
| Total | 892,550 | 1,144,900 |

**Source:** RIA and Econometrica calculations.

Benefits to Small Businesses

*Savings from applications.* Incorporating IME Standard 23 into the HMR will eliminate nine special permits and the costs associated with preparing and submitting applications for these special permits. Assuming the 97 special permit applications per year are distributed uniformly among small and large firms, small businesses account for approximately 81 (97 * 0.83 small entities) applications per year. Thus, small businesses will save $66,825 (81 special permit applications * $825 per special permit party-to or renewal application) per year.

*Savings from tire pressure checks.* The special permits require that tires must be checked and the pressure of each tire recorded before each departure onto or across a public road, which adds a cost of $18,046,650 annually to operating requirements for the 1,824 CTMVs in service, a cost not incurred by any other hazardous materials trucking operation. Under the incorporation of IME Standard 23 into the HMR, the mandate to check and record tire pressures before each on-road departure would no longer apply. This will represent a cost saving of $14,978,720 ($18,046,650 for operating requirements * 0.83 small entities) per year to small businesses.

*Savings from caking remediation.* The caking requirement in IME Standard 23 will eliminate the cost of remediating caking in the bulk packaging. Assuming the 7.5 caking incidents per year are distributed uniformly among small and large firms, the caking requirement will represent a cost savings of $74,700 ($12,000 to remediate caking * 7.5 caking incidents per year * 0.83 small entities) per year.

*Benefits summary.* The total cost savings for small businesses associated with the final rule are estimated at $15,120,245 ($66,825 savings from applications + $14,978,720 savings from tire pressure checks + $74,700 savings from caking remediation) per year (see following Table 17). The benefits far outweigh the costs.

TABLE 17—ANNUAL BENEFITS ASSOCIATED WITH FINAL RULE

| Cost savings items | Annual cost savings |
|---|---|
| Applications | $66,825 |
| Tire pressure checks | 14,978,720 |
| Caking remediation | 74,700 |
| Total | 15,120,245 |

**Source:** RIA and Econometrica calculations.

5. Steps Taken To Mitigate the Impact of the Rule on Affected Small Entities

PHMSA has not excluded small entities from any of the requirements of the final rule. However, PHMSA has removed the FSS and emergency shut-off/battery disconnect device requirements—included in the proposed rule—from the final rule, which will mitigate many of the cost impacts of the rule for small entities. Since costs are distributed evenly across firms, but large firms have higher revenues than small firms, the reduced costs would have a larger impact on small-firm profitability than on large-firm profitability.

An Identification of All Federal Rules That May Duplicate, Overlap, or Conflict With the Final Rule

PHMSA is revising the HMR by amending the regulations to establish standards for the safe transportation of bulk explosives. The final rule has a detailed explanation of all the requirements. None of the existing Federal rules duplicate, overlap, or conflict with the final rule.

Conclusion

This final rule has been developed in accordance with Executive Order 13272 (''Proper Consideration of Small Entities in Agency Rulemaking'') and DOT's procedures and policies to promote compliance with the Regulatory Flexibility Act to ensure that potential impacts of draft rules on small entities are properly considered. In summary, the final rule provides substantial benefits to small entities as demonstrated above.

*F. Paperwork Reduction Act*

PHMSA currently has an approved information collection under Office of Management and Budget (OMB) Control Number 2137–0051, entitled ''Rulemaking, Special Permits, and Preemption Requirements.'' This final rule may result in a decrease in the annual burden and costs under OMB Control Number 2137–0051 due to adopting changes to incorporate IME Standard 23 and certain provisions contained in certain widely-used or longstanding special permits that have an established safety record.

Under the Paperwork Reduction Act of 1995, no person is required to respond to an information collection unless it has been approved by OMB and displays a valid OMB control number. Section 1320.8(d), title 5, Code of Federal Regulations requires that PHMSA provide interested members of the public and affected agencies an opportunity to comment on information and recordkeeping requests.

This final rule identifies revised information collection requests that PHMSA will submit to OMB for approval based on the requirements in this final rule. PHMSA has developed burden estimates to reflect changes in this final rule and estimates that the information collection and recordkeeping burdens would be revised as follows:

OMB Control No. 2137–0051:

Net Decrease in Annual Number of Respondents: 100.

Net Decrease in Annual Responses: 100.

Net Decrease in Annual Burden Hours: 200.

Net Decrease in Annual Burden Costs: $5,000.

Requests for a copy of this information collection should be directed to Steven Andrews or T. Glenn Foster, Office of Hazardous Materials Standards (PHH–12), Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, Telephone (202) 366–8553.

*G. Regulation Identifier Number (RIN)*

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document may be used to cross-reference this action with the Unified Agenda.

*H. Unfunded Mandates Reform Act of 1995*

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $155 million or more to either state, local or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

*I. Environmental Assessment and Finding of No Significant Impact*

The National Environmental Policy Act, 42 U.S.C. 4321–4375, requires that federal agencies consider the consequences of major Federal actions and prepare a detailed statement on actions significantly affecting the quality of the human environment. The Council on Environmental Quality (CEQ) regulations require federal agencies to conduct an environmental review considering: (1) The need for the action; (2) alternatives to the action; (3) probable environmental impacts of the action and alternatives; and (4) the agencies and persons consulted during the consideration process [40 CFR 1508.9(b)].

1. Introduction

PHMSA is amending the HMR by establishing standards for the safe transportation of bulk explosives. This rulemaking specifically focuses on reviewing the Institute of Makers of Explosives (IME)'s Safety Library Publication 23 (IME Standard 23): Recommendations for the Transportation of Explosives, Division 1.5, Ammonium Nitrate Emulsions, Division 5.1, Combustible Liquids, Class 3, and Corrosives, Class 8 in Bulk Packagings and nine special permits related to multipurpose bulk trucks (MBTs) used to transport various explosives, oxidizers, flammable liquids, and corrosive liquids on the same transport vehicle. The objective of this rulemaking is to develop a set of standards related to the safe transportation of these materials in MBTs that will no longer require a special permit because the standard will be in the HMR.

Through this final rule PHMSA is incorporating IME Standard 23 and establishing requirements of general applicability governing the transportation of bulk explosive materials. In addition, PHMSA is requiring compliance with Federal Motor Vehicle Safety Standard (FMVSS).

2. Background

This rulemaking is responsive to two petitions for rulemaking submitted by industry representatives, P–1557 concerning the elimination of the need to operate under special permits by incorporating them into the HMR, and P–1583 concerning the incorporation of an industry standard publication. Further, developing these requirements would provide wider access to the regulatory flexibility currently only offered by special permit and competent authorities.

This rulemaking specifically focuses on reviewing IME Standard 23: Recommendations for the Transportation of Explosives, Division 1.5, Ammonium Nitrate Emulsions, Division 5.1, Combustible Liquids, Class 3, and Corrosives, Class 8 in Bulk Packagings and nine special permits related to MBTs used to transport various explosives, oxidizers, flammable liquids, and corrosive liquids on the same transport vehicle. The objective of this rulemaking is to develop a set of standards related to the safe transportation of these materials in MBTs that will no longer require the need to apply for a special permit as the standard will be in the HMR.

This final rule is published under the authority of 49 U.S.C. 5103(b), which authorizes the Secretary to prescribe regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce. The 49 U.S.C. 5117(a) authorizes the Secretary of Transportation to issue a special permit from a regulation prescribed in 5103(b), 5104, 5110, or 5112 of the Federal Hazardous Materials Transportation Law to a person transporting, or causing to be transported, hazardous material in a way that achieves a safety level at least

equal to the safety level required under the law, or consistent with the public interest, if a required safety level does not exist. The final rule amends the regulations by incorporating provisions from certain widely used and longstanding special permits that have established a history of safety and that may, therefore, be converted into the regulations for general use.

3. Purpose and Need

PHMSA amends the HMR to establish standards for the safe transportation of bulk explosives. Developing such provisions of the HMR is intended to provide wider access to the regulatory flexibility that currently only is offered by way of obtaining a special permit. For example, the adoption of a regulatory standard in the HMR would eliminate the need for persons who hold a special permit to apply for renewal in the future.

In this final rule, PHMSA is revising the HMR by amending the regulations to establish standards for the safe transportation of bulk explosives. The following is a description of the action and the need for the action.

a. Incorporation of IME Standard 23 Into the HMR

Action: PHMSA incorporates IME Standard 23 and establishes requirements of general applicability governing the transportation of bulk explosive materials. As such, PHMSA revises the 49 CFR 171.7 table of material incorporated by reference to include IME Standard 23, and establish a new section for the bulk explosives requirements.

Need: PHMSA has concluded that the incorporation of IME Standard 23 into the HMR will provide wider access to the regulatory flexibility currently only offered by special permit and competent authorities. PHMSA believes this will benefit the government and the industry, as it will eliminate the need for firms to apply individually to transport certain classes of bulk materials in MBTs, provide regulatory flexibility and relief while maintaining an high level of safety, promote safer transportation practices, facilitate commerce, reduce paperwork burdens, and eliminate unnecessary regulatory requirements.

b. Federal Motor Vehicle Safety Standards for New Construction and Modified Multipurpose Bulk Trucks

Action: New or modified multipurpose bulk trucks constructed 120 days after the publication date of the final rule must be in compliance with the FMVSS found in 49 CFR part 571, as applicable. Furthermore, the multipurpose bulk truck manufacturer must maintain a certification record ensuring the final manufacturing is in compliance with the FMVSS, per the certification requirements found in 49 CFR part 567. These certification records must be made available to DOT representatives upon request.

Need: This specifies that all new construction and modified MBTs must conform to the FMVSS requirements.

4. Public Involvement

This rulemaking is responsive to two petitions for rulemaking submitted by industry representatives, P–1557 concerning the elimination of the need to operate under special permits by incorporating them into the HMR, and P–1583 concerning the incorporation of an industry standard publication. Developing these requirements would provide wider access to the regulatory flexibility currently only offered by special permit and competent authorities.

5. Market Segments Affected and Requirements of the Final Rule

This final rule incorporates elements of nine special permits that authorize multipurpose bulk truck operations not specifically permitted under the HMR. The amendments will eventually eliminate the need for current grantees to reapply for renewal of special permits every four years and for PHMSA to process those renewal applications. It will also allow other operators to transport bulk explosives without a special permit, provided that the operators conform to the requirements of this rule, including those explicitly stated in IME Standard 23.

6. Alternatives Considered

Alternative 1: No Action.

This would not be the preferred alternative. Under this option, PHMSA would continue existing requirements for special permits to transport bulk explosives by taking no action. However, PHMSA believes that there are considerable benefits (both environmental and economic) to taking action provided that a high level of safety is maintained. If no action is taken there will be no beneficial or adverse environmental effects compared to the status quo. Finally, this alternative would not impose any costs, but it would prevent the opportunity to realize any efficiency benefits.

Alternative 2: PHMSA Defers to Voluntary Standards.

This would not be the preferred alternative. Under this option, PHMSA will defer to voluntary standards developed through organizations or trade associations. PHMSA will likely participate in standard-setting to develop standards that meet safety criteria that are in the interest of the United States. While compliance with voluntary standards is thought to be high by industry participants, firms do not have to comply with them, since they are voluntary. This creates some concern since the non-adoption may mean that those firms may not comply with minimum safety standards. A review of this alternative leads to a possibility that important environmental safety measures would not be implemented as completely as they would under alternative (5). For example, the provisions: (1) Any non-DOT specification cargo tanks, portable tanks, sift-proof closed vehicles and closed bulk bins must be qualified, inspected, and maintained essentially the same as a DOT-specification bulk container (as set out in Appendix B of IME Standard 23); and (2) inspectors conducting inspections of non-DOT non-specification tanks must meet training qualifications outlined in Appendix B, would not be implemented if this alternative (#2: PHMSA Defers to Voluntary Standards) was selected. While there may be certain beneficial environmental effects with this alternative, there are certainly drawbacks too. Furthermore, this alternative does not ensure the level of safety that alternative (5) would because firms may not comply with a voluntary standard.

Alternative 3: Incorporate Special Permits That Have a Good Safety Record Into the HMR.

This would not be the preferred alternative. Under this option, PHMSA would incorporate seven of the nine special permits into the HMR. These seven special permits have very good safety records. By incorporating these special permits, PHMSA would need to work through the Federal rulemaking process to modify the HMR in response to technological enhancements and other matters relating to the transportation of the bulk explosives covered under the seven special permits. It may be more advantageous to incorporate standards developed by industry than for PHMSA to develop its own standards and incorporate them into the HMR. There may be beneficial environmental effects with this alternative, but not to the extent of the final action because this alternative is not as comprehensive.

Alternative 4: Adopt Other National or International Standards.

This would not be the preferred alternative. Under this option, PHMSA

would adopt other national or international standards, such as those used by Canada, Australia, or the United Nations. These other standards do not conform well to existing U.S. law and to the nine special permits. For example, the U.S. Bridge Law (USBL) provides known standards for bridge construction, by, among other requirements, placing restrictions on the overall size of MBTs in service in the United States. Other standards do not conform to the USBL. Also, these standards are implemented in ways that may not be possible within the regulatory framework in the United States. This alternative will not have beneficial environmental effects beyond the status quo.

Alternative 5: Incorporate IME Standard 23 Into the HMR With Additional Features

This option is the preferred alternative, because it would provide regulatory flexibility without imposing burdensome costs. IME Standard 23 recommends standards for MBT straight trucks that typically transport multiple hazardous materials in support of blasting operations and articulated cargo tanks that carry a single bulk blasting agent or oxidizer. Under this option, PHMSA would incorporate IME Standard 23 into the HMR with additional features. This rulemaking specifically adopts a combination of features, including incorporating by reference (IBR) the Institute of Makers of Explosives' (IME) Safety Library Publication No. 23 ''Recommendations for the Transportation of Explosives, Division 1.5, Ammonium Nitrate Emulsions, Division 5.1, Combustible Liquids, Class 3 and Corrosives, Class 8 in Bulk Packaging'' (referred to as IME Standard 23), and complying with certain NHTSA requirements. The requirements are more comprehensive and have stricter standards than the nine special permits, and may eliminate some duplicative functions covered by other industry standards. While IME Standard 23 may need to be re-evaluated and changed to keep pace with technological enhancements and other matters, IME will perform this and publish the revised standards free of charge. IME Standard 23 was developed with input of IME members, stakeholders, and PHMSA. There are beneficial effects with the final action that are superior to those achieved by the other alternatives, and these environmental benefits (direct, indirect, and cumulative) are discussed below.

7. Analysis of Environmental Impacts

Routes used to transport bulk explosives traverse a variety of environments—from highly populated urban sites to remote, unpopulated rural areas. PHMSA manages the transportation of specific hazardous materials, including bulk explosives, with special permits that must achieve a level of safety at least equal to the level of safety achieved when transported under the HMR.

The physical environment potentially affected by the final rule includes the airspace, water resources (*e.g.,* oceans, streams, lakes), cultural and historical resources (*e.g.,* properties listed on the National Register of Historic Places), biological and ecological resources (*e.g.,* coastal zones, wetlands, plant and animal species and their habitat, forests, grasslands, offshore marine ecosystems), and special ecological resources (*e.g.,* threatened and endangered plant and animal species and their habitat, national and state parklands, biological reserves, Wild and Scenic Rivers) that exist directly adjacent to and within the vicinity of roads and routes used in the transportation of bulk explosives.

The final rule incorporates IME Standard 23 into the HMR and eliminates nine special permits. IME Standard 23 is more comprehensive and has stricter standards than the nine special permits, and it may eliminate some duplicative functions covered by other industry standards.

Direct Effects: The final rule will not increase and may decrease the frequency or severity of motor carrier incidents involving bulk explosives, as IME Standard 23 is more comprehensive and has stricter standards than the existing special permits. PHMSA assessment suggests that there are no adverse significant environmental impacts associated with the final rule.

Indirect Effects: The final rule will not increase and may decrease the frequency or severity of motor carrier incidents involving bulk explosive, and thus will not have an adverse indirect effect on the environment. PHMSA assessment suggests that there are no adverse significant environmental impacts associated with the final rule.

Cumulative Effects: The final rule will not increase and may decrease the frequency or severity of motor carrier incidents involving bulk explosives, as IME Standard 23 is more comprehensive and has stricter standards than the existing special permits. PHMSA assessment suggests that there are no adverse significant environmental impacts associated with the final rule.

8. Comments From Agencies and Public

In considering the potential environmental impacts of the final action, PHMSA does not anticipate that permitting the new alternative would result in any significant impact on the human environment because the process through which special permits for bulk explosives are developed and certified has historically demonstrated an equivalent level of safety of the HMR.

9. Conclusion

Given that this rulemaking amends the HMR to permit an alternative with equivalent and established safety records, these changes in regulation have the potential to increase safety and environmental protections. In the NPRM PHMSA solicited comments about potential environmental impacts associated with this rulemaking from other agencies, stakeholders, and citizens; and we did not receive anything specific to these issues.

*J. 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*.

*K. Executive Order 13609 and International Trade Analysis*

Under E.O. 13609, agencies must consider whether the impacts associated with significant variations between domestic and international regulatory approaches are unnecessary or may impair the ability of American business to export and compete internationally. In meeting shared challenges involving health, safety, labor, security, environmental, and other issues, international regulatory cooperation can identify approaches that are at least as protective as those that are or would be adopted in the absence of such cooperation. International regulatory cooperation can also reduce, eliminate, or prevent unnecessary differences in regulatory requirements.

Similarly, the Trade Agreements Act of 1979 (Public Law 96–39), as amended by the Uruguay Round Agreements Act (Public Law 103–465), prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. For purposes of these requirements, Federal agencies may participate in the establishment of

international standards, so long as the standards have a legitimate domestic objective, such as providing for safety, and do not operate to exclude imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

PHMSA participates in the establishment of international standards in order to protect the safety of the American public, and we have assessed the effects of the final rule to ensure that it does not cause unnecessary obstacles to foreign trade. Accordingly, this rulemaking is consistent with E.O. 13609 and PHMSA's obligations under the Trade Agreement Act, as amended.

*L. National Technology Transfer and Advancement Act*

The National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) directs federal agencies to use voluntary consensus standards in their regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.* specification of materials, test methods, or performance requirements) that are developed or adopted by voluntary consensus standard bodies.

This final rule involves one technical standard: IME Standard 23, IME Safety Library Publication No. 23 (IME Standard 23), ''SLP 23: Recommendations for the Transportation of Explosives Division 1.5, Ammonium Nitrate Emulsions Division 5.1, Combustible Liquids Class 3, and Corrosives Class 8 in Bulk Packagings,'' October 2011 version. This consensus technical standard is listed in 49 CFR 171.7.

*M. Executive Order 13211*

Executive Order 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' 66 FR 28355, May 22, 2001. Under the Executive Order, a ''significant energy action'' is defined as any action by an agency (normally published in the **Federal Register**) that promulgates, or is expected to lead to the promulgation of, a final rule or regulation (including a notice of inquiry, advance NPRM, and NPRM) that (1)(i) is a significant regulatory action under Executive Order 12866 or any successor order and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

PHMSA has evaluated this action in accordance with Executive Order 13211. See the environmental assessment section for a more thorough discussion of environmental impacts and the supply, distribution, or use of energy. PHMSA has determined that this action will not have a significant adverse effect on the supply, distribution, or use of energy. Consequently, PHMSA has determined that this regulatory action is not a ''significant energy action'' within the meaning of Executive Order 13211.

**List of Subjects**

*49 CFR Part 171*

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements, Definitions and abbreviations.

*49 CFR Part 172*

Hazardous materials transportation, Hazardous waste, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements, Security measures.

*49 CFR Part 173*

Hazardous materials transportation, Incorporation by reference, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

*49 CFR Part 177*

Hazardous materials transportation, Incorporation by reference.

**The Final Rule**

In consideration of the foregoing, we are amending title 49 CFR chapter I, subchapter C, as follows:

## PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

■ 1. The authority citation for part 171 continues to read as follows:

**Authority:** 49 U.S.C. 5101–5128, 44701; Pub. L. 101–410 section 4 (28 U.S.C. 2461 note); Pub. L. 104–134, section 31001; 49 CFR 1.81 and 1.97.

■ 2. In § 171.7, paragraph (r)(2) is added to read as follows:

**§ 171.7 Reference material.**

* * * * *

(r) * * *

(2) IME Standard 23, IME Safety Library Publication No. 23 (IME Standard 23), Recommendations for the Transportation of Explosives, Division 1.5, Ammonium Nitrate Emulsions, Division 5.1, Combustible Liquids, Class 3, and Corrosives, Class 8 in Bulk Packaging, October 2011, into §§ 173.66(intro); 177.835(d).

* * * * *

## PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, TRAINING REQUIREMENTS, AND SECURITY PLANS

■ 3. The authority citation for part 172 continues to read as follows:

**Authority:** 49 U.S.C. 5101–5128, 44701; 49 CFR 1.81, 1.96 and 1.97.

■ 4. In § 172.101, the Hazardous Materials Table is amended by revising the following entries to read as follows:

**§ 172.101 Purpose and use of hazardous materials table.**

* * * * *

## § 172.101—HAZARDOUS MATERIALS TABLE

| Symbols | Hazardous materials descriptions and proper shipping names | Hazard class or division | Identification Nos. | PG | Label codes | Special provisions (§ 172.102) | (8) Packaging (§ 173.* * *) | | | (9) Quantity limitations | | (10) Vessel stowage | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | Exceptions | Non-bulk | Bulk | Passenger aircraft/rail | Cargo aircraft only | Location | Other |
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8A) | (8B) | (8C) | (9A) | (9B) | (10A) | (10B) |
| | | * | * | | * | * | * | | * | * | | | |
| | Acetic acid solution, *not less than 50 percent but not more than 80 percent acid, by mass.* | 8 | UN2790 | II | 8 | 148, A3, A6, A7, A10, B2, IB2, T7, TP2. | 154 | 202 | 242 | 1 L | 30 L | A | |
| | Acetic acid solution, *with more than 10 percent and less than 50 percent acid, by mass.* | 8 | UN2790 | III | 8 | 148, IB3, T4, TP1 | 154 | 203 | 242 | 5 L | 60 L | A | |
| | | * | * | | * | * | * | | * | * | | | |
| | Ammonium nitrate based fertilizer. | 5.1 | UN2067 | III | 5.1 | 52, 148, 150, B120, IB8, IP3, T1, TP33. | 152 | 213 | 240 | 25 kg | 100 kg | B | 25, 59, 60, 66, 117, 124* |
| | Ammonium nitrate emulsion *or* Ammonium nitrate suspension *or* Ammonium nitrate gel, *intermediate for blasting explosives.* | 5.1 | UN3375 | II | 5.1 | 147, 148, 163, IB2, IP16. | None | 231 | 251 | Forbidden | Forbidden | D | 25, 59, 60, 66, 124 |
| D | Ammonium nitrate-fuel oil mixture *containing only prilled ammonium nitrate and fuel oil.* | 1.5D | NA0331 | II | 1.5D | 148 | None | 62 | None | Forbidden | Forbidden | 03 | 25, 19E |
| | Ammonium nitrate, liquid *(hot concentrated solution).* | 5.1 | UN2426 | | 5.1 | 148, B5, T7 | None | None | 243 | Forbidden | Forbidden | D | 59, 60, 124 |
| | | * | * | | * | * | * | | * | * | | | |
| | Ammonium nitrate, *with not more than 0.2% combustible substances, including any organic substance calculated as carbon, to the exclusion of any other added substance.* | 5.1 | UN1942 | III | 5.1 | 148, A1, A29, B120, IB8, IP3, T1, TP33. | 152 | 213 | 240 | 25 kg | 100 kg | A | 25, 59, 60, 66, 116, 124 |
| | | * | * | | * | * | * | | * | * | | | |
| G | Articles, explosive, n.o.s. | 1.4S | UN0349 | II | 1.4S | 101, 148, 382 | None | 62 | None | 25 kg | 100 kg | 01 | 25 |
| | | * | * | | * | * | * | | * | * | | | |
| | Boosters, *without detonator.* | 1.1D | UN0042 | II | 1.1D | 148 | None | 62 | None | Forbidden | Forbidden | 04 | 25 |
| | | * | * | | * | * | * | | * | * | | | |
| D G | Combustible liquid, n.o.s.. | Comb liq | NA1993 | III | None | 148, IB3, T1, T4, TP1. | 150 | 203 | 241 | 60 L | 220 L | A | |

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | * | * | * | * | * | * | * | * | * | | | | |
| | Cord, detonating, *flexible*. | 1.1D | UN0065 | II | 1.1D | 102, 148 | 63(a) | 62 | None | Forbidden | Forbidden | 04 | 25 | |
| | Cord, detonating, *flexible*. | 1.4D | UN0289 | II | 1.4D | 148 | None | 62 | None | Forbidden | 75 kg | 02 | 25 | |
| | | * | * | * | * | * | * | * | * | * | | | | |
| G | Corrosive liquid, acidic, organic, n.o.s. | 8 | UN3265 | I | 8 | A6, B10, T14, TP2, TP27. | None | 201 | 243 | 0.5 L | 2.5 L | B | 40 | |
| | | | | II | 8 | 148, B2, IB2, T11, TP2, TP27. | 154 | 202 | 242 | 1 L | 30 L | B | 40 | |
| | | | | III | 8 | IB3, T7, TP1, TP28 .. | 154 | 203 | 241 | 5 L | 60 L | A | 40 | |
| | | * | * | * | * | * | * | * | * | * | | | | |
| | Detonator assemblies, non-electric, *for blasting*. | 1.4B | UN0361 | II | 1.4B | 103, 148 | 63(f), 63(g) | 62 | None | Forbidden | 75 kg | 05 | 25 | |
| | Detonator assemblies, non-electric, *for blasting*. | 1.4S | UN0500 | II | 1.4S | 148, 347 | 63(f), 63(g) | 62 | None | 25 kg | 100 kg | 01 | 25 | |
| | Detonators, electric, *for blasting*. | 1.1B | UN0030 | II | 1.1B | 148 | 63(f), 63(g) | 62 | None | Forbidden | Forbidden | 05 | 25 | |
| | Detonators, electric, *for blasting*. | 1.4B | UN0255 | II | 1.4B | 103, 148 | 63(f), 63(g) | 62 | None | Forbidden | 75 kg | 05 | 25 | |
| | Detonators, electric, *for blasting*. | 1.4S | UN0456 | II | 1.4S | 148, 347 | 63(f), 63(g) | 62 | None | 25 kg | 100 kg | 01 | 25 | |
| | | * | * | * | * | * | * | * | * | * | | | | |
| | Detonators, non-electric, *for blasting*. | 1.4S | UN0455 | II | 1.4S | 148, 347 | 63(f), 63(g) | 62 | None | 25 kg | 100 kg | 01 | 25 | |
| | | * | * | * | * | * | * | * | * | * | | | | |
| | Explosive, blasting, type A. | 1.1D | UN0081 | II | 1.1D | 148 | None | 62 | None | Forbidden | Forbidden | 04 | 25, 19E, 21E | |
| | | * | * | * | * | * | * | * | * | * | | | | |
| | Explosive, blasting, type B *or* Agent blasting, Type B. | 1.5D | UN0331 | II | 1.5D | 105, 106, 148 | None | 62 | None | Forbidden | Forbidden | 03 | 25, 19E | |
| | | * | * | * | * | * | * | * | * | * | | | | |
| | Explosive, blasting, type E. | 1.1D | UN0241 | II | 1.1D | 148 | None | 62 | None | Forbidden | Forbidden | 04 | 25, 19E | |
| | Explosive, blasting, type E *or* Agent blasting, Type E. | 1.5D | UN0332 | II | 1.5D | 105, 106, 148 | None | 62 | None | Forbidden | Forbidden | 03 | 25, 19E | |
| | | * | * | * | * | * | * | * | * | * | | | | |
| | Hypochlorite solutions. | 8 | UN1791 | II | 8 | 148, A7, B2, B15, IB2, IP5, N34, T7, TP2, TP24. | 154 | 202 | 242 | 1 L | 30 L | B | 26 | |
| | | | | III | 8 | IB3, N34, T4, TP2, TP24. | 154 | 203 | 241 | 5 L | 60 L | B | 26 | |
| | | * | * | * | * | * | * | * | * | * | | | | |
| G | Nitrites, inorganic, aqueous solution, n.o.s. | 5.1 | UN3219 | II | 5.1 | 148, IB1, T4, TP1 | 152 | 202 | 242 | 1 L | 5 L | B | 46, 56, 58, 133 | |
| | | | | III | 5.1 | IB2, T4, TP1 | 152 | 203 | 241 | 2.5 L | 30 L | B | 46, 56, 58, 133 | |
| | | * | * | * | * | * | * | * | * | * | | | | |
| G | Oxidizing liquid, n.o.s | 5.1 | UN3139 | I | 5.1 | 62, 127, A2, A6 | None | 201 | 243 | Forbidden | 2.5 L | D | 56, 58, 138 | |
| | | | | II | 5.1 | 62, 127, 148, A2, IB2 | 152 | 202 | 242 | 1 L | 5 L | B | 56, 58, 138 | |
| | | | | III | 5.1 | 62, 127, 148, A2, IB2 | 152 | 203 | 241 | 2.5 L | 30 L | B | 56, 58, 138 | |

## § 172.101—HAZARDOUS MATERIALS TABLE—Continued

| Symbols | Hazardous materials descriptions and proper shipping names | Hazard class or division | Identification Nos. | PG | Label codes | Special provisions (§ 172.102) | (8) Packaging (§ 173.* * *) | | | (9) Quantity limitations | | (10) Vessel stowage | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | Exceptions | Non-bulk | Bulk | Passenger aircraft/rail | Cargo aircraft only | Location | Other |
| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8A) | (8B) | (8C) | (9A) | (9B) | (10A) | (10B) |
| | | * | * | | * | * | * | | * | * | | | |
| G | Oxidizing solid, n.o.s. | 5.1 | UN1479 | I | 5.1 | 62, IB5, IP1 | None | 211 | 242 | 1 kg | 15 kg | D | 56, 58, 106, 138 |
| | | | | II | 5.1 | 62, IB8, IP2, IP4, T3, TP33. | 152 | 212 | 240 | 5 kg | 25 kg | B | 56, 58, 106, 138 |
| | | | | III | 5.1 | 62, 148, IB8, IP3, T1, TP33. | 152 | 213 | 240 | 25 kg | 100 kg | B | 56, 58, 106, 138 |
| | | * | * | | * | * | * | | * | * | | | |

* * * * *

■ 5. In § 172.102(c)(1), special provision 148 is added to read as follows:

**§ 172.102 Special provisions.**

* * * * *

(c) * * *

(1) * * *

148. For domestic transportation, this entry directs to § 173.66 for:

a. The standards for transporting a single bulk hazardous material for blasting by cargo tank motor vehicles (CTMV); and

b. The standards for CTMVs capable of transporting multiple hazardous materials for blasting in bulk and non-bulk packagings (*i.e.,* a multipurpose bulk truck (MBT)).

* * * * *

## PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

■ 6. The authority citation for part 173 continues to read as follows:

**Authority:** 49 U.S.C. 5101–5128, 44701; 49 CFR 1.81, 1.96 and 1.97.

■ 7. In Subpart C, § 173.66 is added to read as follows:

**§ 173.66 Requirements for Bulk Packagings of Certain Explosives and Oxidizers.**

When § 172.101 of this subchapter specifies that a hazardous material may be transported in accordance with this section (per special provision 148 in § 172.102(c)(1)), only the bulk packagings specified for these materials in IME Standard 23 (IBR, see § 171.7 of this subchapter) are authorized, subject to the requirements of subparts A and B of this part and the special provisions in Column 7 of the § 172.101 table. See Section I of IME Standard 23 for the standards for transporting a single bulk hazardous material for blasting by cargo tank motor vehicles (CTMV), and Section II of IME Standard 23 for the standards for CTMVs capable of transporting multiple hazardous materials for blasting in bulk and non-bulk packagings (*i.e.,* a multipurpose bulk truck (MBT) authorized to transport the Class 1 (explosive) materials, Division 5.1 (oxidizing) materials, Class 8 (corrosive) materials, and Combustible Liquid, n.o.s., NA1993, III, as specified in IME Standard 23 (also see § 177.835(d) of this subchapter)). In addition, the requirements in paragraph (a) of this section apply to: A new multipurpose bulk truck constructed after April 19, 2016; and a modified existing multipurpose bulk truck after April 19, 2016 (see § 173.66(b) regarding the term *modified*).

(a) *Federal Motor Vehicle Safety Standard (FMVSS).* Multipurpose bulk trucks must be in compliance with the FMVSS found in 49 CFR part 571, as applicable. Furthermore, the multipurpose bulk truck manufacturer must maintain a certification record ensuring the final manufacturing is in compliance with the FMVSS, in accordance with the certification requirements found in 49 CFR part 567. These certification records must be made available to DOT representatives upon request.

(b) *Modified.* The term *modified* means any change to the original design and construction of a multipurpose bulk truck (MBT) that affects its structural integrity or lading retention capability, (*e.g.* rechassising, etc.). Excluded from this category are the following:

(1) A change to the MBT equipment such as lights, truck or tractor power train components, steering and brake systems, and suspension parts, and changes to appurtenances, such as fender attachments, lighting brackets, ladder brackets; and

(2) Replacement of components such as valves, vents, and fittings with a component of a similar design and of the same size.

## PART 177—CARRIAGE BY PUBLIC HIGHWAY

■ 8. The authority citation for part 177 continues to read as follows:

**Authority:** 49 U.S.C. 5101–5128; sec. 112 of Pub. L. 103–311, 108 Stat. 1673, 1676 (1994); sec. 32509 of Pub. L. 112–141, 126 Stat. 405, 805 (2012); 49 CFR 1.81 and 1.97.

■ 9. In § 177.835, paragraph (a) is revised and paragraph (d) is added to read as follows:

**§ 177.835 Class 1 materials.**

* * * * *

(a) *Engine stopped.* No Class 1 (explosive) materials may be loaded into or on or be unloaded from any motor vehicle with the engine running, except that the engine of a multipurpose bulk truck (see paragraph (d) of this section) and the engine of a cargo tank motor vehicle transporting a single bulk hazardous material for blasting may be used for the operation of the pumping equipment of the vehicle during loading or unloading.

* * * * *

(d) *Multipurpose bulk trucks.* When § 172.101 of this subchapter specifies that Class 1 (explosive) materials may be transported in accordance with § 173.66 of this subchapter (per special provision 148 in § 172.102(c)(1)), these materials may be transported on the same vehicle with Division 5.1 (oxidizing) materials, or Class 8 (corrosive) materials, and/or Combustible Liquid, n.o.s., NA1993 only under the conditions and requirements set forth in IME Standard 23 (IBR, see § 171.7 of this subchapter) and paragraph (g) of this section. In addition, the segregation requirements in § 177.848 do not apply.

* * * * *

Issued in Washington, DC, on December 14, 2015, under the authority delegated in 49 CFR 1.97.

**Marie Therese Dominguez,**

*Administrator, Pipeline and Hazardous Materials Safety Administration.*

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# FEDERAL REGISTER

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Part III

## The President

Proclamation 9382—Wright Brothers Day, 2015

Federal Register
Vol. 80, No. 244
Monday, December 21, 2015

# Presidential Documents

**Title 3—**

**The President**

**Proclamation 9382 of December 16, 2015**

## Wright Brothers Day, 2015

**By the President of the United States of America**

**A Proclamation**

The prospect of human flight captured the world's imagination for centuries. From the ancient Greeks who marveled at the story of Icarus soaring through the sky, to Leonardo da Vinci who sketched designs of manned mechanical gliders, humanity's unyielding push skyward speaks to our resolve to transcend limits and redefine what is possible. On December 17, 1903, two American brothers reached a milestone in this age-old pursuit by, after years of planning and research, successfully launching the world's first flight of a powered airplane. On Wright Brothers Day, our Nation commemorates this achievement and celebrates the spirit of innovation that drives American inventors, entrepreneurs, and scientists by reaffirming our support for them in their goals to push the boundaries of human capability.

Our country's founding ideals of freedom of thought and expression are not only necessary for upholding the inherent dignity and respect of every individual, but they are also fundamental ingredients for fostering scientific discovery. These values compelled the Pilgrims to set out and seek new lives and prompted revolutionaries to forge a new Nation. The great thinkers and innovators that have always moved America forward have done so by challenging convention, sharing ideas, and reimagining the future through new inventions and beliefs.

Before the 19th century, few thought human flight was an endeavor worth investigating. But in the decades leading up to the 20th century, a handful of devoted dreamers began conducting aeronautical research that eventually fell on the ears of two enthusiastic bicycle mechanics from Dayton, Ohio, who would push past what others deemed impossible and take to the sky, spark a new and lasting industry, and change the course of history. Wilbur and Orville Wright spent their childhood tinkering and building, their passions fueled by their mother, Susan, who shared these interests and had considerable mechanical skills. The brothers opened a bicycle shop, where they honed their understanding of the concepts of balance, control, aerodynamics, and lightweight yet sound structures—laying the foundation for their groundbreaking achievement. Years of meticulous observation, building, and experimentation culminated on one frigid, windy morning on a sandy beach in Kitty Hawk, North Carolina, where the Wright brothers made their successful flight.

The invention of the airplane not only contributed to our understanding of physics and engineering—it profoundly altered our world. People and goods began moving across the globe at an unprecedented pace, new industries and fields of discovery sprang to life, and advances in aviation launched a new era of possibility in which our countrymen would walk on the moon just 66 years after that first 12 second flight.

Today, American entrepreneurs and scientists are continuing the legacy of the Wright brothers by making new discoveries and pushing boundaries—from the furthest reaches of our universe to the greatest mysteries of the human brain. To keep our Nation on the forefront of breakthroughs that will define the future, we must continue investing in pioneering research,

innovative startups, and programs that encourage science, technology, engineering, and math education for our daughters and sons. And we must keep fostering an atmosphere in our communities and classrooms where lifetime quests for knowledge are encouraged, where glimmers of curiosity are sparked, and where the next generation of explorers and inventors are celebrated. On Wright Brothers Day, let us recommit to cultivating the insatiable hunger for advancement that takes humanity to new frontiers, and let us stand with those who never stop challenging the limits of what we know to be possible.

The Congress, by a joint resolution approved December 17, 1963, as amended (77 Stat. 402; 36 U.S.C. 143), has designated December 17 of each year as ''Wright Brothers Day'' and has authorized and requested the President to issue annually a proclamation inviting the people of the United States to observe that day with appropriate ceremonies and activities.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim December 17, 2015, as Wright Brothers Day.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of December, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and fortieth.

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